

CHAPTER 7 - LICENSES AND BUSINESS

7.01 GENERAL PROVISIONS.

1. License Fees. The City Council shall establish the fees for licenses granted pursuant to the provisions of the City Code, which shall be listed in the City Fee Schedule. No license shall be issued unless the requisite fee has been paid.
2. Display of Licenses. All licenses issued hereunder shall at all times be displayed by the licensee in a prominent and conspicuous place at the location where the licensed business is so licensed to conduct business.
3. License Revocation or Suspension.
 - A. Generally. The City Council may suspend or revoke any license issued pursuant to this Code if the license holder, its agents, employees, representatives, or lessees directly or indirectly fail to comply with any provision of State law or this Code, violate a term or condition of any license, or makes any willful misstatement or material omission on the application form for a license.
 - B. Mandatory License Revocation. The City Council shall revoke a license for any violation which, under State law, is grounds for mandatory license revocation, or for the licensee's failure to keep any required bonds or insurance policies in full force and effect.
 - C. Procedure. Except when a different procedure is provided by a different section of this Code or by State law, the following procedure shall apply to license suspensions or revocations:
 - i. Before the suspension or revocation of any license granted by the City, written notice must be served on the licensee. Service must be made either personally or by leaving the notice at the licensed premises with the person in charge, or by sending the notice via certified mail to the address listed on the license application. The notice must be served on the licensee at least twenty (20) days prior to the date of the hearing, and must include the time and place of the hearing as well as the grounds for the suspension or revocation of the license.
 - ii. The hearing will be held before the City Council. At the hearing, evidence of any alleged license violation or other grounds upon which a suspension or revocation would be based must be presented. The licensee may be represented

by counsel or a person of their choosing, and shall be given the opportunity to be heard. Following the hearing the City Council may choose to suspend, revoke, or take no action against the license. The Council's action must be based on the evidence presented at the hearing. The decision by the City Council following a hearing is final. Any action taken against a licensee's license shall not prevent criminal charges from being brought in connection with the same case.

- D. Temporary Suspension. The City Council may temporarily suspend a license pending a hearing on the suspension or revocation of a license when, in its judgment, the public health, safety, or welfare is endangered by the continuance of the licensed activity.
- E. General Grounds for Denial, Suspension, or Revocation. In addition to any other grounds for the denial, suspension, or revocation of any license issued by the City, any license may be denied, suspended, or revoked for one or more of the following reasons:
- i. The proposed use does not comply with the Zoning Ordinance;
 - ii. The proposed use does not comply with a health, building, maintenance, or other provision of the City Code or state law;
 - iii. The applicant has failed to pay the license fee or, if applicable, has failed to pay the investigation fee;
 - iv. The applicant has made fraudulent statements, misrepresentations, or false statements in the application for or in the course of the applicant's business;
 - v. Conviction of any crime directly related to the business licensed and failure to show sufficient rehabilitation and present fitness to perform the duties of the business by competent evidence;
 - vi. Conducting the licensed activity in such a manner as to constitute a breach of the peace, a menace to the health, safety, or welfare of the public, or a disturbance of the peace or comfort of the residents of the City, upon

recommendation of the Mahtomedi Police Department or a City Official;

- vii. Expiration or cancellation of any required insurance or failure to notify the City within a reasonable time of changes in the terms of the insurance or insurance carries;
- viii. Actions unauthorized or beyond the scope of the license granted;
- ix. The denial, revocation, or suspension by the City, State, or other government unit of the applicant's license;
- x. Failure to allow inspections of the licensed premises, for the purpose of ensuring compliance with the law, at any time it is occupied or open for business;
- xi. Failure to continuously comply with all conditions required as a term or condition of the City's approval of the license;
- xii. Real estate or personal property taxes on the business premises have become delinquent and the property owner and the applicant are the same person or entity, or have any common ownership between the property owner and the applicant where they are a different person or entity; or
- xiii. A violation of any regulation or provision of the City Code or Zoning Ordinance applicable to the activity for which the license has been granted, or any other regulation or state law that may be applicable; or
- xiv. Other good cause.

F. Appeal. The suspension, revocation, or denial of a license may be appealed to the appropriate court within the statutory timeframe for an appeal.

7.02 GAMBLING.

1. Adoption of State Law by Reference. The provisions of Minnesota Statutes, Chapter 349 with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this Section as if set out in full.

2. City May be More Restrictive Than State Law. Minnesota Statutes Section 349.213 authorizes the City to impose, and the City hereby imposes, additional restrictions on gambling within its limits beyond those contained in Minnesota Statutes, Chapter 349. Licensed Organization Residency Requirement. After the effective date of this ordinance, a licensed organization applying for a new premises permit must have sixty percent (60 %) of its members residing within the City's trade area unless the non-resident licensed organization demonstrates that a hardship arises from this residency requirement. Upon request of a non-resident licensed organization, the City Council shall hold a public hearing to consider whether a hardship exists which would exempt the non-resident organization from this residency requirement. The City Council shall determine that a hardship exists if it finds that no licensed organization which meets this residency requirement is willing to conduct charitable gambling activity within the proposed premises or that the rent offered by all licensed organizations meeting the residency requirement is below market value for the same or similar type of premises within the City's trade Area. The City Council shall not find a hardship solely on the basis that the rent proposed by a licensed organization meeting the residency requirement is lower than that proposed by a non-resident licensed organization. In determining whether a hardship exists, the City Council may consider the following factors: (9-11-19)
 - A. The financial stability of the non-resident licensed organization.
 - B. The likelihood of proceeds from the lawful gambling activity being used to benefit residents of the City.
 - C. The records of the non-resident licensed organization proposing to conduct the activity.
 - D. The diversity offered by the non-resident licensed organization proposing to conduct the activity.
3. Purpose. The purpose of this Section is to regulate lawful gambling within the City to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.
4. Definitions. In addition to the definitions contained in Minnesota Statutes Section 349.12, the following terms are defined for purposes of this Section:
 - A. "Board" means the State of Minnesota Gambling Control Board.
 - B. "Licensed Organization" means an organization licensed by the Board.

- C. “Trade Area” means White Bear Lake, Birchwood, Grant, Willernie, Dellwood, Pine Springs, and Oakdale.
5. Applicability. This Section shall be construed to regulate all forms of lawful gambling within the city except:
- A. Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed ten dollars (\$10), total prizes awarded at a single bingo occasion do not exceed two-hundred dollars (\$200), no more than two (2) bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in the bingo game, no compensation is paid for any persons who conduct the bingo game, and a manager is appointed to supervise the bingo game.
 - B. Raffles if the value of all prizes awarded by the organization in a calendar year does not exceed one thousand five hundred dollars (\$1,500).
6. Lawful Gambling Permitted. Lawful gambling is permitted within the City provided it is conducted in accordance with Minnesota Statutes Sections 609.75 through 609.763, Minnesota Statutes Sections 349.11 through 349.23, and this Section.
7. Council Approval. Lawful gambling authorized by Minnesota Statutes Sections 349.11 through 349.23 shall not be conducted unless approved by the Council, subject to the provisions of this Section and State law. No person, except an organization, as defined in Minnesota Statutes Section 349.12, which is licensed by the Board or which has an exemption permit from the Board may conduct lawful gambling within the City.
8. Application and Local Approval of Premises Permits.
- A. Any organization seeking to obtain a premises permit or renewal of a premises permit from the Board shall file with the City Clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the Board.
 - B. Upon receipt of an application for issuance or renewal of a premises permit, the City Clerk shall transmit the application to the Mahtomedi Police Department for review and recommendation.

