

TITLE 3

BUSINESS AND LICENSE REGULATIONS

Subject	Chapter
Liquor Control.....	1
3.2 Percent Malt Liquor.....	1A
Intoxicating Liquor.....	1B
Outdoor Parties.....	1C
Sale Of Tobacco Related Products.....	2
Construction Activities.....	3
Pawnbrokers, Secondhand Goods Dealers And Precious Metal Dealers.....	4
Transient Merchants, Peddlers, Solicitors And Canvassers	5
Massage Businesses And Services.....	6
Adult Use Businesses.....	7
Vehicle Sales Business.....	8
Cannabinoid Products.....	9
Administrative Hearings.....	10

CHAPTER 1

LIQUOR CONTROL

3-1-1: STATE LAW ADOPTED: The provisions of Minnesota Statutes Chapter 340A, commonly known as the Liquor Act, are adopted and made part of this article as if set out in full. Whenever there is an inconsistency between the provisions of Minnesota Statutes Chapter 340A and the provisions of this article, the more restrictive shall govern. (Amended Ord. 213, 5-6-1997)

3-1-2: DEFINITIONS: In addition to the definitions set forth in Minnesota Statutes Chapter 340A, the following words are defined for the purpose of this article:

3.2 PERCENT MALT LIQUOR:

Any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent (0.5%) alcohol by volume. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

BONA FIDE CLUB:

An incorporated organization for social or business purposes or for intellectual improvement or for the promotion of sports, where the serving of 3.2 percent malt liquor is incidental to and not the major purpose of the club.

LICENSE:

Shall also include a permit for consumption and display, unless otherwise indicated.

LICENSEE:

Any person to whom a license has been issued under the provisions of this article.

MINOR:

Any person under the age established by Minnesota Statutes Section 340A.503.

PACKAGE:

A sealed or corked container of alcoholic beverage.

PERSON:

An individual, partnership, association, corporation, or club.

- PUBLIC PROPERTY:** Land owned by a municipal, county, state or other governmental unit.
- RELIGIOUS INSTITUTION:** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. (Amended Ord. 481, 4/3/18)
- RESTAURANT:** Shall have the meaning given to the term by Minnesota Statutes Section 340A.101, Subdivision 25.
- SALE AND PURCHASE:** Include all barters, gifts, sales and any other means used to obtain or furnish alcoholic beverages. (Amended Ord. 235, 8-5-1997)
- SCHOOL:** For the purposes of this ordinance, school shall mean a public, private, or charter school providing elementary, middle or high school age curriculums.

CHAPTER 1

LIQUOR CONTROL

ARTICLE A. 3.2 PERCENT MALT LIQUOR

SECTION:

3-1A- 1:	License Required; Types Of Licenses
3-1A- 2:	Ineligibility For License
3-1A- 3:	Application For License
3-1A- 4:	Insurance Requirements
3-1A- 5:	Payment Of License Fee; Refunds
3-1A- 6:	Investigation Of Applicant; Grant Of License
3-1A- 7:	Term Of License; Renewals
3-1A- 8:	Non-transferability Of License Or Location
3-1A- 9:	Temporary On-Sale License
3-1A-10:	Compliance Checks And Inspections
3-1A-11:	Hours Of Sale
3-1A-12:	Suspension/Revocation/Civil Penalty
3-1A-13:	Violation; Penalty

3-1A-1: **LICENSE REQUIRED; TYPES OF LICENSES:** As part of a commercial transaction, no person (with the exception of wholesalers and manufacturers, to the extent authorized by law) shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, within the city any 3.2 percent malt liquor without first having received a 3.2 percent malt liquor license. The City Council may issue the following types of 3.2 percent malt liquor licenses (Amended Ord. 404, 1-18-11):

- A. On-Sale Licenses: Retail on sale licenses obtained pursuant to this article shall permit the licensee to sell 3.2 percent malt liquors for consumption on the licensed premises and shall be issued only to restaurants, hotels, bona fide clubs and establishments used exclusively for the sale of 3.2 malt liquors with the incidental sale of tobacco and soft drinks.
- B. Off-Sale Licenses: Retail off-sale licenses obtained pursuant to this article shall permit the licensee to sell 3.2 percent malt liquors in packages for consumption off the premises only.

- C. Temporary On-Sale Licenses: Temporary on-sale licenses obtained pursuant to this article shall be issued to a bona fide club or charitable, religious or nonprofit organization for a specified time period. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

3-1A-2: **INELIGIBILITY FOR LICENSE:**

- A. On-Sale License; Locations Prohibited: No on-sale license shall be granted for any place within three hundred feet (300') of any public or private school nor within three hundred feet (300') of any religious institution, the measurement being from building corner to building corner. This restriction shall not apply to religious institutions or schools located in the Limited Business, Neighborhood Business, Shopping Center General Business, or Industrial Zoning Districts. (Ord. 301, 10-5-2004; Amended Ord. 404, 1/18/11; Amended Ord. 481, 4/3/18; Amended Ord. 498, 12/3/19)

- B. Delinquent Taxes Or Assessments: No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid. (Amended Ord. 213, 5-6-1997)

3-1A-3: **APPLICATION FOR LICENSE:**

- A. Information Required: Any person desiring a license to sell 3.2 percent malt liquor (on-sale or off-sale) shall make application for a license to the City Clerk. The application made to the city shall include the following: (Amended Ord. 213, 5-6-1997; amd. 2003 Code)
1. Name of applicant and date of birth;
 2. Representations as to the applicant's character;
 3. The business in connection with which the proposed licensee will operate and its location;
 4. Whether the applicant is the owner and operator of the business and if not, who is;
 5. Whether the applicant has ever used or been known by a name other than his/her name;

6. Kind, name and location of every business or occupation applicant or spouse has been engaged in during the preceding ten (10) years; and
 7. Other such information as the City Council may require from time to time.
- B. False Information Prohibited: No person shall make a false statement or material omission in a license application. Any false statement or material omission shall be grounds for denying or revoking a license.
- C. Changes In Information: Each licensee shall have the continuing duty to properly notify the City Clerk of any change in the information or facts required to be furnished on the application for a license. This duty shall continue throughout the period of the license, and failure to comply with this section shall constitute cause for revocation or suspension of the license. (Amended Ord. 213, 5-6-1997)

3-1A-4: INSURANCE REQUIREMENTS:

- A. Every application for a 3.2 percent malt liquor license shall be accompanied by evidence of adequate financial responsibility for liability in a form permitted by Minnesota Statutes Section 340A.409, Subdivision 1. This provision shall not apply to establishments exempt from financial responsibility requirements by Minnesota Statutes Section 340A.409, Subdivision 4.
- B. A liability insurance policy shall name the City as an additional insured. The limits of such policy shall comply with the liability limits as stated in Minnesota Statutes.
- C. The liability policy must provide that it may not be canceled for any cause either by the insured or the insurance company without first giving ten (10) days' notice to the city, in writing, of that intention. The policy must also provide that any amount paid by the insurance company as a result of a claim will not reduce the coverage available to pay subsequent claims.
- D. No person may operate any business or conduct any activities requiring a 3.2 percent malt liquor license from the city without having in effect, and evidence on file with the city of, the financial responsibility required by this section. The failure to have the financial responsibility in effect and/or on file shall be grounds for immediate revocation or suspension of a license. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

3-1A-5: **PAYMENT OF LICENSE FEE; REFUNDS:** Each application for a license shall be accompanied with a receipt from the City Finance Director/Treasurer for payment in full of the required fee for the license ¹. All fees shall be paid into the General Fund. Upon rejection of any application for a license, the City Finance Director/Treasurer shall refund the amount paid. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

3-1A-6: **INVESTIGATION OF APPLICANT; GRANT OF LICENSE:** No 3.2 percent malt liquor license, except temporary licenses, shall be issued until the City Clerk has conducted an investigation of the representatives set forth in the application. All applicants shall cooperate with this investigation. Any false statement or material omission made by the applicant during the course of the investigation shall be grounds for denying or revoking the license. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

3-1A-7: **TERM OF LICENSE; RENEWALS:** All 3.2 percent malt liquor licenses shall be issued for a period of one year and shall expire on December 31 each year. The fees for licenses are established by ordinance and shall not be prorated ¹. The application for renewal of any existing license shall be made at least ninety-(90) days prior to the date of the expiration of the license. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

3-1A-8: **NON-TRANSFERABILITY OF LICENSE OR LOCATION:** Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Council. (Amended Ord. 213, 5-6-1997)

3-1A-9: **TEMPORARY ON SALE LICENSE:**

A. Conditions Of License: The City Council may issue temporary on-sale 3.2 percent malt liquor licenses to a bona fide club or charitable, religious, or nonprofit organization. These licenses are subject to the following:

1. Application: Submission of a completed application to the City Clerk at least thirty-(30) days in advance of the event for which the license is requested.

2. Insurance: Submission of evidence of insurance, with the same coverage limits and provisions as are required for the issuance of an on-sale or off-sale license for an establishment with sales of 3.2 percent malt liquor, of ten thousand dollars (\$10,000.00) or more per year.

¹ See section 1-7-3 of this code for fees.

¹ See subsection 1-7-3A of this code.

3. License Fee: Payment of license fee as established by ordinance ¹.

4. Emergency Contacts: Submission of a list of responsible persons who may be contacted immediately in case of an emergency. Those persons must be residents of the Twin Cities metropolitan area as defined by Minnesota Statutes Section 473.121, Subdivision 2. At least one person of the listed persons must be present on the licensed premises during all hours of sale.