- C. The Mahtomedi Police Department shall investigate the matter and make the review and recommendation to the City Council as soon as possible, but in no event later than forty-five (45) days following receipt of the notification by the City.
- D. Organizations applying for a state issued premises permit shall pay the City an investigation fee set forth in the Fee Schedule. This fee shall be refunded if the application is withdrawn before the investigation is commenced.
- E. The applicant shall be notified in writing of the date on which the City Council will consider the recommendation.
- F. The City Council shall, by resolution, approve or disapprove the application within sixty (60) days of receipt of the application by the City Clerk.
- G. The City Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:
 - i. Violation by the gambling organization of any State Statute, State Rule, or Code provision relating to gambling within the last three (3) years.
 - ii. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
 - iii. An organization would be permitted to conduct lawful gambling activities at more than two (2) premises in the City. (10/19)
 - iv. More than one licensed organization would be permitted to conduct lawful gambling activities at one (1) premises.
 - v. Failure of the applicant to pay the required investigation fee within the prescribed time limit.
 - vi. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

9. Inspections. All licensed organizations are deemed to have consented to inspection of the licensed or permitted premises by the City. Authorized employees or agents of the City may inspect, at any reasonable time without notice or search warrant, all records, including gambling accounts, and other bank records, required by the Board to be maintained and preserved by the licensed organization.
10. License and Permit Display. All permits issued under state law or this Section shall be prominently displayed during the permit year at the premises where gambling is conducted.
11. Notification of Material Changes to Application Information. An organization holding a State-issued premises permit shall notify the City within ten (10) days in writing whenever any material change is made to any of the information submitted on the permit application.
12. Contribution of Net Profits to Fund Administered by City.
 - A. Each organization licensed to conduct lawful gambling within the city pursuant to Minnesota Statutes Section 349.16 shall contribute 10 percent (10%) of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City without cost to the fund. The City shall disburse the funds for charitable contributions/lawful purposes as defined by Minnesota Statutes Section 349.12, subd. 7a.
 - B. Payments under this Subdivision shall be made on a monthly basis.
 - C. The City's use of such funds shall be determined at the time of adoption of the City's annual budget or when the budget is amended.
13. Designated Trade Area. Each licensed organization within the City shall expend ~~forty (40%)~~ eighty (80%) of its lawful purpose expenditures on lawful purposes conducted within the City's trade area. This Subdivision applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premise within the City's jurisdiction. (10/19)
14. Records and Reporting. Licensed organizations shall file with the City Clerk one copy of all records and reports required to be filed with the Board pursuant to Minnesota Statutes, Chapter 349, and any rules adopted pursuant thereto. The records and reports shall be filed on or before the day they are required to be filed with the Board. Licensed organizations shall file a report with the City proving compliance with the trade area spending requirements imposed by this Section. Such report shall be made

on a form prescribed by the City and shall be submitted annually and in advance of any application for renewal.

15. Hours of Operation. Lawful gambling shall not be conducted between 1 a.m. and 8 a.m. on any day of the week.
16. Penalty for Violation. Any person who violates any provision of this Section, Minnesota Statutes Sections 609.75 through 609.763, or Minnesota Statutes Sections 349.11 through 349.21, or any rules promulgated under these sections, after notice and hearing as provided in Section 7.01 and a finding of a violation of this Section or State law as provided herein, shall be subject to the City reporting such violations to the Board and a recommendation shall be made for suspension, revocation, or cancellation of the organization's license. (10/95)

7.03 GASOLINE FILLING STATIONS.

1. License Required. No person shall engage in the business of keeping, maintaining, or operating any gasoline filling station or any wholesale oil or gasoline storage plant within the City without a license issued by the City Council. A "gasoline filling station" means and includes any place, building, pump, or device maintained and used on private premises or upon any public place for the main purpose of selling or dispensing gasoline, oil or any automotive fuel for use in motor vehicles of any kind.
2. Fees. The City Council shall establish the fee for issuance of an annual license for a gasoline filling station located wholly on private property, an additional fee for each pump in excess of one, and the annual license fee for a gasoline storage plant for wholesale purposes. These fees shall be listed in the City's Fee Schedule.
3. Inspection. It shall be the duty of the members of the City's Fire Department to inspect all such filling stations at various and reasonable times for the purpose of ascertaining whether the provisions of the City Code and State Statutes pertaining to precaution against damage from fire have been complied with in the construction, operation, and maintenance of said filling stations, and to enforce the same. Such inspection may also be made at any reasonable time for the purpose of ascertaining whether construction, remodeling, or repairs have been accomplished in accordance with plans or specifications required to be filed with the City.
4. Transfer. A license under this Section is non-transferable.

7.04 HEATING AND AIR CONDITIONING CONTRACTORS.

1. License Required. No person shall engage in the business of installing, altering, repairing or servicing heating and air conditioning equipment within the City without a valid license from the City to engage in such activities.
2. Application for License. Any person desiring to engage in the business of being a heating and air conditioning contractor shall complete the required application form and return the same along with any required supporting documentation to the City Clerk.
3. Insurance Required. No license shall be granted or renewed until the applicant has filed an insurance certificate issued by an insurance company authorized to do business in the State of Minnesota, insuring the applicant for at least twenty-five thousand dollars (\$25,000) against property damage, for at least fifty thousand dollars (\$50,000) for each person, and for at least one hundred thousand dollars (\$100,000) for each accident against public liability with the City Clerk. The certificate shall state that the policies covering the licensee shall list the City as an additional insured and shall provide that it may not be canceled by the insurer except after thirty (30) days written notice to the City. If the insurance certificate is canceled and the licensee fails to replace it with another certificate conforming to the provisions of this Subdivision, the license shall be automatically suspended until an adequate insurance certificate is issued and a copy is provided to the City Clerk.
4. Surety Bond Required. No license or renewal shall be granted until the applicant files a bond in the sum of two thousand dollars (\$2,000) with a duly licensed surety company as surety thereon or a letter of credit in the sum of two thousand dollars (\$2,000) issued by a financial institution with the City Clerk in a form and execution approved by the City Administrator.
5. Expiration and Renewal. All licenses shall expire one (1) year from the date of the issuance of the license unless sooner suspended or revoked.

7.05 PEDDLERS.

1. Definitions. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted meanings. For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. “Non-Commercial Door to Door Advocate” means a person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this Section, the term door-to-door advocate shall fall

under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

- B. “Peddler” means a person who goes from door-to-door or any other type of place-to-place movement for the purpose of offering for sale, displaying for sale, selling, or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting.
 - C. “Solicitor” means a person who goes from door-to-door or any other type of place-to-place movement for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, or other personal property or services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this definition if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as described above.
 - D. “Transient Merchant” means a person who sets up business at a temporary location for the purpose of displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.
2. Exceptions to Definitions. For the purpose of this section, the terms peddler, solicitor, and transient merchant shall not apply to:
- A. Non-Commercial Door-to-Door Advocates. Any person engaging in non-commercial door-to-door advocacy.
 - B. Wholesale Sellers. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
 - C. Establishing or Maintaining Food Delivery Routes. Any person who makes initial contact with individuals for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food or dairy products, or who makes deliveries of perishable food or dairy products to customers on an established delivery route.

- D. Newspaper Deliveries. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
 - E. Garage Sales. Any person conducting the type of sales commonly known as garage sales, rummage sales, or estate sales.
 - F. Flea Markets. Any person participating in an organized multi-person bazaar or flea market.
 - G. Auctions. Any person conducting an auction as a properly licensed auctioneer.
 - H. Sheriff's Sales. Any officer of the court conducting a court-ordered sale.
3. Exemptions Limited. Exemption from these definitions shall not, for the scope of this Section, excuse any person from complying with any other applicable laws or the requirements of any other Section of the City Code.
- A. Registration Required. Except as otherwise provided for in this Section, no person shall conduct business within the City as a peddler, solicitor, or transient merchant without first registering with the City. It shall be illegal to conduct business as a peddler, solicitor, or transient merchant within the City without first complying with the registration requirements of this Subdivision.
 - B. Registration Form. A registration form shall be completed and submitted to the City Clerk before the applicant may begin conducting a business operation as a peddler, solicitor, or transient merchant within the City. All registration forms shall be signed by the applicant and completed in their entirety. An organization may complete one registration form covering all individuals conducting business as a peddler, solicitor, or transient merchant on behalf of the organization.
 - C. Duration. A completed registration form shall be valid for one (1) calendar year from the date of receipt by the City.
 - D. Registration Exemptions.

- i. No registration shall be required for any person selling or attempting to sell, or taking or attempting to take orders for, any product grown, produced, cultivated, or raised on any farm occupied by the person attempting to sell the product.
 - ii. No registration shall be required for any person going from door to door or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, or freedom of religion. This exemption does not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.
4. Prohibited Activities. No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall do any of the following:
 - A. Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
 - B. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
 - C. Conducting business in a way that creates a threat to the health, safety, or welfare of any specific individual or the general public.
 - D. Conducting business before 7 a.m. or after 9 p.m.
 - E. Failing to provide proof of registration and identification when requested.
 - F. Using the registration of another person.
 - G. Making false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a certificate of registration to that person.

- H. Remaining on the property of another when requested to leave.
 - I. Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating, or abusive.
5. Exclusion by Placard. Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:
- A. At least four (4) inches long.
 - B. At least four (4) inches wide.
 - C. With print of at least forty-eight (48) point in size.
 - D. Stating “No Peddlers, Solicitors or Transient Merchants” or a similar statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any such sign or placard.

7.06 SEWER CONTRACTORS.

1. City System. No person shall engage in the business of building or repairing that portion of the house or building sewer extending from the property line to the main sewer or other outlet within the City without first providing the City’s Building Official with a copy of the person’s current state master plumber’s license or pipelayer’s certification and proof that the requisite statutory bond and insurance requirements have been met.
2. Individual Sewage Treatment System. No person shall engage in the business of installing and constructing individual sewage treatment systems within the City without first providing the City’s Building Official with a copy of the person’s current state master plumber’s license or pipelayer’s certification and proof that the requisite statutory bond and insurance has been posted.
3. Compliance with Sewer Code Provisions. All persons performing any work on any portions of the sewer or on individual sewage treatment

systems shall comply with the relevant provisions of the Sewer Code located in Chapter 15 of the City Code.

7.07 TREE TRIMMING CONTRACTORS.

1. License Required. No person shall fell, cut, or trim any tree for hire or engage in the business of the above within the City without a license issued by the City.
2. Application for License. Any person desiring to engage in the business of tree trimming shall apply to the City Clerk for a license on the required form.
3. Insurance Required. No license shall be granted or renewed until the applicant has filed an insurance certificate issued by an insurance company authorized to do business in the State of Minnesota, insuring the applicant for at least twenty-five thousand dollars (\$25,000) against property damage, for at least fifty thousand dollars (\$50,000) for each person, and for at least one hundred thousand dollars (\$100,000) for each accident against public liability with the City Administrator. The certificate shall state that the policies covering the licensee shall list the City as an additional insured and shall provide that it may not be canceled by the insurer except after thirty (30) days written notice to the City. If the insurance certificate is canceled and the licensee fails to replace it with another certificate conforming to the provisions of this Section, the license shall be automatically suspended until an adequate insurance certificate is issued and a copy is provided to the City Administrator.
4. Expiration; Renewal. All licenses shall expire on March 1 following the date of issuance unless sooner revoked or forfeited.

7.08 RENTAL DWELLING LICENSING.

1. Definitions. For the purposes of this section, the following terms shall have the following meanings:
 - A. “Dwelling” means a building or one or more portions of a building occupied or intended to be occupied for residential purposes.
 - B. “Dwelling Unit” means a habitable unit in a dwelling providing sleeping, cooking, eating, living, and sanitation facilities designed for and occupied by one family only for periods of occupancy exceeding one (1) week.

- C. “Rent” means to permit possession or occupancy of a Dwelling or Rental Dwelling Unit by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease.
 - D. “Occupant” means any person living or sleeping in a Dwelling Unit or having possession of a space within a Dwelling Unit.
 - E. “Rental Dwelling” means any Dwelling used for residential occupancy by one or more persons who are not the owner or a member of the owner’s family.
 - F. “Rental Dwelling Unit” means any dwelling unit used for residential occupancy occupied by someone other than the owner or the owner’s family.
2. Licensing of Rental Dwellings. All rental dwellings shall have a valid license issued by the City in order to be occupied. All Rental Dwelling licenses shall be valid for a period of two (2) years from the date of issuance, except as otherwise provided herein or in cases of suspension or revocation. Application and license fees for newly constructed or converted Rental Dwellings shall be due prior to the issuance of a Certificate of Occupancy.
- A. Licensee Fees. At the time of application for a new or renewal Rental Dwelling license, the applicant shall submit a non-refundable license application fee and, if required, reinspection fee.

In addition to the non-refundable license application fee, a non-refundable late fee for Rental Dwelling license renewals shall be charged.
 - B. Owner or Agent to Apply. New or renewal Rental Dwelling license applications shall be made by the owner of the Rental Dwelling or the owner’s legal agent. Application forms may be acquired from and subsequently filed with the City. The applicant shall completely and accurately supply all the information required on the license application.
 - C. Change in Information. Every person holding a Rental Dwelling license shall give notice, in writing, to the Building Official within five (5) business days after any change to any of the information provided in the Rental Dwelling license application or renewal form.
 - D. Resident Agent Required. No Rental Dwelling license shall be issued or renewed for a nonresident owner of a Rental Dwelling, defined as an owner who does not reside in any of the following

Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott or Washington; or Wisconsin counties: Polk, St. Croix, and Pierce, unless such owner designates in writing to the City Clerk the name, address, and phone number of his or her resident agent (one who does reside in any of the following Minnesota counties: Hennepin, Ramsey, Anoka, Carver, Dakota, Scott, or Washington; or Wisconsin counties: Polk, St. Croix, and Pierce) who is responsible for maintenance and upkeep of the Rental Dwelling and who is empowered to receive service of notice of violations of the provisions of the City Code, to receive orders, to institute remedial action to effect such orders, and to accept all service or process pursuant to law. The City Clerk shall be notified in writing within five (5) days of any change in the owner's resident agent.

E. Application and Inspection. Upon receipt of a completed application for a Rental Dwelling license, an inspection shall be made of the premises. Additional inspections shall occur every two (2) years as part of the Rental Dwelling license renewal process to ensure that the Rental Dwelling is in compliance with all applicable City Code provisions.

i. The Building Official shall mail notification to the Rental Dwelling's owner or agent at least ten (10) business days prior to the proposed inspection date. It shall be the responsibility of the owner or agent to inform tenants of the scheduled inspection.

ii. The number of units to be inspected by the Building Official shall be determined by the following schedule:

Number of units within a building	Units to be inspected per building
1 - 5	All units
6 - 30	Five (5) units or twenty-five percent (25%) of the units, whichever is greater
31 - 60	Twenty-five percent (25%) of the units
61+	Fifteen (15) units

3. Conformance With Code Requirements. No Rental Dwelling license shall be issued or renewed unless the rental dwelling and its premises conform to all applicable City Code provisions.

4. Inspection Condition. No Rental Dwelling license shall be issued or renewed unless the owner of the Rental Dwelling agrees in his or her application to permit inspections. If the Building Official or the Building Official's designee has reason to believe that the circumstances of

occupancy following the issuance of the Rental Dwelling license involve possible City Code violations, substandard maintenance or abnormal wear and tear, the Building Official or Building Official's designee may reinspect the premises upon five (5) business' days notice at any time during the term of the license.

5. Issuance of Rental Dwelling License. If the Rental Dwelling is in compliance with all applicable City Code provisions, a Rental Dwelling license shall be issued to the present owner or his or her designated agent, which shall state that the property has been inspected by the City.
6. Posting of License. Every owner of a Rental Dwelling with more than one (1) unit shall post the Rental Dwelling license in the main entry way or other conspicuous location therein. The license shall contain a statement that tenants of the dwelling units may contact the attorney general for information regarding the rights and obligations of owners and tenants under State law. The statement shall include the telephone number and address of the attorney general.
7. License Transferability. A Rental Dwelling license may not be transferred to another Rental Dwelling. No Rental Dwelling license shall be transferable to another person without prior written approval of the Building Official. A Rental Dwelling license is transferable to a new owner provided that the new owner submits a License Transfer Form along with the License Transfer Fee to the City Clerk within five (5) business days after legally acquiring ownership of the licensed Rental Dwelling(s). Failure to submit the license transfer form and the transfer fee in a timely manner may result in the termination of the Rental Dwelling license.
8. Occupancy Register Required. Every owner of a licensed rental dwelling shall keep a current register of occupancy for each dwelling unit of the Rental Dwelling containing the following information:
 - A. Rental dwelling address.
 - B. Number of bedrooms in each dwelling unit.
 - C. Number of adults and children (under 18 years of age) currently occupying each dwelling unit.

Such register shall be made available for viewing or copying by the Building Official or Building Official's designee upon request.

9. License Suspension or Revocation. Every Rental Dwelling license issued under the provisions of this Section is subject to suspension or revocation

by the City Council if the licensee or his or her duly authorized resident agent fails to operate or maintain the licensed rental dwelling(s) and dwelling units therein in compliance with all applicable City Code provisions. Suspension or revocation of a Rental Dwelling license shall occur pursuant to the procedures set forth in Section 7.01. In the event a Rental Dwelling license is suspended or revoked by the City Council, it shall be unlawful for the owner or his or her duly authorized agent to thereafter permit any new occupancies of vacant, or thereafter vacated rental units, until such time as a valid Rental Dwelling license is issued for the Rental Dwelling. Issuance of a new Rental Dwelling license after suspension or revocation shall be made in the manner provided for obtaining an initial license. The license application shall be accompanied by a license fee equal to one hundred and fifty (150) percent of the original license fee.

10. A Rental Dwelling license may be suspended or revoked for any of the following reasons:
 - A. The license was procured by misrepresentation of material facts, by fraud, by deceit, or by bad faith.
 - B. The applicant or one acting on his or her behalf made oral or written misstatements or misrepresentations of material facts in or accompanying the application.
 - C. The licensee or applicant has failed to comply with any condition set forth in any other permits granted by the City of Mahtomedi.
 - D. The activities of the licensee in the licensed activity create or have created a serious danger to the public health, safety, or welfare.
 - E. The rental dwelling constitutes a public nuisance.
11. Posted to Prevent Occupancy. Whenever the owner of any Rental Dwelling has not obtained the required license, has been denied a Rental Dwelling license, or has had its Rental Dwelling license suspended or revoked, or the Rental Dwelling is unfit for human habitation, it shall be posted with a placard by the Building Official to prevent further occupancy.