5. Other Conditions: The City Council may impose other reasonable conditions.

B. Term Of License: Temporary on-sale 3.2 percent malt liquor licenses may be issued for a specified period of time, not to exceed four (4) consecutive days, unless the approval for an extended time period is granted by the City Council. (Amended Ord. 489, 3-19-19)

C. Public Location: These licenses may be issued for an event to take place on public property. (Amended Ord. 213, 5-6-1997; amd. 2003 Code)

3-1A-10: **COMPLIANCE CHECKS AND INSPECTIONS:** All licensed premises shall be open to inspection by authorized city officials during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging underage youth to enter the licensed premises to attempt to purchase alcoholic beverages. No minor or underage adult used in compliance checks shall attempt to use a false identification or theatrical makeup that misrepresents his or her age. All minors and underage adults lawfully engaged in a compliance check shall answer all questions about their age truthfully when asked by the licensee and shall produce any identification which they are asked to produce. In all instances the minors or underage adults shall be accompanied by authorized city officials to the location of the compliance check. (Amended Ord. 213, 5-6-1997)

3-1A-11: **HOURS OF SALE:** No sale of 3.2 percent malt liquor shall be made between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. Monday through Saturday. Neither shall any sale of such liquor be made on Sunday between the hours of one o'clock (1:00) A.M. and twelve o'clock (12:00) noon. (Ord. 213B, 7-1-2003)

A. Sales After One O'Clock A.M.; Special License:

1. State Permit Required: No licensee may sell 3.2 percent malt liquor between the hours of one o'clock (1:00) A.M. and two o'clock (2:00) A.M. unless the licensee has obtained a permit from the Commissioner

pursuant to Minnesota Statutes Section 340A.504, Subdivision 7.

2. Days Permitted: Two o'clock (2:00) A.M. closing licenses shall be issued only to allow sales until two o'clock (2:00) A.M. on Fridays, Saturdays, Sundays, Thanksgiving Day, July 5 and New Year's Day.

3. Service Of Food: On-sale licensees shall be required to offer the licensee's normal food service to its customers until one o'clock (1:00) A.M. (Ord. 296, 7-20-2004)

3-1A-12: **SUSPENSION/REVOCAION/CIVIL PENALTY:** The City Council may either suspend for up to sixty (60) days or revoke any 3.2 percent malt liquor license or impose a civil fine not to exceed two thousand dollars (\$2,000.00) for each violation upon finding that the licensee or agent or employee of the licensee has failed to comply with any applicable statute, regulation or ordinance. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.69. (Amended Ord. 213, 5-6-1997; amd. 2003 Code; Ord. 213B, 7-1-2003)

In addition to the remedies and penalties set forth in this article, in the event an establishment fails an alcohol compliance check, the City Council shall levy a penalty against the establishment. Penalties are as listed in Section 1-7-3 of this code. Said penalty shall be paid to the City Treasurer within ten (10) days of notification of the penalty. (Ord. 213B, 7-1-2003)

3-1A-13: **VIOLATION; PENALTY:** Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law. Any fine or sentence imposed shall not affect the right of the city to suspend or revoke the license of the licensee as the City Council deems appropriate. (Amended Ord. 213, 5-6-1997; amd. Ord. 213B, 7-1-2003)

CHAPTER 1

LIQUOR CONTROL

ARTICLE B. INTOXICATING LIQUOR

SECTION:

- 3-1B- 1: License And Permit Required
- 3-1B- 2: Eligibility And Ineligibility For License
- 3-1B- 3: Application For License Or Permit
- 3-1B- 4: Financial Responsibility
- 3-1B- 5: License And Permit Fee
- 3-1B- 6: Types Of Licenses And Permits; Exemptions
- 3-1B- 7: Investigation Of Applicant; Grant Or Denial Of License
- 3-1B- 8: Expiration Of Licenses And Permits; Renewals
- 3-1B- 9: Non-transferability Of License
- 3-1B-10: Conditions Of License And Permit
- 3-1B-11: Sunday Sales
- 3-1B-12: Minors
- 3-1B-13: Sales To Certain Persons Prohibited
- 3-1B-14: Compliance Checks And Inspections
- 3-1B-15: Suspension Or Revocation Of License; Penalties

3-1B-1: **LICENSE AND PERMIT REQUIRED:**

- A. License: Except as provided below, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the appropriate license from the city.
- B. Permit: No person who does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the city. (Amended Ord. 235, 8-5-1997)

3-1B-2: **ELIGIBILITY AND INELIGIBILITY FOR LICENSE:**

- A. A license shall be issued only to a person who is:
 - 1. Eligible for a license under Minnesota Statutes Section 340A.402; and

2. A proprietor of the establishment for which the license is sought.
- B. No license shall be issued to a person who is:
1. Ineligible under state law; or
 2. Not the real party in interest or beneficial owner of the business operated under the license.
- C. No license shall be issued for any place or any business ineligible for a license under state law.
- D. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.
- E. 1. No on-sale intoxicating liquor or on-sale wine license shall be issued unless the applicant makes a bona fide estimation that at least fifty percent (50%) of the gross receipts of the establishment during the first year of business will be attributable to the sale of food. Each on-sale intoxicating liquor or on-sale wine licensee shall have the continuing obligation to have at least fifty percent (50%) of gross receipts from the establishment during the preceding business year attributable to the sale of food. For the purpose of this requirement, establishment shall include the food and beverage portion of a multi-serve establishment. Financial records for food and beverage portion must be maintained separately from the records of the remainder of the establishment.
2. For the purpose of this section, "sale of food" shall include gross receipts attributable to the sale of food items, soft drinks and nonalcoholic beverages. It shall not include any portion of gross receipts attributable to the nonalcoholic components of plain or mixed alcoholic beverages such as ice, soft drink mixes or other mixes.
3. The City Council may require the production of such documents or information including, but not limited to, books, records, audited financial statements or pro forma financial statements as it deems necessary or convenient to enforce these provisions. The City Council may also obtain its own audit or review of such documents or information, and all licensees shall cooperate with such a review, including prompt production of requested records. (Amended Ord. 235, 8-5-1997)
4. In addition to other remedies that it may have available, the City Council may place the license of any on-sale intoxicating liquor or on-sale wine licensee on probationary status for up to one year when the sale of food is

reported, or found to be, less than fifty percent (50%) of gross receipts for any business year. During the probationary period, the licensee shall prepare any plans and reports, participate in any required meetings, and take other action that the City Council may require to increase the sale of food. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

- F. No license shall be granted for any place located within three hundred feet (300') of any public or private school nor within three hundred feet (300') of any religious institution, the measurement being from building corner to building corner. This restriction shall not apply to religious institutions or schools located in the Limited Business, Neighborhood Business, Shopping Center, General Business or Industrial Zoning Districts. This restriction shall not apply to Temporary On-Sale Intoxicating Licenses. (Ord. 301, 10-5-2004; Amended Ord. 404 1/18/11; Amended Ord. 481, 4/3/18; Amended Ord. 489, 3-19-19; Amended 498, 12/3/19)

3-1B-3: APPLICATION FOR LICENSE OR PERMIT:

- A. Information Required: Every person desiring a license or consumption or display permit under this article shall file with the City Clerk a verified written application in the form prescribed and approved by the Commissioner of Public Safety of the state. In addition to the information required on the application form prescribed and approved by the Commissioner of Public Safety and information required by any other officer or office of the state, the application made to the city shall include the following:
1. Representations as to the applicant's character;
 2. The business in connection with which the proposed licensee will operate;
 3. Whether the applicant is the owner and operator of the business and if not, who is;
 4. Whether the applicant has ever used or been known by a name other than his/her name, and if so, what was the name, or names, and information concerning dates and places where used;
 5. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
 6. Street address at which applicant and spouse have lived during the preceding ten (10) years;

7. Kind, name and location of every business or occupation applicant or spouse has been engaged in during the preceding ten (10) years;
8. Names and addresses of applicant's and spouse's employers and partners, if any, for the preceding ten (10) years;
9. Whether the applicant or spouse has ever been convicted of a violation of any state law or local ordinance, other than a nonalcohol related traffic offense. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had; and
10. Whether the applicant or spouse, or parent, brother, sister or child of either of them, has ever been engaged as an employee in operating a saloon, hotel, restaurant, cafe, tavern or other business of similar nature. If so, applicant shall furnish information as to the time, place and length of time.
11. Whether the applicant has ever been in military service. If so, the applicant shall, upon request, exhibit all discharges.
12. The name, address and business address of each person who is engaged in Minnesota in the business of selling, manufacturing or distributing alcoholic beverages and who is nearer in kin to the applicant or spouse than second cousin, whether of the whole or half-blood, computed by the rules of civil law, or who is brother-in-law or sister-in-law of the applicant or spouse.
13. If the applicant is a partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners shall be designated. The interest of each partner or partners in the business shall be submitted with the application, and if the partnership is required to file a certificate as to trade name under the provisions of Minnesota Statutes Chapter 333, a copy of the certificate certified by the Clerk of District Court shall be attached to the application.
14. If the applicant is a corporation or other organization, the applicant shall submit the following:
 - a. Name and, if incorporated, the state of incorporation.
 - b. A true copy of the certificate of incorporation, articles of incorporation or association agreements.
 - c. 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.

d. A list of all persons who, single or together with their spouse or a parent, brother, sister or child of either of them, own or control an interest in said corporation or association in excess of five percent (5%) or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

15. The floor number and street number where the sale of alcoholic beverages is to be conducted and the rooms where the beverages are to be sold or consumed. An applicant for an on-sale license shall submit a floor plan of the dining rooms, which shall be open to the public, shall show dimensions and shall indicate the number of persons intended to be served in each of the rooms.

16. 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. Whenever the application for an on sale license or for a transfer thereof is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of the preliminary plans showing the design of the proposed premises to be licensed. If the plans are on file with the city, no further plans need to be filed.

17. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by the state or city employees in case of emergency.