No person, other than the Building Official or the Building Official's designee, shall remove or tamper with any placard used for posting. The Building Official shall post on the placard the date that the prohibition on occupancy shall become effective. On or after the posted vacancy date, no person shall reside in, occupy, or cause to be occupied any Rental Dwelling or any unit thereof which has been posted to prevent occupancy.

12. Re-inspection Fees. At the time that a third inspection of a Rental Dwelling or dwelling unit is needed, a re-inspection fee shall be charged to the owner for each re-inspection needed after the initial inspection and the second inspection has been done. No Rental Dwelling license will be issued until all outstanding re-inspection fees have been paid. A Rental Dwelling license shall expire twenty (20) days after the licensee or his or her agent is notified of the re-inspection fees that must be paid to maintain such license in good standing, unless the re-inspection fees are paid prior to the expiration of the twenty (20) day period.

7.09 PAWNBROKERS.

1. Purpose. The Mahtomedi City Council finds that pawnbrokers potentially provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property quickly and easily. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The City Council further finds that the pawn industry has outgrown the City's current ability to effectively or efficiently identify criminal activity related to pawnshops. The purpose of this Section is to prevent pawn businesses from being used as facilities for the commission of crimes and to ensure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the City.

To better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this Section also implements and establishes the required use of the Automated Pawn System (APS).

2. Definitions. The definitions in Minnesota Statutes Section 325J.01 are hereby adopted and incorporated by reference. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:
 - A. "Billable Transaction" means every reportable transaction conducted by a pawnbroker except renewals, redemptions, or extensions of existing pawns or items previously reported and continuously in the licensee's possession.
 - B. "Minor" means any natural person under the age of 18 years.

- C. “Reportable Transaction” means every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, or redeemed, is a reportable transaction with the following exceptions:
 - i. 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 maintains a record of such purchase or consignment which describes each item, and marks each item in a manner which relates it to that transaction record; and
 - ii Retail and wholesale sales of merchandise originally received by pawn or purchase for which all applicable hold and/or redemption periods have expired.
 - D. “Secondhand Goods Dealer” means a person other than a pawnbroker engaged in whole or in part in the business of purchasing or selling used personal property or items.
 - E. “Secondhand Goods Transaction” means any transaction in which a secondhand dealer purchases used personal property or items from a third party in connection with, in whole or in part, the secondhand dealer’s business.
- 3. License Required. No person shall engage in the business of a Pawnbroker in the City without a Pawnbroker license for that location. Issuance of a license under this Section shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other locations. The license granted under this Section is for the person and the premises named on the license application, and is non-transferable. The term of the license year shall begin on January 1 and end on December 31 of the year in which the license was issued. A license issued under this Section must be posted in a conspicuous place in the premises for which it is issued. The license issued is only effective for the compact and contiguous space specified in the approved license application.
 - 4. License Application. A person desiring a business license shall file a complete written application with the City Clerk, accompanied by the license fee established by the City Council and listed in the Fee Schedule.
 - 5. Investigation.

- A. Authorization Required. At the time an initial or renewal application for a Pawnbroker's license is filed, the applicant shall, in writing, authorize the Mahtomedi Police Department to investigate all facts set out in the application and to conduct a personal background and criminal record check on the applicant pursuant to City Code Section 2.21. The applicant shall further authorize the Mahtomedi Police Department to release information received from such investigation to the City Council. The applicant shall have an opportunity to review such information before it is released to the City Council.
 - B. Investigation Fee. In the case of any application for a Pawnbroker business not already existing, or upon a change in ownership or management of an existing Pawnbroker business, the licensee shall deposit one thousand five hundred dollars (\$1,500) with the City Clerk at the time an application is submitted to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Section. If the investigation process is conducted solely within the State of Minnesota, the fee shall be seven hundred and fifty dollars (\$750) and the remainder of the deposit shall be returned to the applicant upon completion of the investigation. If the investigation is conducted outside the State of Minnesota, the City may recover the actual investigation costs not to exceed ten thousand dollars (\$10,000).
- 6. Management. When a licensee places a manager in charge of a Pawnshop, or if the named manager(s) in charge of a Pawnshop changes, the licensee shall submit a Change of Manager form to the City Clerk.
 - 7. Bond Required. At the time an application for a Pawnbroker's license is submitted, the applicant shall file a bond in the amount of five thousand dollars (\$5,000) with the City Clerk. The bond, with a duly licensed surety thereon, must be approved as to form by the City Attorney. Said bond shall be conditioned on the licensee's observance and compliance with all relevant provisions of the City Code in relation to the business of Pawnbroker, and that the licensee shall account for and deliver to any person legally entitled thereto any articles which may have come into the possession of the licensee as Pawnbroker or in lieu thereof such licensee shall pay the person or persons the reasonable value thereof.
 - 8. Application Consideration.
 - A. City Council Hearing. The City Council shall conduct a hearing on each Pawnbroker license application within a reasonable period of time following receipt of the completed application and the police

department's background check of the applicant. At least ten (10) days prior to the City Council hearing on an application, the City shall cause notice of the hearing to be published in the official newspaper of the City, setting forth the day, time, and place of the hearing, the name of the applicant, the premises where the business is to be conducted, and the type of license which is sought. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may grant or deny the license application.

- B. Certificate of Occupancy Required. If a license is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

9. Persons and Locations Ineligible for a License.

- A. Persons. No license under this Section shall be issued to a person if such person, general partner, managing partner of a partnership, or manager, proprietor, or agent in charge of a business or a corporation fails to comply with the eligibility requirements of Minnesota Statutes Section 325J.03.

- B. Locations. No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the State, County, School District or City are due, delinquent or unpaid. In the event a suit has been commenced under Minnesota Statutes Sections 278.01 through 278.03 questioning the amount or validity of taxes, the City Council may waive strict compliance with this provision. No waiver may be granted for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.

10. Conditions of Licenses.

- A. Recordkeeping. At the time of making the receipt of an item of property, whether sold or pawned, the licensee shall immediately and legibly record, in English, the following information by computerized or electronic record, including storage on a backup disk or other electronic storage medium, in accordance with the standards and procedures approved by the Chief of Police:

- i. An accurate and complete description of the item(s), including but not limited to brand name, model name, serial number, trademark, identification number, or any other identifying mark(s) on the property.
- ii. The date, time, and place the item(s) were 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.
- iii. The purchase price or the amount of money loaned upon or pledged therefore.
- iv. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- v. Full name, residence address, residence telephone number, date of birth, and an accurate description of the person from whom the item was received, including: sex, height, weight, race, color of eyes, and color of hair.
- vi. The identification number and state of issue from one of the following forms of identification of the person from whom the items were received:
 - a. A valid Minnesota driver's license;
 - b. A valid Minnesota identification card; or
 - c. A valid photo identification card issued by another state or province of Canada and one other form of identification.
- vii. The amount of money advanced or paid and the check number by which the money was advanced or paid.
- viii. The signature of the person identified in the transaction.
- ix. A color photograph or color video recording of:
 - a. Each individual involved in a billable transaction; and
 - 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 Chief of Police or his or her designee upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person pawning the item 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 zoom in on the person pawning or selling the item to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. All photography, including still photographs and video photographs, must be of sufficient quality and 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 orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must retain the videotape for six (6) months.

- B. Labeling Requirement. A label must be attached to every item at the time it is received as part of any Reportable Transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the licensee'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 Mahtomedi Police Department, and the date the item can be sold, if applicable. The labels shall not be re-used.
- C. Inspection of Records. The licensee shall make available for inspection by the Mahtomedi Police Department the information required in this Section at all reasonable times. This information shall be retained by the Pawnbroker for at least four (4) years, except that any video recordings required in this Section must be retained for six (6) months.

- D. Inspection of Premises and Items. At all times during the term of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, merchandise, and records therein to verify compliance with this Section or other applicable laws.
11. Disposition of Items. When any item is sold or disposed of by the licensee, a record shall be made containing a description of the item sold, the item's unique identification number, date sold, the amount for which the article was sold, interest and charges accrued, and identification of the person who purchased the item.
12. Information Required for Renewals, Extensions and Redemptions. For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
13. Surveillance System. All Pawnshops shall be equipped with a surveillance system approved by the Chief of Police to assist with the identification of each customer involved in each Recordable Transaction.
14. Receipts. The licensee shall provide a receipt to the seller or pledgor of any item received containing the following information:
- A. The name, address, and telephone number of the licensee;
 - B. The date and time on which the item was received by the licensee;
 - C. A description of the item received and amount paid to the pledgor or seller in exchange for the item pawned or sold;
 - D. The signature of the pledgor or seller and the licensee or licensee's designee;
 - E. The last regular business day, if any, by which the item must be redeemed by the pledgor or seller without risk that the item will be sold and the amount necessary to redeem the item on that date;
 - F. The monthly and annual interest rates charged by the licensee, if any, including all pawn fees and charges;
 - G. The full name and address of the seller or pledgor; and
 - H. The following statement:

“Any personal property pledged to a Pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than sixty (60) days past the date of the pawn transaction, renewal or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods. The pledgor of this item attests that it is not stolen, that it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item. This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor.”

15. Holding Period for Pawnbrokers. Any item sold or pawned to a licensee for which a report to the Mahtomedi Police Department is required under this Section shall not be sold or otherwise transferred for sixty (60) days after the date of the sale or pawn. Any item purchased or accepted for trade by the licensee must not be sold or otherwise transferred for thirty (30) days from the date of the transaction. An individual may redeem an item pawned seventy-two (72) hours after the item was received on deposit by the licensee excluding Sundays and legal holidays. During the sixty (60) days following the date of the pledge, items may not be removed from the pawnshop.
16. Release of Property. Licensees are prohibited from redeeming any item to anyone other than to:
 - A. The person to whom the receipt was issued;
 - B. Any person identified in a written and notarized authorization to redeem the property; or
 - C. Any person identified in writing by the pledgor at the time transaction and signed by the pledgor.
17. Police Order to Hold Property.
 - A. Investigative Hold. Whenever a law enforcement official from any law enforcement agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within ninety-six (96) hours and shall remain in effect for fifteen (15) days from the date of initial notification, until the

investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to this Subdivision.

- B. Order to Hold. Whenever the Mahtomedi Police Department 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. The order to hold expires ninety (90) days from the date it is placed, unless the Mahtomedi Police Department determines additional time is 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 Chief of Police or Chief of Police's designee may:
 - i. Physically confiscate and remove it from the licensed premises, pursuant to a written order from the Chief of Police or his or her designee; or
 - ii. Place the item on hold or extend the hold and leave it on the licensed premises. 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.
 - D. Notification of Release. When an order to hold/confiscate is no longer necessary, the Mahtomedi Police Department shall so notify the licensee.
18. Automated Pawn System Reporting. All required transaction record data must be transmitted to the Mahtomedi Police Department at the close of each business day using the current version of the Automated Pawn System ("APS"). If the licensee is unable to report using APS, then the records must be submitted manually to the Mahtomedi Police Department by noon the next business day. The daily transaction record must comply with the following conditions:
- A. Digitized Photographs. Licensee must fulfill the color photograph requirements of this Section by submitting the required photographs as digital images in a format specified by the Chief of Police, electronically cross-referenced to the reportable transaction with which they are associated. Notwithstanding that the digital images may be captured from required video recordings, this provision does not alter or amend the other requirements in Subdivision A.

B. Monthly Transaction Fee.

- i. The licensee shall be charged monthly for each transaction record transmitted manually or through APS at the rate established and adopted by the City Council. The licensee shall pay the charges by the due date shown on the billing. Any charges unpaid at the close of business on the date due shall be deemed delinquent and the licensee shall be charged interest at the rate of one and one-half (1.5%) percent per month on all delinquent charges. Interest charges shall be added to, or become a part of, the delinquent balance. Whenever any charges are more than thirty (30) days delinquent, the City may suspend the Pawnbroker's license until all delinquent charges are paid in full, pursuant to the license suspension process in Section 7.01
- ii. Licensees shall be charged for billable transactions at the rate for the medium by which they were reported to the Chief of Police.
- iii. A licensee who is unable to successfully transfer the required reports electronically shall provide the Mahtomedi Police Department printed copies of all Reportable Transactions along with the required photographs or video tape(s) for that date, by twelve o'clock noon the next business day, and shall be charged at the electronic rate for billable transactions; but
 - a. If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, then the licensee must procure whatever services and equipment are necessary to correct the problem and notify the Mahtomedi Police Department when repairs will be completed.
 - b. Failure by the licensee to promptly correct a technical problem is a violation of this Section.
 - c. Regardless of the origin of the technical problems that prevented the licensee from transmitting the required reports electronically, upon correction of the problem, the licensee must electronically transmit every reportable transaction form each business day that the problem existed.

19. Sign and License Display. The licensee shall display a sign of sufficient size and in a location that makes it visible to all patrons which informs all patrons that all transactions are reported to the Mahtomedi Police Department. A license issued under this Section must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.
20. Maintenance of Order. A licensee under this Section shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
21. Prohibited Acts.
 - A. Minors. Persons under the age of eighteen (18) years may not pawn, 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. Incapacitated Persons. Licensees may not receive or accept any goods from a person of unsound mind or an intoxicated person.
 - C. Proper Identification Required. Licensees may not receive or accept any goods without obtaining proper identification of the seller.
 - D. Tampered Serial Numbers. Licensees may not receive or accept any item 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. Firearms. Licensees may not receive or accept firearms, including antique firearms, without a valid federal firearm dealer license.
22. License Denial, Suspension, or Revocation.
 - A. Any license or license application under this Section may be denied, suspended, or revoked for one or more of the following reasons:
 - i. The proposed use does not comply with the City Zoning Ordinance.

- ii. The proposed use does not comply with any health, building, maintenance, or other provisions of the City Code or state or federal law.
- iii. The applicant committed fraud, misrepresentation, or bribery in securing or renewing a license.
- iv. The licensee made fraudulent statements, misrepresentations, or false statements in the application and investigation for, or in the course of, the applicant's business.
- v. The licensee has had any violation within the preceding five (5) years of any law relating to theft, damage or trespass to property, or sale of a controlled substance.
- vi. The owner of the premises licensed or to be licensed does not qualify for a license under the terms of this Section.
- vii. The business is conducted in an unlawful manner or in such a manner as to constitute a violation of the City Code or Zoning Ordinance.

B. Notice and Hearing. Licenses may be revoked or suspended as provided in Section 7.01,

23. No Off-Site Storage Facility. A licensee is only authorized to carry on its business at the permanent place of business designated in the license. No building other than that mentioned in the license application may be used in conjunction with a Pawnshop.

24. General License Restrictions.

A. Gambling and Gambling Devices. No licensee under this Section may keep, possess, operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punch cards, blackjack tables, or pinball machines which return coins or slugs, chips or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under Minnesota Statutes Chapter 349 may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes Chapter 349A.

- B. Hours of Operation. Monday through Saturday, a licensee under this Section shall not be open for business before 7:00 a.m. or after 9:00 p.m. On Sundays, a licensee under this section shall not be open for business before 12:00 p.m. or after 5:00 p.m. A licensee under this Section shall not be open for business on Thanksgiving Day or Christmas Day.
25. Exemptions. The following persons shall be exempt from this Section:
- A. Persons selling used personal property or items in connection with an occasional “garage” or “yard” sale, estate sale, or farm auction;
 - B. Repurchasers of agricultural machinery or implements pursuant to Minnesota Statutes Sections 325E.05 and 325E.06;
 - C. Recyclers, including but not limited to motor oil, aluminum, iron, scrap metal, glass, plastic, and paper recyclers;
 - D. Dealers of used motor vehicles;
 - E. Retail stores in connection with the repurchase of returned merchandise by a customer after his or her initial retail sale from the retail store;
 - F. Dealers of secondhand or used clothing and linens on consignment or for resale only;
 - G. Dealers of wire and cable pursuant to Minnesota Statutes Section 325E.21;
 - H. Persons making occasional private purchases or sales of secondhand or used personal property or items;
 - I. Dealers of secondhand books, audio books, and magazines for resale only;
 - J. Non-profit organizations that acquire and sell secondhand or used items, including but not limited to thrift stores;
 - K. Dealers of antiques and used furniture or non-electronic furnishings for resale only;
 - L. Licensed auctioneers; or
 - M. Retail or wholesale businesses that purchase secondhand or used personal property or items as part of payment, in full or a portion

thereof, for new goods or personal property purchases from the business when such business transactions are incidental to and not the primary business.