18. Other information that the City Council deems appropriate.

- B. False Information Prohibited: No person shall make a false statement or material omission in a license application. Any false statement or material omission shall be grounds for denying or revoking a license.
- C. Changes In Information: Each licensee shall have the continuing duty to properly notify the City Clerk of any changes in the information or facts required to be furnished on the license application. This duty shall continue throughout the period of the license, and failure to comply with this section shall constitute cause for revocation or suspension of the license. (Amended Ord. 235, 8-5-1997)

3-1B-4: FINANCIAL RESPONSIBILITY:

- A. Financial Responsibility Required: Every application for a license shall be accompanied by evidence of adequate financial responsibility for

liability provided as follows:

1. General Liability Insurance Policy: A liability insurance policy which shall name the City of Andover as an additional insured and shall provide for the minimum coverage as stated in Minnesota Statutes Section 466.04.

2. Liquor Liability Insurance Policy:

a. A liability insurance policy imposed by Minnesota Statutes Section 340A.409 which shall name the City of Andover as an additional insured and shall provide for the following minimum coverage: fifty thousand dollars (\$50,000.00) for bodily injury to any one person in any one occurrence; one hundred thousand dollars (\$100,000.00) for bodily injury to two (2) or more persons in any one occurrence; and ten thousand dollars (\$10,000.00) for injury to or destruction of property of others in any one occurrence; fifty thousand dollars (\$50,000.00) for loss of means of support of any one person in any one occurrence; and one hundred thousand dollars (\$100,000.00) for loss of means of support of two (2) or more persons in any one occurrence.

b. This subsection does not prohibit an insurer from providing the coverage required by this subsection in combination with other insurance coverage.

3. Additional Forms Of Proving Financial Responsibility: The applicant or licensee may substitute one of the following as proof of financial responsibility to the requirements of Subsection A2 of this section:

a. A bond of a surety company with minimum coverages as provided in Subsection A2 of this section.

b. A certificate of the State Treasurer that the licensee has deposited with the State Treasurer one hundred thousand dollars (\$100,000.00) in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of one hundred thousand dollars (\$100,000.00).

B. Exemptions: This section does not apply to establishments exempt from financial responsibility requirements by Minnesota Statutes Section 340A.409, Subdivision 4.

C. Cancellation: The liability insurance policy, bond or certificate of the State Treasurer required above shall provide that it may not be canceled for any cause, except for nonpayment of premium, by the licensee, insurance company, bond company, or State Treasurer without first giving thirty (30)

days' notice to the city in writing of the intention to cancel it. A ten (10) day written notice of cancellation shall be required for nonpayment of premium by the canceling party. Such notices must be addressed to the City Clerk.

- D. Violation; Penalty: No person shall operate any business or conduct any activities requiring a liquor license from the city without having in effect, and evidence on file with the city, the financial responsibility required by this section. Failure to have the financial responsibility in effect and/or on file shall be grounds for immediate revocation or suspension of a license. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

3-1B-5: **LICENSE AND PERMIT FEE:** Every applicant for a license or consumption and display permit shall pay to the city a fee set forth by ordinance¹. This fee shall be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the City Council believes that the public interest so warrants, it may require a similar investigation at the time of renewal of any license. Fees for licenses issued during the license year shall be prorated according to the number of months remaining in the year. For this purpose, an unexpired fraction of a month shall be counted as a whole month which shall have elapsed. No refund of any fee shall be made except as authorized by statute. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

3-1B-6: **TYPES OF LICENSES AND PERMITS; EXEMPTIONS:**

- A. Types Of Licenses And Permits: The City Council may grant the following types of intoxicating liquor licenses:
1. On-Sale Licenses: On-sale licenses may be issued only to hotels, clubs, and restaurants. A license shall be issued only in conjunction with the serving of food. (Amended Ord. 517, 4/20/21)
 2. On-Sale Wine Licenses: On-sale wine licenses may be issued to restaurants capable of at least twenty-five (25) guests at one time. The wine shall not exceed fourteen percent (14%) alcohol by volume and be sold for consumption on the licensed premises only and in conjunction with the sale of food. (Amended Ord. 489, 3-19-19)

¹ See subsection 1-7-3A of this code.

3. Off-Sale Licenses: Off-sale licenses may be issued only to exclusive liquor stores and shall permit off-sale of intoxicating liquor and 3.2 percent malt liquor. As an incident to these sales, ice, soft drinks and all forms of tobacco may also be sold. The city shall issue a limited number of off-sale licenses based on population. The number of licenses shall be limited to one for each six thousand (6,000) residents, based on current estimated population.
4. Consumption And Display Permit: A consumption and display permit may be issued to a bottle club which complies with the requirements of Minnesota Statutes Section 340A.414 and which has obtained a permit from the Commissioner of Public Safety. No bottle club may operate in the city without first obtaining a permit from the city. (Amended Ord. 470, 6-20-17)
5. Temporary On-Sale Intoxicating Liquor Licenses: The City Council may issue temporary on-sale licenses for the sale of intoxicating liquor, subject to the following:
 - a. The license will only be issued to an Andover based charitable, religious or non-profit organization in existence for at least three years.
 - b. Such temporary on-sale intoxicating liquor sales shall be limited to strong beer and wine only and will be allowed only in connection with a social event sponsored by the licensee.
 - c. A temporary on-sale intoxicating liquor license may authorize on-sales on premises other than the premises the organization owns or permanently occupies upon City approval.
 - d. The license will be issued for a specific date, time and place.
 - e. No license will be longer than four (4) consecutive days, and the City Council shall issue no more than twelve (12) days' worth of temporary licenses to any one organization in one (1) calendar year.
 - f. No license issued under this subdivision will be valid unless first approved by the Commissioner of Public Safety. (Amended Ord. 489, 3-19-19)
6. Brew Pub On-Sale Intoxicating Liquor Licenses: With the approval of the Commissioner of Public Safety, Brew Pub On-Sale Intoxicating Liquor Licenses may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established pursuant to Minnesota Statutes Section 340A.301. Sales under this on-sale license may not exceed 3,500 barrels per year. If a brew pub licensed under this

chapter possesses a license for off-sale under subsection (7) of this section, the brew pub's total combined retail sales for on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels. (Amended Ord. 489, 3-19-19)

7. Brew Pub Off-Sale Intoxicating Liquor Licenses: With the approval of the Commissioner of Public Safety, Brew Pub Off-Sale Intoxicating Liquor Licenses may be issued to a brewer that is a licensee under subsection (6) of this section, or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established pursuant to Minnesota Statutes Section 340A.301. Off-sale malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by Minnesota Statutes 340A.301. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this chapter possesses a license under subsection (6) of this section, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels. (Amended Ord. 489, 3-19-19)
8. Brew Pub Temporary On-Sale Intoxicating Liquor Licenses: With the approval of the Commissioner of Public Safety, Brew Pub Temporary On-Sale Intoxicating Liquor Licenses to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer. (Amended Ord. 489, 3-19-19)

B. Exemptions:

1. Any person holding an on-sale intoxicating liquor license may sell 3.2 percent malt liquor at on-sale without obtaining a 3.2 percent malt liquor license as required by the city.
2. Any person holding an off-sale intoxicating liquor license may sell 3.2 percent malt liquor at off-sale without obtaining a 3.2 percent malt liquor license as required by the city.

3-1B-7: **INVESTIGATION OF APPLICANT; GRANT OR DENIAL OF LICENSE:**

- A. All applications for a license shall be referred to the Anoka County Sheriff's Office and to other City Departments as the City Clerk shall

deem necessary for verification and investigation of the facts set forth in the application. The Anoka County Sheriff's Office shall cause to be made such investigation of the information requested in Title 3, Chapter 3-1B-5 as shall be necessary and shall make a written recommendation and report to the City Council which shall include a list of all violations of Federal or State Law or Municipal ordinance. The City Council may order and conduct such additional investigation as it shall deem necessary. (Amd. Ord. 368, 4-15-08)

- B. Issuance Of License; Hearing Required: No license shall be issued until the City Council has held a public hearing in accordance with the following:
1. For all licenses and consumption and display permits, a public hearing shall be held at a City Council meeting. All property owners and occupants located within three hundred fifty feet (350') of the proposed location shall be notified at least ten (10) days prior to such hearing.
 2. At the public hearing, all persons interested in the matter shall be heard. No hearing shall be required for a renewal of a license, but the City Council may, at its option, hold a public hearing. (Amended Ord. 235, 8-5-1997)
- C. Grant Or Denial Of License: After investigation and hearing, the City Council shall, at its discretion, grant or deny the application. Each application shall require a majority vote by the City Council for approval. No on-sale wine license, off-sale license, club on-sale license, or consumption and display permit shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety. Within ten (10) days of issuing an on-sale license, the city shall submit to the Commissioner of Public Safety the full name and address of each person granted a license, the effective date of the license, the expiration date of the license, and the name under which the licensee will conduct the business. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

3-1B-8: EXPIRATION OF LICENSES AND PERMITS; RENEWALS: Each license, except consumption and display permits, shall expire on December 31 of the year in which it is issued. Consumption and display permits shall expire on March 31 of each year. The application for the renewal of any existing license shall be made at least ninety- (90) days prior to the date of the expiration of the license and shall be made on the form provided by the City Clerk. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

3-1B-9: **NONTRANSFERABILITY OF LICENSE:** Each license shall 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 to the City Council in the same manner as an application for a new license. Transfer of twenty five percent (25%) or more of the stock of a corporation or of a controlling interest thereof, whichever is less, shall be deemed a transfer of the license of a corporate licensee. If the licensee is a corporation which is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest shall apply to that parent corporation, any second parent corporation which 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 City Council approval is grounds 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 City Council approval shall be a separate violation of this article. (Amended Ord. 235, 8-5-1997)