7.10 ADULT ORIENTED BUSINESSES.

1. Purpose. The purpose of this Section is to prescribe licensing requirements for adult oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually-transmitted diseases. The City Council has chosen to enact regulations related to adult uses that supersede the regulations contained in Minnesota Statutes Section 617.242

2. Findings. Studies conducted by the Minnesota Attorney General and cities such as Minneapolis, Minnesota; St. Paul, Minnesota; Indianapolis, Indiana; Los Angeles, California; and Phoenix, Arizona have studied the impacts that adult oriented uses have in those communities. These studies have concluded that adult oriented uses have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risk. Based on these studies and findings, the City Council of the City of Mahtomedi concludes:
 - A. Adult establishments have adverse secondary impacts of the types set forth above.
 - B. The adverse impacts caused by adult oriented uses tend to diminish if adult oriented uses are governed by locational requirements, licensing requirements and health requirements.
 - C. It is not the intent of the City Council of the City of Mahtomedi to prohibit adult oriented uses from having a reasonable opportunity to locate in the City.
 - D. Minnesota Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, morals and general welfare.
 - E. The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult oriented uses.
 - F. Adult oriented uses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing crime-prevention programs and law enforcement services.
 - G. Adult oriented uses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the property management and operation of such businesses can,

however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

- H. Adult oriented uses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
- I. Adult oriented uses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- J. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in in this Section.

3. Definitions. The following words and terms have the following meanings when used in this Section:

- A. “Adult Oriented Business” means: (1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis: (a) has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in adult-oriented materials; (b) devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to adult oriented materials; or (c) derives more than 25% of its gross revenues from adult oriented materials; or (2) A business that engages for any length of time in an adult-oriented use as defined in this Section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.
- B. “Adult Oriented Materials” means visual, printed, or aural materials, and other objects or devices, that: (1) Contain, depict, simulate or describe specified sexual activities or specified anatomical areas; or (2) Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities; or (3) Are designed for sexual stimulation.
- C. “Adult Oriented Use” means any of the following activities and businesses, even if the activity exists for only a short-time:
 - i. “Adult Body Painting Studio” means an establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to

or on a patron's specified anatomical areas when such body is wholly or partially nude.

- ii. "Adult Book Store" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film where a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
- iii. "Adult Cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.
- iv. "Adult Companionship Establishment" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- v. "Adult Conversation/Rap Parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion if such services are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- vi. "Adult Health/Sport Club" means a health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- vii. "Adult Hotel or Motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- viii. "Adult Massage Parlor/Health Club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- ix. "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that, as

a prevailing practice, presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

- x. “Adult Modeling Studio” means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
- xi. “Adult Motion Picture Arcade” means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- xii. “Adult Motion Picture Theater” means a motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.
- xiii. “Adult Novelty Business” means a business or establishment which has a variety of items for sale if it meets the definition of an Adult Oriented Business.
- xiv. “Adult Sauna” means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- xv. “Adult Steam Room/Bathhouse Facility” means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is

distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

- xvi. “Specified Anatomical Areas means:
- a. Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernible turgid state, whether or not completely and opaquely covered.

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

4. Exceptions. This Section does not regulate the following:

- A. Material with significant literary content or social commentary;
 - B. A business where adult oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the adult oriented material on each item is blocked from view by an opaque cover as required under Minnesota Statutes Section 617.293, and each item is in an area accessible only by an employee of the business;
 - C. A person or organization exempted under Minnesota Statutes Section 617.295;
 - D. Activity regulated under Minnesota Statutes Section 617.251;
 - E. Displaying works of art showing specified anatomical areas, so long as no adult oriented materials are for sale, and the business does not have a liquor license; and
 - F. Movies rated G, PG, PG-13, NC-17 or R.
5. License Required. No person may own or operate an adult oriented business within the city unless the person is currently licensed under this chapter.
6. Persons Ineligible. No license may be issued to a person who:
- A. Is not a citizen of the United States or a resident alien;
 - B. Is a minor at the time the application is filed;
 - C. Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of an adult oriented business under Minnesota Statutes Section 364.03, subd. 3, or a person not of good moral character and repute;
 - D. Has been convicted of the any of the following offenses, or a similar offense from another state, and whose sentence has not been discharged for at least three years:
 - i. Prostitution under Minnesota Statutes Sections 609.321, 609.324, or 609.3242;
 - ii. Criminal sexual conduct under Minnesota Statutes Sections 609.342 to 609.3451;

- iii. Solicitation of children under Minnesota Statutes Section 609.352;
 - iv. Indecent exposure under Minnesota Statutes Section 617.23;
 - v. Distribution or exhibition of obscene materials and performances under Minnesota Statutes Section 617.241;
 - vi. Use of a minor in a sexual performance under Minnesota Statutes Section 617.246; or
 - vii. Possession of pornographic work involving minors under Minnesota Statutes Section 617.247.
- E. Holds a liquor license for the same premises under Mahtomedi City Code Chapter 8;
 - F. In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license;
 - G. Has had a license for an adult oriented business or similar business revoked anywhere within five years of the license application; or
 - H. In the case of an individual, is not a resident of the state; in the case of a partnership, the managing partner is not a resident of the state; or in the case of a corporation, the manager is not a resident of the state. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency may, for good cause, be extended by the licensing authority.
7. Places Ineligible. No license may be issued for:
- A. A place or a business ineligible for a license under City ordinance or state law;
 - B. Operation in a zoning district where the business is not allowed pursuant to Chapter 11 of this code;
 - C. A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or any establishment that sells alcoholic beverages; or

- D. Operation on a premises on which taxes, assessments or other financial claims of the City or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

8. License Application. The application for an adult oriented business license under this Section must be made on a form supplied by the city and must provide the following information:

- A. The business in connection with which the proposed license will operate;
- B. The location of the business premises;
- C. The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;
- D. Whether all real estate 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;
- E. Whether the applicant is the owner and operator of the business and if not, who is;
- F. Whether the applicant has ever used or been known by a name other than his or her true name, and if so, what was the name or names, and information concerning dates and places where used;
- G. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
- H. Street addresses at which the applicant and spouse have lived during the preceding ten years;
- I. Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;
- J. Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;

- K. Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;
- L. Whether the applicant or spouse has ever been engaged as an employee or in operating an adult oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;
- M. Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;
- N. If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners must be designated. The interest of each partner or partners in the business must be submitted with the application and, if the partnership is required to file a certificate as to trade name under the provisions of Minn. Stat. Cha. 333, a copy of the certificate must be attached to the application;
- O. If the applicant is a corporation or other organization, the applicant must submit the following:
 - i. Name, and if incorporated, the state of incorporation;
 - ii. Names and addresses of all officers;
 - iii. The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and
 - iv. A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.
- P. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade, and proof of the source of the money;

- Q. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or City employees in case of emergency.
 - R. Whether the applicant holds a current license for an adult oriented business or similar business from another governmental unit;
 - S. Whether the applicant has ever been denied a license for an adult oriented business or similar business from another governmental unit; and
 - T. Any other information that the City deems necessary.
9. False Statements. No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.
10. Continuing Duty. Each licensee has the continuing duty to properly notify the City Administrator of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for revocation or suspension of the license.
11. Renewals. The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.
12. Fees.
- A. An applicant for a license must pay to the City the investigation fee specified in the City's Fee Schedule. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the City believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.
 - B. The annual fees for a license are set forth in the City's Fee Schedule.
 - C. Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be

prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.

D. No refund of a fee will be made except as authorized by ordinance.

13. Granting of Licenses.

A. No license may be issued until the Police Department has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate with this investigation.

B. No license, except for a renewal license, may be issued for an adult oriented business until the Council has held a public hearing. The Council must grant the license unless the applicant or the location does not meet the requirements of the City Code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

C. The City Council may issue a license before an investigation, notice and public hearing for an applicant who:

- i. Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;
- ii. Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;
- iii. Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and
- iv. Otherwise qualifies and meets the requirements for a license.

In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90

days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.

- D. A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.
- E. In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

14. Conditions of License.

- A. A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.
- B. A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.
- C. The license must be posted in a conspicuous place in the premises for which it is used.

15. Restrictions and Regulations. An adult oriented business is subject to the following restrictions and regulations:

- A. No owner, manager or employee may allow adult oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- B. No owner, manager or employee may allow a person under the age of 18 to enter the business.
- C. No owner, manager or employee may allow a person under the age of 18 to have access to adult oriented materials, whether by sight, purchase, touch or other means.
- D. No owner or manager may employ a person under the age of 18 on the licensed premises.
- E. No manager or employee of the business may have been convicted of a sex crime, as identified in Minnesota Statutes Sections 609.293 through 609.352, 609.746 through 609.749, 609.79 or 518B.01, or similar statutes dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.
- F. No business may exceed 10,000 square feet in gross floor area.
- G. No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.
- H. A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.
- I. No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
 - i. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
 - ii. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and

no person other than the owner, manager and employees is allowed in them.