3-1B-10: **CONDITIONS OF LICENSE AND PERMIT:** Every license is subject to the following conditions, all other provisions of this article, and any other applicable regulations, or state law:

- A. **Responsibility And Liability Of Licensee:** Every licensee is responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee of the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this article equally with the employee, except criminal penalties.
- B. **Display Of License And Permit:** Every license to sell alcoholic beverages and permit for consumption and display must be posted in a conspicuous place in the premises for which it is used.
- C. **Right Of Entry:** Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee at reasonable hours without a warrant.
- D. **Certain Federal Stamps Prohibited:** No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp. (Amended Ord. 235, 8-5-1997)
- E. **Hours Of Sales:** No sale of intoxicating liquor for consumption on the licensed premises (on-sale) may be made: 1) between one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on the days of Monday through Saturday; or 2) after one o'clock (1:00) A.M. on Sundays except as authorized by an approved Sunday on-sale liquor license. (Ord. 235D, 7-

1-2003)

1. Sales After One O'Clock A.M.; Special License:

a. State Permit Required: No licensee may sell intoxicating liquor between the hours of one o'clock (1:00) A.M. and two o'clock (2:00) A.M. unless the licensee has obtained a permit from the Commissioner pursuant to Minnesota Statutes Section 340A.504, Subdivision 7.

b. Days Permitted: Two o'clock (2:00) A.M. closing licenses shall be issued only to allow sales until two o'clock (2:00) A.M. on Fridays, Saturdays, Sundays, Thanksgiving Day, July 5 and New Year's Day.

c. Service Of Food: On-sale licensees shall be required to offer the licensee's normal food service to its customers until one o'clock (1:00) A.M. (Ord. 296, 7-20-2004)

- F. Consumption And Presence After Hours: No person shall consume any intoxicating liquor or 3.2 percent malt liquor on any licensed premises more than thirty (30) minutes following the time established by law for cessation of the sale of liquor. No person, except an employee of the licensed establishment, shall remain on the premises or site more than thirty-(30) minutes following the time established by law for cessation of the sale of liquor. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)
- G. Possession And Consumption In Certain Areas Of Premises: No person shall possess open containers of alcoholic beverages or consume alcoholic beverages on the premises under the licensee's control outside of the licensed structure or in any area of the licensed premises which was not designated for these activities in the license application.
- H. Death Of Licensee: In the event of the death of a person holding a license, the personal representative of that person shall be allowed to continue to operate the business within the terms of the license for a period not to exceed ninety (90) days after the death of the licensee.
- I. Gambling: The licensee shall not keep, possess, or operate or permit the keeping, possession or operation of, on the licensed premises or in any room adjoining the licensed premises, any slot machine, dice or any gambling device or apparatus, nor permit any gambling therein, nor permit the licensed premises or any room in the same, or in any adjoining building, directly or indirectly under its control, to be used for any illegal purpose. Notwithstanding the above, gambling licensed and permitted by the Minnesota Charitable Gambling Board is allowed, and sales sponsored by the Minnesota State Lottery may be made at any licensed establishment.

J. On-Sale And On-Sale Wine Licenses:

1. Report Of Premises Changes: Persons holding on-sale intoxicating liquor or on-sale wine licenses, in addition to being subject to the requirements of this article, shall report any internal change to the licensed premises which materially enlarges, expands, reconfigures, or alters the size of the area connected with the consumption of liquor or the type of service offered by the establishment, prior to the beginning of work. This report shall be made to the City Clerk for review by the City Council and may result in altering the terms under which the license is granted. No work shall be done nor city permits issued for the work until the change is approved by the City Council. Each day the licensee operates under the license after beginning construction of the changes and before obtaining City Council approval shall constitute a separate violation of this article, resulting in a mandatory minimum civil offense of one hundred dollars (\$100.00) per day.

2. Health And Food Handling Requirements: Each on-sale and on-sale wine licensee shall have the continuing obligation to comply with all state and local health and food handling regulations. At the time of application for any new or renewed license, the City Council may review (if deemed necessary) the establishment's health and food handling inspection results. In addition to other remedies that it may have available, the City Council may place the license of any on-sale intoxicating liquor or on-sale wine licensee on probationary status for up to one year when inspections reveal the establishment has not achieved passing scores. During the probationary period, the licensee shall take such action as may be required to achieve passing scores, and shall be subject to subsequent inspections for compliance, and shall be subject to other conditions which the City Council may impose. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

K. No licensee shall permit in any licensed establishment, or any adjoining property owned or leased by the licensee, any boxing, wrestling, or any other form of entertainment whose primary purpose is physical contact by striking or touching an opponent with hands, feet, or body. Team sports in which physical contact is incidental to the primary purpose of the game such as basketball, volleyball, soccer, football, baseball, hockey, and softball are not included among activities prohibited by this section. (Amended 9-5-06, Ord. 332A)

3-1B-11: **SUNDAY SALES:**

A. Restrictions: On-sale Sunday liquor licenses shall be issued only to hotels, clubs, and restaurants which hold an on-sale intoxicating liquor license only in conjunction with the serving of food. (Amended Ord. 235, 8/5/97; amd. 2003 Code; Amended Ord. 517, 4/20/21)

- B. Hours: The hours of the sale of intoxicating liquor shall be between eight o'clock (8:00) A.M. on Sundays and two o'clock (2:00) A.M. on Mondays. (Amended Ord. 474, 9/19/17)
- C. Application For License: An establishment serving intoxicating liquor on Sunday must obtain a Sunday on-sale liquor license from the city in the same manner as applications to sell intoxicating liquor. (Amended Ord. 235, 8/5/97)

3-1B-12: **MINORS:**

- A. Presence On Premises For Purchase Or Consumption: It shall be unlawful for any minor to enter any premises licensed for the retail sale of liquor for the purpose of purchasing or having served or delivered to him or her any liquor or to consume any liquor, purchase or attempt to purchase or have another purchase for him or her any intoxicating liquor.
- B. False Representation: It shall be unlawful for any person to misrepresent or misstate his or her age or identity, or the age or identity of any other person, for the purpose of inducing any licensee or any employee of any licensee to sell, serve or deliver any liquor to a minor.
- C. Possession: It shall be unlawful for a minor to have in his or her possession any liquor with intent to consume the same at a place other than the household of his or her parent or guardian. Possession of liquor at a place other than the household of the minor's parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his or her parent or guardian. (Amended Ord. 235, 8-5-1997)

3-1B-13: **SALES TO CERTAIN PERSONS PROHIBITED:** It shall be unlawful for any person to sell, give, barter, furnish, deliver or dispose of, in any manner, either directly or indirectly, any liquor in any quantity, to any minor person, to any intoxicated person, or to any person to whom this is prohibited by Minnesota Statutes Section 340A.503, Subdivision 2. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

3-1B-14: **COMPLIANCE CHECKS AND INSPECTIONS:** All licensed premises shall be open to inspection by authorized city officials during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging underage youth to enter the licensed premises to attempt to purchase alcoholic beverages. No minor or underage adult used in compliance checks shall attempt to use a false identification or

theatrical makeup that misrepresents his or her age. All minors and underage adults lawfully engaged in a compliance check shall answer all questions about their age truthfully when asked by the licensee and shall produce any identification which they are asked to produce. In all instances the minors or underage adults shall be accompanied by authorized city officials to the location of the compliance check. (Amended Ord. 235, 8-5-1997)

3-1B-15: SUSPENSION OR REVOCATION OF LICENSE; PENALTIES:

- A. The City Council may either suspend for up to sixty (60) days or revoke any liquor license or impose a civil fine not to exceed two thousand dollars (\$2,000.00) for each violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with any applicable statute, regulation or ordinance. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.69. (Amended Ord. 235, 8-5-1997; amd. 2003 Code)

- B. Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law. Any fine or sentence imposed shall not affect the right of the city to suspend or revoke the license of the licensee as the City Council deems appropriate.

- C. In addition to the remedies and penalties set forth in this article in the event an establishment fails an alcohol compliance check the City Council shall levy a penalty against the establishment. Penalties are as listed in Section 1-7-3 of this code. Said penalty shall be paid to the City Treasurer within ten (10) days of notification of the penalty. (Ord. 235D, 7-1-2003)

CHAPTER 1

LIQUOR CONTROL

ARTICLE C. OUTDOOR PARTIES

SECTION:

- 3-1C-1: Narrative
- 3-1C-2: Intent And Purpose
- 3-1C-3: Definitions
- 3-1C-4: License Required; Exemptions
- 3-1C-5: Application For License
- 3-1C-6: Issuance Or Denial Of License
- 3-1C-7: Conditions Of License
- 3-1C-8: Display Of License
- 3-1C-9: Enforcement
- 3-1C-10: Severability

3-1C-1: **NARRATIVE:** The city contains within its corporate limits areas of open space, much of which space is not crossed by public roads and not easily accessible to emergency vehicles. It has become a common practice for people to conduct gatherings in such open areas, generally held during the evening hours, and at which intoxicating and 3.2% malt liquor or chemicals are consumed without licensing the use or dispensation thereof. Such gatherings have become dangerous both to those in attendance and to the general public and are in need of regulation. (Ord. 232, 8-5-1997; amd. 2003 Code)

3-1C-2: **INTENT AND PURPOSE:** It is the intent and purpose of this article to protect the health, welfare and safety of its citizens through the establishment of licensing procedures for "outdoor parties". It is not the intent of this article, nor shall this article be used to inhibit or restrain the right of free speech or freedom of assembly in a lawful manner. (Ord. 232, 8-5-1997; amd. 2003 Code)

3-1C-3: **DEFINITIONS:** For the purpose of this article, certain terms and words are hereby defined as follows:

OUT OF DOORS: Any place outside of a building as defined in Minnesota Statutes.

OUTDOOR PARTY: A gathering of fifty (50) or more people, held partially or completely out of doors, on public or private property, and at which intoxicating beverages, 3.2 percent malt liquor or other intoxicating chemicals are used or dispensed by any participant, whether or not a fee is collected from any participant. (Ord. 232, 8-5-1997; amd. 2003 Code)

3-1C-4: LICENSE REQUIRED; EXEMPTIONS: No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, or sell or give tickets to outdoor parties held in any area of the city whether on public or private property, unless a license to hold the assembly has first been issued by the city. Any outdoor party that commences during daylight hours, and is completely dispersed prior to sunset shall be exempt from the requirements of obtaining an outdoor party license. (Ord. 232, 8-5-1997)

3-1C-5: APPLICATION FOR LICENSE: Application for such license shall be made at least two (2) weeks in advance of the assembly and shall be made to the City Clerk on forms to be supplied by the city and shall contain the following information:

- A. The names, addresses and telephone numbers of the applicants.
- B. The precise location of the proposed outdoor party, as well as the date and specific times during which the outdoor party will be in progress and the expected number of guests. Any license issued for an outdoor party shall be no more than the duration of the outdoor party as indicated on the application forms, not to exceed twenty four (24) hours.
- C. The names, addresses and telephone numbers of the owner(s) of the land.
- D. A written acknowledgment of consent by the owner(s) of the land to the conducting of the proposed outdoor party if other than the applicant(s). (Ord. 232, 8-5-1997)
- E. A statement as to whether or not intoxicating or 3.2 percent malt liquor will be furnished. (Ord. 232, 8-5-1997; amd. 2003 Code)
- F. A written statement demonstrating that the applicant has adequate plans for measures designed to protect the safety of participants, including the following:
 - 1. The means by which the outdoor party will be illuminated;

2. The means by which emergency vehicles may be summoned, and the means of access of emergency vehicles to the outdoor party site; and

3. Adequate sanitary facilities be provided. (Ord. 232, 8-5-1997)

3-1C-6: ISSUANCE OR DENIAL OF LICENSE:

A. Licenses shall be issued by the City Clerk. The City Clerk shall issue the license if all of the provisions of this article have been satisfied; provided, that with regard to Section 3-1C-5 of this article, the following shall be deemed insufficient measures to protect the safety of participants:

1. Illumination primarily from motor vehicle headlights, ground fires, or other light sources located less than ten feet (10') above ground.

2. The lack of a reliable communication device located within one hundred feet (100') of the proposed site.

3. The existence of the site at a location greater than one thousand feet (1,000') from any traveled public road, or the existence of access to a traveled public road, which access is not marked by reflectorized markings, or not passable by a four-wheeled motor vehicle, or not of sufficient width to accommodate the passage of emergency vehicles.

B. If the City Clerk refuses to issue a license, the applicant shall have the right to have the application reviewed by the City Council by placement on the agenda of the next regular City Council meeting.

C. If a license is issued, a copy thereof shall be forwarded to the office of the County Sheriff. (Ord. 232, 8-5-1997)

3-1C-7: CONDITIONS OF LICENSE:

A. Any license issued shall be subject to the following conditions, which shall be printed on the face of the license, and shall read as follows: (Ord. 232, 8-5-1997)

The license shall be rendered void if any of the following conditions are found to exist at the outdoor party site:

1. The commission of the crime of assault, disorderly conduct, or breach of the peace by any participant on the outdoor party site;

2. The consumption or possession of any intoxicating liquor or 3.2 percent malt liquor by any person under the legal alcohol consumption age as defined by Minnesota statutes;

3. The failure of any applicant to be physically present at the outdoor party site during the entire duration of the outdoor party; and

4. The maintenance of any nuisance under any existing local ordinance.

(Ord. 232, 8-5-1997; amd. 2003 Code)

- B. Upon observing the violation of any of the conditions of a license, a peace officer shall declare the license to be void and shall order the participants to disperse. (Ord. 232, 8-5-1997)

3-1C-8: **DISPLAY OF LICENSE:** The license shall be displayed at the outdoor party in a prominent location. If a peace officer, upon investigating an outdoor party, is not furnished with the license and is otherwise unable to locate a license, the peace officer shall be entitled to presume that no license exists. (Ord. 232, 8-5-1997)

3-1C-9: **ENFORCEMENT:**

- A. If any peace officer, upon discovering an outdoor party that is unlicensed or upon declaring any license to be void, shall order the persons present to disperse, all persons present shall promptly leave the premises, and the failure to do so shall be a violation of this article.
- B. Any person, firm or corporation violating any provision of this article shall be guilty of a misdemeanor as defined by state law and subject to the penalties thereof. (Ord. 232, 8-5-1997)

3-1C-10: **SEVERABILITY:** Should any portion of this article be found to be in violation of any provisions of the Constitution of the State of Minnesota or the United States of America, such a finding shall affect only such portion, and the remainder of this article shall continue in full force and effect. (Ord. 232, 8-5-1997)

CHAPTER 2

SALE OF TOBACCO RELATED PRODUCTS

SECTION:

- 3-2-1: Definitions
- 3-2-2: License Required
- 3-2-3: Licenses Available
- 3-2-4: Application For License; Issuance
- 3-2-5: License Fee; Expiration and Non-transferability Of License
- 3-2-6: Display of License
- 3-2-7: Conditions Of License; Prohibited Sales
- 3-2-8: Self-Service Sales
- 3-2-9: Compliance Checks
- 3-2-10: Suspension Or Revocation Of License
- 3-2-11: Administrative Penalties
- 3-2-12: Misdemeanor Violation; Penalty

3-2-1: **DEFINITIONS:** The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

ADMINISTRATIVE

HEARING: The processes and procedures as set forth in Title 3, Chapter 10 of the Andover City Code. (Amended Ord. 545, 12/20/22)

ELECTRONIC DELIVERY

DEVICE: Any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose. (Amended Ord. 445, 12/16/14)

**MOVEABLE PLACE
OF BUSINESS:**

A business whose physical location is not permanent or is capable of being moved or changed.

PERSON:

Shall include natural persons, partnerships, firms, corporations and associations.

**TOBACCO RELATED
PRODUCTS:**

Cigarettes; cigars; cheroots; stogies; perique, granulated, plug cut, ready, rubbed and other smoking tobacco; snuff, snuff flowers, cavendish, plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse, scripts, clippings, cuttings, and sweepings of tobacco prepared in such a manner as to be suitable for chewing, sniffing or smoking in a pipe; cigarette papers or pipes for smoking.
(Amended Ord. 227, 8-5-1997)

3-2-2: **LICENSE REQUIRED:** No person shall directly or indirectly keep for retail sale, sell at retail, dispense, or give away in a retail setting any tobacco related product or electronic delivery device at any place in the city without first obtaining a license from the city. (Amended Ord. 227, 8-5-1997; Amended Ord. 445, 12/16/14)

3-2-3 **LICENSES AVAILABLE:** There shall be no more than seventeen (17) licenses issued in any one (1) year. Establishments renewing a current license shall have priority over new Establishments requesting a new license provided:

1. The renewing establishment complies with the requirements for renewal under this Chapter; and
2. There have been no violations under this Chapter by the renewing establishment. (Amened Ord. 545, 12/20/22)

3-2-4: **APPLICATION FOR LICENSE; ISSUANCE:** Application for a license shall be made to the City Clerk on a form supplied by the city. The application shall state the full name and address of the applicant, the location of the building and the part to be used by the applicant under license, the kind of business conducted at such location, and other information as shall be required as stated in the application form or by the City Clerk. The completed application shall be presented to the City Council for its consideration and, if granted, shall be issued by the City Clerk upon payment of the required fee. (Amended Ord. 227, 8-5-1997)

3-2-5: **LICENSE FEE; EXPIRATION AND NONTRANSFERABILITY OF LICENSE:** The fee for every such license shall be in the amount as set forth by ordinance¹. Licenses shall be valid for one year and shall expire on December 31. Licenses shall not be transferable from one person to another. (Amended Ord. 227, 8-5-1997; amd. 2003 Code)

3-2-6: **DISPLAY OF LICENSE:** Every license shall be kept conspicuously posted at the location for which the license is issued and shall be exhibited to any person upon request. (Amended Ord. 227, 8-5-1997)

3-2-7: **CONDITIONS OF LICENSE; PROHIBITED SALES:**

A. Regulations: The following regulations shall apply to the sale of tobacco related products or electronic delivery device (Amended Ord. 445, 12/16/14) :

1. No license shall be issued to a person not of good moral character.
2. No license shall be issued to an applicant for sale of tobacco related products or electronic delivery device at any place other than the licensee's established place of business. (Amended Ord. 445, 12/16/14)
3. No license shall be issued for the sale of tobacco related products or electronic delivery device at a moveable place of business. (Amended Ord. 445, 12/16/14)
4. No person shall sell or give away any tobacco related products or electronic delivery device to any person below the age as required by Minnesota statutes and/or the United States Food and Drug Administration. (Amended Ord. 445, 12/16/14; Amended Ord. 500, 1/21/20)
5. No tobacco related products or electronic delivery device may be sold outside the location or area covered by the license. (Amended Ord. 445, 12/16/14)

B. Vending Machines: No person shall sell, dispense, or give away any tobacco related product or electronic delivery device through the use of a vending machine or similar automated dispensing device. This subsection does not apply to vending machines in facilities that cannot be entered at any time by persons younger than twenty-one (21) years of age. (Amended Ord. 227, 8-5-1997; amd. 2003 Code; Amended Ord. 445,

¹ See subsection 1-7-3A of this code.