- iii. A licensee must not be open for business to the public between the hours of 2:00 a.m. and 6:00 a.m.

16. Suspensions and Revocations of License.

- A. The City Council may suspend or revoke a license issued under this Section for operation on a premises on which real estate taxes, assessments or other financial claims of the City or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under Minnesota Statutes Chapter 278, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.
- B. The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this Section or violated the statutes in subpart A of this subsection. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.69, with the exception of the suspension provided for in subpart C below.
- C. Conviction by the owner of a sex crime, as identified in Minnesota Statutes Sections 609.293 through 609.352, 609.746 to 609.749, 609.79 or 518B.01, or related statutes dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension of the license pending a hearing on revocation of a license issued under this chapter.

7.11 MASSAGE BUSINESSES.

- 1. Purpose. The purpose of this section of the City Code is to prohibit the operation of Massage Businesses and the offering of Massage Services to the public except by those licensed as Massage Businesses and Massage Therapists pursuant to this section. The licensing regulations prescribed herein are necessary in order to protect legitimate businesses, to prevent criminal activity, and to protect the health and welfare of the community.

The purpose of this section is not to impose restrictions or limitations on the freedom of protected speech or expression.

2. Findings of the City Council. The City Council makes the following findings regarding the need to license Massage Businesses and Massage Therapists and to prohibit all other types of Massage businesses and services to the public:
 - A. Persons who have bona fide and standardized training in Therapeutic Massage, health, and hygiene can provide a legitimate and necessary service to the general public.
 - B. Health and sanitation regulations governing Massage Businesses and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
 - C. Establishing license qualifications for Massage Businesses and Massage Therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
 - D. Massage Businesses which employ persons with no specialized and standardized training can tax law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
 - E. The training of professional Massage Therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.
3. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:
 - A. *Accredited Institution* means an educational institution which is either licensed or registered with the Minnesota Office of Higher Education or accredited by a federally recognized accrediting agency.
 - B. *Accredited Program* means a professional Massage program accredited by the Commission on Massage Therapy Accreditation (COMTA) or a similar organization.
 - C. *Clean* means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

- D. *Good Repair* means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.
- E. *Issuing Authority* means the City Council.
- F. *Massage or Massage Services* means the manual manipulation of the soft tissue of the body to promote, maintain, and restore health and well-being, and may use any of the following techniques: stroking, gliding, lifting, kneading, jostling, vibration, percussion, compression, friction, holding, passive stretching within a person's range of motion, movement or manipulation of the soft tissues, active assistive and resistive movement, and stretching.
- G. *Massage Therapist* means an individual who practices or administers Massage to the public who can demonstrate to the Issuing Authority that he or she:
- i. Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of Massage;
 - ii. Is affiliated with, employed by, or owns a Massage Business licensed by the City; and
 - iii. Provides proof that the applicant has met the academic requirements of the Issuing Authority by providing both of the following:
 - a. A certified copy of a transcript of academic record from an Accredited Program or Accredited Institution; and
 - b. A copy of the diploma or certificate of graduation from an Accredited Program or Accredited Institution. The Accredited Program or Accredited Institution must confirm that the applicant has successfully completed at least 500 hours of certified therapeutic Massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, Massage theory and research, and Massage practice from the same Accredited Program or Accredited Institution.
 - iv. In lieu of the academic requirement in subpart G, provision iii above, the applicant may provide proof of passage of the National Certification Exam offered by the National Certification Board for Therapeutic Massage and Bodywork and a minimum of seven (7) years of full-time work experience as a Massage Therapist within

the United States. The applicant is still required to provide proof of compliance with subpart G, provisions i and ii.

- H. *Operate* means to own, manage, or conduct, or to have control, charge, or custody over.
- I. *Person* means any individual, firm, entity, association, partnership, corporation, joint venture, or combination of individuals.
- J. *Massage Business* means a place of business where Massage Services are provided to the public for a fee. This term includes businesses which rent/lease space to an independent licensed Massage Therapist. The owner/operator of a Massage Business need not be licensed as a Massage Therapist if he or she does not at any time practice or administer Massage Services to the public. A Massage Business may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a Massage Therapist license as long as they are not providing Massage Services to the public.
- K. *Within the City* means includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the City, serves as a point of assignment of employees who respond to requests for the provision of Massage services to various locations within the City.

4. License Required.

- A. Massage Business License. It shall be unlawful for any person to own, operate, engage in, or carry on, within the City, any type of Massage Business without first having obtained a Massage Business license from the City pursuant to this section.
- B. Massage Therapist License. It shall be unlawful for any person to practice, administer, or provide Massage Services to the public for compensation within the City without first having obtained a personal Massage Therapist license from the City pursuant to this section.
- C. Licensing Compliance. Notwithstanding any other provision of this Section, Massage Therapy Businesses and Massage Therapists shall have until August 3, 2022 to obtain the required Massage Therapy Business and Massage Therapist licenses.

5. Exceptions.

A Massage Business or Massage Therapist license is not required for the following persons and places:

- A. Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the Massage is administered by the individual in the regular course of the medical business and not provided as part of a separate and distinct Massage Business.
- B. Persons duly licensed by this state as cosmetologists, estheticians, nail technicians, or barbers, provided such persons do not hold themselves out as giving Massage Services and provided the Massage by cosmetologists and estheticians is limited to the head, neck, hands, and feet; Massage by barbers is limited to the head and neck; and Massage by nail technicians is limited to the hands, feet, and lower arms and legs.
- C. Persons hired or employed by a person duly licensed by this state pursuant to Minnesota Statutes Chapters 147, 148, or a dental professional licensed under Chapter 150A. Such persons shall only be authorized to provide Massage Services on the business premises of the employer.
- D. Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.
- E. Students of an accredited institution who are performing Massage Services in the course of a clinical component of an accredited program of study, provided that the students are performing the Massage Services at the location of the accredited institution and provided the students are identified to the public as students of Massage therapy. Students of an accredited institution may perform Massage Services at clinics or other facilities located outside of the accredited institution provided that they have at least 150 hours of certified therapeutic Massage training at the accredited institution prior to performing the therapy outside of the institution, have proof of liability insurance, and are identified to the public as a student of Massage therapy.
- F. Persons or organizations providing temporary Massage Services such as “chair massages” provided the following requirements are met:
 - i. The Massage is provided in a place of business where the Massage can easily be seen by any employee or visitor on the premises;
 - ii. The location does not hold a license to sell alcoholic beverages;
 - iii. Massages are offered at the location no more than ten (10) days per calendar year;

- iv. Each recipient of a Massage remains in an upright position, either sitting or standing; and
 - v. Each recipient of a Massage remains in the normal daytime attire worn when entering the business and does not remove any clothing except outdoor wear such as a coat or jacket.
6. License Application. All applicants shall complete and submit the requisite license application form provided by the City and provide all information required therein, as well as comply with providing the following information:
- A. Massage Business License Application. An application for a Massage Business license shall be made on a form supplied by the City Clerk and shall request the following information:
 - i. All Applicants. For all applicants:
 - a. The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
 - b. The floor number, street number, suite number(s) and rooms where the Massage services are to be conducted.
 - c. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the City's building and inspection department, no plans need be submitted to the Issuing Authority.
 - d. All applications for licenses, whether business or individual applications, shall be signed and notarized. If the application is that of a natural person, it shall be signed and notarized by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial, suspension or revocation of the license.
 - e. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business, firm, or other entity, a Massage license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the Issuing Authority.

- f. Such other information as City staff or the City Council shall require.
- ii. Individuals. For applicants who are individuals:
 - a. Whether the applicant is currently licensed in other communities to perform Massage Services, and if so, where.
 - b. Names and addresses and contact information including phone numbers and email addresses of the applicant's employers for the preceding five (5) years and dates for such employment.
 - c. Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the time, place and offense for each conviction.
 - d. Whether the applicant has ever been engaged in the operation of a Massage Business or worked as a Massage Therapist. If so, applicant shall furnish information as to the name, place and length of time of the involvement in such an establishment and list any current and prior Massage Business or Massage Therapist licenses.
 - iii. Partnerships. For applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in provision ii of this section. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minn. Stat. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.
 - iv. Corporations and Other Organizations or Entities. For applicants that are corporations or other types of organizations:
 - a. The name of the organization, and if incorporated, the state of incorporation.
 - b. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Statutes Chapter 303.