12/16/14; Amended Ord. 545, 12/20/22)

3-2-8: SELF-SERVICE SALES:

- A. 1. Except in adult only facilities, no licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays that are accessible to the public without the intervention of a store employee. (Amended Ord. 227, 8-5-1997; amd. 2003 Code)
2. The self-service restriction described in this subsection shall not apply to retail stores that derive at least ninety percent (90%) of their revenue from tobacco and tobacco related products or electronic delivery device and which cannot be entered at any time by persons younger than twenty-one (21) years of age. (Amended Ord. 445, 12/16/14; Amended Ord. 500, 1/21/20)
- B. No person shall sell, dispense or give away any tobacco related product or electronic delivery device through self-service merchandising. (Amended Ord. 545, 12/20/22)

3-2-9: COMPLIANCE CHECKS: The city shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco or electronic delivery device is sold to test compliance with Minnesota Statutes Section 609.685. Compliance checks shall utilize minors over the age of fifteen (15), but under the age of twenty-one (21), who, with the prior written consent of a parent or guardian, attempt to purchase tobacco or electronic delivery device under the direct supervision of a law enforcement officer or an employee of the city. (Amended Ord. 227, 8/5/1997; amd. 2003 Code; Amended Ord. 445, 12/16/14; Amended Ord. 500, 1/21/20)

3-2-10: SUSPENSION OR REVOCATION OF LICENSE: Upon finding that a licensee of any license granted pursuant to this chapter has failed to comply with any applicable statutes, regulation or ordinance relating to the sale or use of tobacco related products or electronic delivery device, the City Council may either revoke or suspend the license. Every such license may be revoked by the City Council for violating any of the provisions stated in this chapter. (Amended Ord. 227, 8/5/1997; Amended Ord. 445, 12/16/14)

3-2-11: ADMINISTRATIVE PENALTIES:

- A. If a licensee or employee of a licensee sells tobacco or electronic delivery device to a person under the age of twenty-one (21) years, or violates any

other provision of this chapter, the licensee shall be charged an administrative penalty of two hundred fifty dollars (\$250.00). For a second violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of five hundred dollars (\$500.00) must be imposed, and the licensee's authority to sell tobacco or electronic delivery devices at that location must be suspended for not less than three (3) nor more than seven (7) days. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of one thousand dollars (\$1,000.00) must be imposed, and the licensee's authority to sell tobacco or electronic delivery device at that location must be suspended for not less than seven (7) nor more than thirty (30) days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for an administrative hearing. (Amended Ord. 445, 12/16/14; Amended Ord. 500, 1/21/20; Amended Ord. 545, 12/20/22)

- B. An individual who sells tobacco or electronic delivery device to a person under the age of twenty-one (21) years must be charged an administrative penalty of fifty dollars (\$50.00). No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing. A decision that a violation has occurred must be in writing. (Amended Ord. 445, 12/16/14; Amended Ord. 500, 1/21/20)
- C. It is an affirmative defense to the charge of selling tobacco or electronic delivery device to a person under the age of twenty-one (21) years in violation of this chapter that the licensee or individual making the sale relied in good faith upon proof of age as follows (Amended Ord. 445, 12/16/14; Amended Ord. 500, 1/21/20):
1. A valid driver's license or identification card issued by the state of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;
 2. A valid military identification card issued by the United States Department of Defense;
 3. A valid passport issued by the United States; or
 4. In the case of a foreign national, by a valid passport. (Amended Ord. 227, 8-5-1997; amd. 2003 Code)

3-2-12: **MISDEMEANOR VIOLATION; PENALTY:** Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and shall be

punished as defined by state law. (Amended Ord. 227, 8-5-1997)

CHAPTER 3

CONSTRUCTION ACTIVITIES

SECTION:

- 3-3-1: Licenses Required
- 3-3-2: Application For License; Fee
- 3-3-3: Insurance Requirements
- 3-3-4: Expiration Of License
- 3-3-5: Penalty

3-3-1: **LICENSES REQUIRED:**

- A. Mechanical Contractors: Before any person shall engage in the business of doing or performing mechanical work (including heating, air conditioning, ventilation, gas fireplace installation and liquid fuel or fuel gas piping), he/she shall first obtain a license to do so as hereinafter provided: (Amended Ord. 441, 8/6/14)
- B. Mechanical Contractors Engaged in Fuel Gas Piping: No individual, partnership, or corporation or other business association licensed by the City shall perform fuel gas piping work within the city, without providing a certificate of competency or other evidence demonstrating competency to the satisfaction of the Building Official prior to licensure. All insurance requirements listed under Section 3-3-3 of this chapter shall apply. (Amended Ord. 22, 6-11-1974; amd. 2003 Code; Amended Ord. 441, 8/6/14)

3-3-2: **APPLICATION FOR LICENSE; FEE:** All licenses shall be obtained from the City Clerk. Applications for licenses shall be filed with the Clerk on the forms furnished by the city. The fee for each license shall be as set forth by ordinance ¹ and shall not be refunded or prorated. (Amended Ord. 22, 6-11-1974; amd. 2003 Code)

3-3-3: **INSURANCE REQUIREMENTS:** No license shall be issued until the applicant shall furnish a policy of insurance insuring each applicant against liability imposed by law on account of injury to persons in the amount of one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) for each accident and a policy insuring the applicant against liability imposed by law on account of damage or destruction to property in the amount of fifty thousand dollars (\$50,000.00). All licensees, as listed in Section 3-3-1 of this chapter, shall furnish the city with a copy of or evidence of the insurance policy or policies that shall provide that the same shall not be canceled by the insurer or the insured without ten (10) days' prior written notice

¹ See subsection 1-7-3B of this code.

thereof being given to the city. In case of cancellation of such insurance, such license shall be suspended automatically until such insurance shall be replaced. (Amended Ord. 22, 6-11-1974)

3-3-4: **EXPIRATION OF LICENSE:** All licenses issued under this chapter shall expire on December 31 following the date of issuance. If a license is granted hereunder and is not renewed prior to expiration, then all rights granted by such license shall cease, and any work performed after the expiration of the license shall be in violation of this chapter. All licenses are subject to revocation or forfeiture prior to expiration date. (Amended Ord. 22, 6-11-1974; amd. 2003 Code)

3-3-5: **PENALTY:** Any person who violates any provision of this chapter, upon conviction thereof, shall be punished as defined by state law. (Amended Ord. 22, 6-11-1974; Amended Ord. 441, 8/6/14)

CHAPTER 4

PAWNBROKERS, SECONDHAND GOODS DEALERS AND PRECIOUS METAL DEALERS

SECTION:

- 3-4-1: Findings And Purpose
- 3-4-2: Definitions
- 3-4-3: Non-applicability Of Provisions
- 3-4-4: Licenses Required
- 3-4-5: Ineligibility For License
- 3-4-6: Application For License
- 3-4-7: Conditional Use Permit Required
- 3-4-8: Number Of Licenses
- 3-4-9: Expiration Of License; Renewals
- 3-4-10: Non-transferability Of License
- 3-4-11: Display Of License
- 3-4-12: Hours Of Operation
- 3-4-13: Sales And Receipt of Property
- 3-4-14: Denial, Suspension Or Revocation Of License
- 3-4-15: Violation; Penalty

3-4-1: **FINDINGS AND PURPOSE:** The City Council finds that pawnbrokers, secondhand goods dealers and precious metal dealers potentially provide an opportunity for the concealment of crimes because such businesses have the ability to receive and transfer stolen property easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers, secondhand goods dealers and precious metal dealers. The purpose of this chapter is therefore to prevent pawnbrokers, secondhand goods dealers and precious metal businesses from being used as facilities for commission of crimes and to assure that such businesses comply with the basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the residents of the city. (Ord. 104, 5-3-1994)

3-4-2: **DEFINITIONS:**

ITEM CONTAINING
PRECIOUS METAL:

An item made in whole or in part of metal and containing more than one percent (1%) by

weight of silver, gold or platinum.

- MINOR:** Any natural person under the age of eighteen (18) years.
- PAWNBROKER:** A person who loans money on deposit of or pledge for personal property or other valuable thing, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.
- PERSON:** One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.
- PRECIOUS METAL:** Silver, gold or platinum.
- PRECIOUS METAL DEALER:** Any person engaging in the business of buying secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects. Exemptions are specified in Section 3-4-3 of this chapter.
- RECEIVE:** To purchase, accept for sale on consignment or take in pawn any secondhand goods.
- SECONDHAND GOODS DEALER:** A person whose regular business includes selling or receiving tangible personal property, excluding motor vehicles, furniture, clothing and related accessories previously used, rented, owned or leased. Exemptions are specified in Section 3-4-3 of this chapter. (Ord. 104, 5-3-1994)

3-4-3: NONAPPLICABILITY OF PROVISIONS:

- A. The terms "pawnbrokers and secondhand goods dealers" shall not

apply to or include the following:

1. The sale of secondhand goods where all of the following are present:
 - a. The sale is held on property occupied as a dwelling or owned, rented or leased by a charitable or political organization.
 - b. That no sale exceeds a period of seventy two (72) consecutive hours.
 - c. That no more than four (4) sales are held in any twelve (12) month period.
 - d. That none of the items offered for sale shall have been purchased for resale or received on consignment for the purpose of resale.
2. The sale of secondhand books or magazines, sport trading cards, sound or video recordings, or films.
3. The sale of goods at an auction held by a licensed auctioneer.
4. The business of buying or selling only those secondhand goods taken as a part or full payment for new goods and where such business is incidental to and not the primary business of a person.
5. A bulk sale of property from a merchant, manufacturer or wholesaler having an established place of business or of goods sold at open sale from bankrupt stock.
6. Goods sold at public or farmer's markets.
7. Goods sold at an exhibition, provided the exhibition does not last longer than ten (10) days in any twelve (12) month period.
8. Sales by a person licensed as a motor vehicle dealer.
9. The sale of furniture, clothing and related accessories.
10. Sales made by the sheriff or other public officials in the discharge of their official duties.
11. Sales made by assignees or receivers appointed in the state to make sales for the benefits of creditors.

B. The term "precious metal dealers" shall not apply to persons

conducting the following transactions:

1. Transactions at occasional garage or yard sales, estate sales or farm auctions held at the decedent's residence; except, that precious metal dealers must comply with the requirements of Minnesota Statutes Sections 325F.734 to 325F.742, for these transactions.
2. Transactions regulated by Minnesota Statutes Chapter 80A.
3. Transactions regulated by the Federal Commodity Futures Commission Act ¹.
4. Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.
5. Transactions involving the purchase of photographic film, such as lithographic and X-ray film, or silver residue or flake recovered in lithographic and X-ray film processing.
6. Transactions involving coins, bullion, or ingots.
7. Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal, and the value of the new item exceeds the value of the secondhand item; except, that a person who is a precious metal dealer by engaging in a transaction which is not exempted by this section must comply with the requirements of Minnesota Statutes Sections 325F.734 to 325F.742. (Ord. 104, 5-3-1994)
8. Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes Section 325F.733 or if the seller's business is located outside the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes Section 325F.733. (Ord. 104, 5-3-1994; amd. 2003 Code)
9. Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than two thousand five hundred dollars (\$2,500.00) for secondhand items containing precious metal purchased within any period of twelve (12) consecutive months. (Ord. 104, 5-3-1994)

3-4-4: **LICENSES REQUIRED:** No person shall exercise, carry on, or be engaged in the business of pawnbroker, secondhand goods dealer or precious metal dealer within the city unless such person is currently licensed under this

¹ 7 USCA § 1.

chapter. A separate license will be required for each business listed herein. For instance, a pawnbroker may not conduct, operate or engage in the business of secondhand goods dealer without having obtained a secondhand goods dealer license in addition to a pawnbroker license. (Ord. 104, 5-3-1994)

3-4-5: **INELIGIBILITY FOR LICENSE:** No license under this chapter shall be issued to an applicant who is a natural person if such applicant:

- A. Is a minor at the time of application;
- B. Has been convicted of a state or federal law relating to receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, theft, damage or trespass to property, operation of a business, or any law or ordinance regulating the business of pawnbroker, secondhand goods dealers or precious metal dealers;
- C. Has had a pawnbroker, secondhand goods dealer or precious metal dealer license revoked in the last five (5) years;
- D. Is not a citizen of the United States or a resident alien;
- E. Is not of good moral character or repute; or
- F. Holds an intoxicating liquor license under city ordinance.
- G. Has been determined by the City Council, after investigation and public hearing, that the issuance of or the renewal of the license would adversely affect public health, safety and welfare. (Ord. 104, 5-3-1994)

3-4-6: **APPLICATION FOR LICENSE:**

A. Contents Of Application:

1. Information Required: In addition to any information that may be required by the county pursuant to Minnesota Statutes Section 471.924, every application for a license under this chapter shall be made on a form supplied by the issuing authority and shall contain the following information:

- a. Full name, place and date of birth, street residence address, and phone number of the applicant.
- b. The business address and the name and address of the owner of the premises and the legal description of the premises to be licensed.
- c. A statement as to whether, within the preceding five (5) years,

the applicant or spouse has been convicted of any crimes and, if so, the state and county of conviction, the date of conviction, and the specific crime so convicted.

d. Whether the applicant is a natural person, corporation, or partnership.

(1) If the applicant is a corporation, the state of the incorporation and the names and addresses of all officers and directors. The application shall be accompanied by the articles of incorporation and Secretary of State's Certificate of Good Standing. Subsection A1c of this section shall also apply.

(2) If the applicant is a partnership, the names and addresses of all partners shall be included. The application shall be accompanied by a partnership agreement. Subsection A1c of this section shall also apply.

e. The name address and home phone number of the manager or proprietor of the business.

f. The names, residences and business addresses of three (3) persons, residents of the State of Minnesota, of good moral character, not related to the applicant or financially interested in the licensee's premises, who may be referred to as to the applicant's character or, in the case where information is required of a manager, the manager's character.

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

h. Whether the applicant has previously been denied a pawnbroker, secondhand goods dealer or precious metal dealer license from any other governmental agency.

i. Whenever the application is for a 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 or design are on file with the City Building Department, no plans need be submitted with the issuing authority.

j. Such other information as the City Council or issuing authority may require. (Ord. 104, 5-3-1994)

2. Bond: Each application shall be accompanied by a bond in the amount

of five thousand dollars (\$5,000.00) executed by a surety licensed by the State Department of Commerce and conditioned that in conducting such business, the licensee will observe all laws in relation to pawnbrokers, secondhand goods dealers and precious metal dealers, and will conduct business in conformity thereto, and that the licensee will account for and deliver to any person legally entitled any goods which have come into the licensee's hand through the licensee's business as a pawnbroker and/or secondhand goods dealer and/or precious metal dealer or, in lieu thereof, will pay the reasonable value in money to the person. Such bond shall be maintained so long as the licensee does business as such for the benefit of the city or any person who shall suffer any damage through the act of such licensee and shall not be terminable without the bond company giving written notice thirty-(30) days in advance of termination to the City Clerk. (Ord. 104, 5-3-1994; amd. 2003 Code)

3. Financial Statement: Each application shall be accompanied by a statement indicating the amount of investment the applicant has in the business, building, premises, fixtures, furniture, stock in trade, etc., and proof of source of such money.

4. False Information: No person shall make any false statement in the application. In addition to other penalties, the license may be revoked by the City Council for giving false information on the application. (Ord. 104, 5-3-1994)

- B. Filing Application; Fee: Every applicant for a license to maintain, operate or conduct a pawnbroker business, secondhand goods dealer business or a precious metal dealer business shall file a complete application under oath with the city upon a form provided by the City Clerk and pay a nonrefundable application fee in an amount as set forth by ordinance ¹⁵. By submitting an application, the applicant consents to any and all investigations the city deems appropriate and waives any claims the applicant may have.
- C. Investigation And Verification: The application, once accepted, shall be referred to the County Sheriff's Department for investigation. Copies of the application shall be submitted to such other city departments as the City Council shall deem necessary for the verification and investigation of the facts set forth in the application. (Ord. 104, 5-3-1994; amd. 2003 Code)

3-4-7: **CONDITIONAL USE PERMIT REQUIRED:** In addition to filing a complete application as specified above, an application for a Conditional Use Permit shall also be filed with the City Clerk. The procedure and provisions of the Conditional Use Permit are in accordance with Sections 12-13-3 and 12-15-6 of

this code. No person shall operate, exercise, carry on or be engaged in the trade or business of a pawnbroker, secondhand goods dealer or precious metal dealer without first being granted a Conditional Use Permit from the city. (Ord. 104, 5-3-1994)

3-4-8: **NUMBER OF LICENSES:** No more than three (3) licenses shall be issued by the city at any time, and priority shall be given to qualified applicants for renewal of existing licenses. (Ord. 104, 5-3-1994)

3-4-9: **EXPIRATION OF LICENSE; RENEWALS:** All licenses shall expire one year after the issuance unless earlier renewed. A renewal application fee shall be required as set forth by ordinance¹. A new application fee shall be required whenever there is any change in the facts presented by the applicant other than the date, applicant's home address or building owner's address, or in the case of any license not renewed prior to its expiration. (Ord. 104, 5-3-1994; amd. 2003 Code)

3-4-10: **NONTRANSFERABILITY OF LICENSE:** A license under this chapter shall authorize the licensee to carry on business only at the permanent place of business designated in the license. No license may be transferred to a different location or different licensee. (Ord. 104, 5-3-1994)

3-4-11: **DISPLAY OF LICENSE:** A license issued under this chapter shall be posted in a conspicuous place on the premises for which it is used. The license issued is only for the compact and contiguous space specified in the approved application. (Ord. 104, 5-3-1994)

3-4-12: **HOURS OF OPERATION:** From nine o'clock (9:00) P.M., Saturday, to seven o'clock (7:00) A.M., Monday, no property shall be received as a pledge or purchased by any pawnbroker, secondhand goods dealer or precious metal dealer, nor shall any property be sold during said hours by any pawnbroker, secondhand goods dealer or precious metal dealer, nor on any other day before seven o'clock (7:00) A.M., nor on any day after nine o'clock (9:00) P.M. Further, no pawnbroker, secondhand goods dealer or precious metal dealer shall be open for business on any legal holiday. (Ord. 104, 5-3-1994)

3-4-13: **SALES AND RECEIPT OF PROPERTY:**

¹ See subsection 1-7-3H of this code.

A. Records Required:

1. Each licensee hereunder shall keep a record of each transaction made in the course of his/her business. Said records shall be legible, made in ink or other indelible medium, or in a computerized format in the interchange file specification format (the most current version of the Minneapolis Automated Pawn System Interchange File Specification format) and shall be in the English language. The records so kept shall include the following information about each transaction: (Ord. 104, 5-3-1994; amd. 2003 Code)

a. The full name, address, and date of birth of the person pledging or selling the item.

b. The time and date of transaction.

c. A complete description of the item pledged or sold, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying marks.

d. A physical description of the person pawning or selling the item including:

(1) Race.

(2) Sex.

(3) Height.

(4) Weight.

(5) Color of eyes.

(6) Color of hair.

e. The amount of money paid or loaned for the item.

f. The signature of the person pledging or selling the item.

g. The identification number from any of the following forms of identification of the seller:

(1) Valid driver's license containing a picture.

(2) A Minnesota identification card.

(3) Picture identification issued by the state of residency of the

person from whom the item was received.