- c. The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in subpart A, provision ii, of this subdivision.
 - d. A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in subpart A, provision, of this subdivision.
- B. Massage Therapist License Application. An application for a Massage Therapist license shall be made on a form supplied by the City Clerk and shall request the following information:
- i. The applicant's home telephone and cell phone number.
 - ii. The applicant's physical description, including weight, height, color of eyes, and color of hair. The applicant shall provide a color photocopy of the applicant's driver's license or state-issued I.D. front and back, or any other government-issued I.D.
 - iii. Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, and offense for each conviction.
 - iv. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, entity, business or firm, a Massage license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the Issuing Authority.
 - v. The names, residential and business addresses, and current contact information, including a phone number, for three (3) residents within the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to attest to the applicant's character.
 - vi. Proof that the applicant has met the definition of a Massage Therapist in this section.
 - vii. Whether the applicant is currently licensed in other communities to perform Massage services, and if so, where.
 - viii. Whether the applicant has ever been engaged in the operation of a Massage Business or offered Massage Services, and if so,

information as to the name, place, dates and length of time of the involvement in such an establishment or provision of Massage Services, including a list of all current and prior Massage Business or Massage Therapist licenses.

ix. Such other information as the City shall require.

7. License Fee. The fees for Massage Business and Massage Therapist licenses shall be as set forth in the City's fee schedule. An investigation fee shall be charged for Massage Business licenses and individual Massage Therapist licenses. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. An application shall be deemed incomplete unless it is accompanied with the required fees, all documentation required by this section, and is completed in its entirety.
8. License Application Investigation. A background investigation is required prior to the issuance of any license. No investigation fee in part or whole shall be refunded. The City Council may order and conduct such additional investigation as it deems necessary. Upon receipt of a complete license application and completion of the investigation by the Washington County Sheriff's Office, the council shall approve or deny the license.
9. Inspections. In light of the high risk of involvement with illegal conduct an establishment providing Massage Therapy poses to the general public, City staff and/or the Washington County Sheriff's Office shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section. Any search of the licensed premises is subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require consent, exigent circumstances, or a search warrant.
10. Denial, Suspension or Revocation. In addition to the grounds found elsewhere in the City Code, the following reasons may be grounds for the denial, suspension, or revocation of a Massage Therapist or Massage Business license:
 - A. The applicant has been convicted of criminal prostitution, similar sex offenses, or other crimes directly related to the offering of Massage Services or the running of a Massage Business.
 - B. The applicant is a partnership, corporation, or other entity which has in its employ or is owned by any persons convicted of criminal prostitution, similar sex offenses, or other crimes directly related to the offering of Massage Services or the running of a Massage Business.

- C. The owner, manager, lessee or any of the employees are found to be in control or possession of any alcoholic beverages, narcotic drugs or controlled substances, as defined by state statutes, on the premises of the Massage Business.
- D. If the holder of a business license fails to maintain with the Issuing Authority a current list of all employees of such licensed premises. The list shall include all Massage Therapists licensed under this section.
- E. A material variance in the actual plan and design of the premises from the plans submitted.
- F. There is any fraud, deception, or misstatement on the license application.
- G. The owner, manager, lessee, or their employees or any Massage Therapist, are convicted of any ordinance violation or crime occurring on the licensed premises.
- H. The licensed premises are not located in an approved zoning district or otherwise do not meet the health and safety standards found within the City Code for the licensed premises.
- I. The applicant is delinquent upon its payment to the City of taxes, fines, or penalties assessed or imposed against the applicant.
- J. The licensed activity is conducted in such a manner as to constitute a breach of the peace, a menace to the health, safety, or welfare of the public, or a disturbance of the peace or comfort of the residents of the City, upon recommendation of the Washington County Sheriff's Office or an appropriate City official.
- K. The licensee fails to continuously comply with all conditions required as precedent to approval of the license of the requirements of this section of the City Code.
- L. Based on the findings of a background investigation, granting a license would be a menace to the safety, health, morals, or welfare of the public.
- M. The applicant or licensee is not of good moral character.
- N. The applicant has had an interest in, as an individual or as part of a partnership, corporation, or other entity, a Massage Business or

individual Massage Therapist license that was denied, revoked, suspended, recommended for denial, or not renewed by any issuing authority, including other cities or states, within ten (10) years from the date the license application was submitted to the City.

11. License Restrictions.

A. Posting of License.

- i. Business License. A Massage Business license must be posted in a conspicuous place on the premises for which it is issued.
- ii. Massage Therapist License. A person licensed as a Massage Therapist shall post the Massage Therapist license, along with a color photo, in a conspicuous place on the premises at which the therapist is associated. A Massage Therapist shall have readily available at all times that Massage Services are rendered a government-issued photo identification card.

B. Licensed Premises.

- i. Business License. A Massage Business license is only effective for the compact and contiguous space specified in the approved license application. If, following issuance of the license, the licensed premises is enlarged, altered, or extended, the licensee shall inform the City Clerk of the same within ten (10) business days of the enlargement, alteration, or extension. The licensee shall meet with designated City staff who shall confirm that the enlarged, altered, or expanded space is in full compliance with all City regulations, including the building code. If the enlarged, altered, or expanded space is in full compliance with all City regulations, the business license shall be amended to encompass the larger space. A massage business license shall be valid, unless earlier revoked or suspended, for a period of one (1) year from the date of issuance.
- ii. Massage Therapist License. A Massage Therapist license shall entitle the licensed therapist to perform on-site Massage at a business, public gathering, private home, or other site not on the Massage Business premises. It shall be the continuing duty of each licensee to notify the City Clerk, within ten (10) business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license. A massage business license shall be valid, unless earlier revoked or suspended, for a period of one (1) year from the date of issuance.

- C. Affiliation with Business Required. A Massage Therapist shall be employed by, affiliated with, or own a Massage business licensed by the City, unless a person or place is specifically exempted from obtaining a Massage Business license pursuant to this section.
- D. Employment of Unlicensed Massage Therapists Prohibited. No Massage Business shall employ or use any person to perform Massage Services who is not licensed as a Massage Therapist under this section, unless the person is specifically exempted from obtaining a Massage Therapist license pursuant to this section.
- E. Coverage of Genitals During Massage. The licensee shall require that the person who is receiving the Massage shall at all times have his or her genitals covered with non-transparent material or clothing.
- F. Therapist Dress Requirements. Any Massage Therapist performing Massage Services shall at all times be dressed professionally.
- G. Massage of Certain Body Parts Prohibited. At no time shall the Massage Therapist intentionally Massage or offer to Massage the penis, scrotum, mons veneris, vulva, breasts, or vaginal area of a person.
- H. Restrictions Regarding Hours of Operation. No Massage Business shall be open for business, nor will any Massage Therapist offer Massage Services, before 8:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 8:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.
- I. Illegal Activities. In addition to the license restrictions set forth in this section, any advertising by a licensee of any potential unlawful or erotic conduct at the licensed establishment or by a licensed Massage Therapist shall be prohibited. A licensee under this section shall be strictly responsible for the conduct of the business being operated in compliance with all applicable law and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.
- J. Restrictions Involving Minors. No person under the age of eighteen (18) shall be permitted at any time to be in or on the licensed premises as a massage customer, guest, or employee, unless accompanied by his/her parent or guardian.

- K. Restrictions Involving Habitation. The premises of a licensed Massage Business, other than a massage business legally conducted as a home occupation, shall not contain sleeping quarters or living spaces of any kind intended for habitation. In all Massage Businesses, including Massage Businesses legally conducted as a home occupation, no beds, cots, futons, or mattresses shall be located in any area where massage services are provided.
 - L. Equipment. All massage services shall be provided on a raised massage therapy table or chair or on a mat similar to those used in yoga.
 - M. Posting of Rates and Licenses. Massage Businesses shall post rates for all massage services offered at the business as well as the Massage Business license and individual massage therapist licenses in a prominent location on the business premises.
 - N. Compliance with Building and Fire Codes. Massage Business premises shall comply with all applicable fire and building code requirements.
12. Restrictions Regarding Sanitation, Health and Safety.
- A. Toilet Room Requirements. A licensed Massage Business shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.
 - B. Paper/Linen Requirements. A licensed Massage Business shall provide single-service disposal paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the Massage; or in the alternative, if the table, chair, or furniture on which the patron receives the Massage is made of material impervious to moisture, such table, chair, or furniture shall be properly sanitized after each Massage.
 - C. Washing of Hands Required. The licensed business premises shall contain an on-site sink. The Massage Therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each Massage service performed.
 - D. Door Latches and Locks. Doors on Massage Therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any

person from either side of the door with or without a key cannot be present on any doors of rooms intended for Massage Therapy. The front door of any Massage Business shall remain unlocked during all hours of operation, except that interior and exterior doors may remain locked when the business is open if the only persons at the business are a single massage therapist providing massage services and customers receiving massages, and the door is able to be opened without a key from inside by way of a crash bar or other mechanism that allows anyone to open the door without a key from inside of the room where the door is located. PASSED 5-3-22 EFFECTIVE 8-3-22