- h. Any other information the Sheriff's Department shall require.
2. Every pawnbroker, secondhand goods dealer or precious metal dealer shall make available to the Sheriff's Department, everyday, before the hour of twelve o'clock (12:00) noon a complete, legible and correct copy of the records required by this subsection for all transactions which occurred on the previous day. The records required herein shall be kept at the licensee's place of business for three (3) years, and shall be available for inspection by the Sheriff's Department at any reasonable time.
 3. Every pawnbroker, secondhand goods dealer or precious metal dealer shall fill out and send daily report forms to the County Sheriff's Department on forms approved by the Department for the following items:
 - a. Any item with a serial number, identification number, or "operation identification" number.
 - b. Cameras.
 - c. Electronic audio or video equipment.
 - d. Precious jewelry or gems and precious metal.
 - e. Artist signed or artist attributed works of art.
 - f. Guns and firearms.
 - g. Items not included in the above, except furniture and kitchen or laundry appliances, which the pawnbroker, secondhand goods dealer or precious metal dealer intends to sell for more than two hundred dollars (\$200.00).

B. Holding Property:

1. When the Sheriff's Department or any member of the Department notifies the pawnbroker, secondhand goods dealer or precious metal dealer not to sell any property received on deposit or purchased by them, or not to permit the same to be redeemed, the pawnbroker, secondhand goods dealer or precious metal dealer shall not sell nor permit such property to be redeemed until such property is released, in writing, by the Sheriff or his designee.
2. No personal property deposited with or purchased by any licensee under this chapter shall be sold or permitted to be redeemed from the place of business of the licensee until forty eight (48) hours after the copy

of the records required by Subsection A of this section have been made available to the County Sheriff, except upon written permission of the Sheriff.

- C. Receipt Issued: The pawnbroker, secondhand goods dealer or precious metal dealer shall provide a receipt to the seller or pledger of any item of property received, which shall include:
1. The name, address and phone number of the pawnbroker, secondhand goods dealer or precious metal dealer;
 2. The date on which the item was received by the pawnbroker, secondhand goods dealer or precious metal dealer;
 3. A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold;
 4. The signature of the pawnbroker, secondhand goods dealer or precious metal dealer or agent;
 5. The last regular business day which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the pawned item on that date;
 6. The annual rate of interest charged on pawn items received;
 7. The name and address of the seller or pledger.
- D. Redemption Of Property: Any person who owns an item shall have at least thirty (30) days to redeem the item before it may be sold. (Ord. 104, 5-3-1994)
- E. Prohibited Transactions:
1. Purchase From Certain Persons: No pawnbroker, secondhand goods dealer or precious metal dealer shall knowingly purchase or receive on deposit or pledge anything of value as security for a loan of money from any minor, nor from intoxicated persons.
 2. No Identification: A pawnbroker, secondhand goods dealer or precious metal dealer may not receive goods unless seller presents proper identification as specified in Subsection A of this section. (Ord. 104, 5-3-1994; amd. 2003 Code)

3-4-14: **DENIAL, SUSPENSION OR REVOCATION OF LICENSE:** Any license under this chapter may be denied, suspended or revoked for any of the

following reasons:

- A. The use conflicts with the provisions of the city zoning ordinance.
- B. The use conflicts with any health code, building code, building maintenance code or provisions of this chapter or any state law.
- C. The applicant has failed to comply with one or more of the provisions of this chapter.
- D. Fraud, misrepresentation, or bribery in securing a license.
- E. Fraud, misrepresentation or false statements made in the course of the applicant's business.
- F. Violation, within the preceding five (5) years, of any law relating to theft, damage to or trespass of property, sale of a controlled substance, or operation of a business, committed by the applicant or any employee or agent of the applicant.
- G. At any time when a total combination of three (3) pawnbrokers', secondhand goods dealers' or precious metal dealers' licenses have been issued by the city. (Ord. 104, 5-3-1994)

3-4-15: **VIOLATION; PENALTY:** Any person who violates this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to prevailing state laws. (Ord. 104, 5-3-1994)

CHAPTER 5

TRANSIENT MERCHANTS, PEDDLERS, SOLICITORS AND CANVASSERS

SECTION:

- 3-5-1: Definitions
- 3-5-2: License Required; Exemptions
- 3-5-3: Registration Required
- 3-5-4: Application For License And Registration; Procedures For Approval
Or Denial
- 3-5-5: Basis For Denial Of License And Registration
- 3-5-6: License Fees
- 3-5-7: Transient Merchant Seven-Day License
- 3-5-8: Peddler Thirty-Day License
- 3-5-9: Christmas Tree Sales
- 3-5-10: Outdoor Food And Beverage Promotion And Sales Event License
- 3-5-11: Registration Of Canvassers And Solicitors
- 3-5-12: Prohibited Practices
- 3-5-13: Suspension Or Revocation Of License
- 3-5-14: Violation; Penalties

3-5-1: **DEFINITIONS:**

A. Terms Defined:

CANVASSER

OR SOLICITOR: A person who goes house to house, door to door, business to business, street to street, or any other type of place to place for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time.

CHRISTMAS TREE SALES:	A business in the city that is seasonal and consists of selling Christmas trees and wreaths.
PEDDLER:	A person who goes from house to house, door to door, business to business, street to street or any other type of place to place for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivery immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting.
PERSON:	Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships or associations, the term shall include each member, officer, partner, associate, agent or employee.
TEMPORARY RETAIL FOOD ESTABLISHMENT:	A retail food establishment that operates at a fixed location for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering, including religious institution suppers, picnics or similar organizational meetings, mobile food establishments, and agricultural markets. (Amended Ord. 481, 4/3/18)
TRANSIENT MERCHANT:	Any person whose business in the city is temporary or seasonal and consists of selling and delivering merchandise within the city, and who in furtherance of such purposes uses or occupies any structure, vehicle, or other place for the exhibition and sale of such merchandise, either privately or at public auction; provided, however, that a "transient merchant" shall not be construed to mean any person who, while occupying such temporary location, exhibits only samples for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of temporarily associating with or conducting such transient business in connection with a local business person. (Ord. 250A, 7-17-2001; amd. Ord. 250B, 11-20-2001)

B. Exceptions To Definitions:

1. For the purpose and requirements of this chapter, the terms "peddler", "solicitor" and "transient merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer. The terms shall also not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

2. In addition, persons conducting the type of sales commonly known as garage sales, or rummage sales, or estate sales as well as those persons participating in an organized multi-person bazaar or flea market shall be exempt from the definitions of "peddler", "solicitor", and "transient merchant", as shall anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemptions from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance. (Ord. 250A, 7-17-2001; amd. 2003 Code)

3-5-2: **LICENSE REQUIRED; EXEMPTIONS:** A license shall be required for any peddler, temporary retail food establishment, Christmas tree sales, or transient merchant to operate in the city. The license period shall be as stated herein. No person shall be required to obtain a license in the following instances: (Ord. 250A, 7-17-2001; amd. 2003 Code)

- A. Occupations licensed and/or bonded pursuant to state law.
- B. A solicitor or canvasser doing business by appointment.
- C. A solicitor or canvasser taking orders for the future door to door delivery of newspapers.
- D. The selling of goods to retail or wholesale stores or to professional or industrial establishments.
- E. The conduct of garage sales or rummage sales.
- F. For vendors as a preliminary step to the establishment of a regular route service for the sale and delivery of such commodities or the providing of such services to regular customers.

- G. School children selling items for fundraisers.
- H. Any product grown, produced, cultivated, or raised on any farm. (Ord. 250A,7-17-2001)

3-5-3: **REGISTRATION REQUIRED:** All solicitors and canvassers, and any person exempt from the licensing requirements of this chapter, shall be required to register with the city. (Ord. 250A, 7-17-2001; amd. 2003 Code)

3-5-4: **APPLICATION FOR LICENSE AND REGISTRATION;
PROCEDURES FOR APPROVAL OR DENIAL:**

- A. Application For License: In addition to such information as the City Clerk may require, the application shall also include:
 1. Name and description of the applicant.
 2. Permanent home address and full address of the applicant.
 3. A brief written description of the nature of the business, other goods to be sold, and the applicant's method of operation.
 4. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 5. The length of time that the applicant intends to do business in the city, with the approximate dates.
 6. The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
 7. A statement as to whether or not the applicant or the person managing the business has been convicted of any crime, misdemeanor or violation of any municipal ordinance involving activities licensed under this chapter, the nature of the offense and the punishment or penalty assessed, therefore.
 8. If a vehicle is to be used, a description of the same together with license number or other means of identification.
 9. A statement of the nature, character, and quality of the goods or

merchandise to be sold or offered for sale by the applicant, the invoice value and quality of such goods and merchandise, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sale, or by taking orders for future delivery.

10. A brief statement of the nature, character, and content of the advertising done or proposed to be done in order to attract customers (samples may be requested).

11. Credentials, from the person for which the applicant proposes to do business, authorizing the applicant to act as such representative.

12. Transient merchants shall include the addresses of all places where the business is to be located along with written consent of the owners or occupants.

B. Application For Certification Of Registration: Registration shall be made on the same form required for license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable and shall be for a period of thirty-(30) days.

C. Procedure For Issuance Or Denial: Upon receipt of the completed application and payment of the license fee, the City Clerk, within two (2) regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application, the City Clerk must issue the license unless there exists grounds for denying the license under this chapter, in which case, the City Clerk must deny the license. If the City Clerk denies the license, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a hearing before the City Council. The hearing shall be scheduled for the next available Regular City Council meeting. The decision of the City Council following a public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari. (Ord. 250A, 7-17-2001; Amended Ord. 492, 5-7-19)

3-5-5: **BASIS FOR DENIAL OF LICENSE AND REGISTRATION:**
Licenses and registrations required by this chapter may be denied for any of the

following reasons:

- A. The applicant, or anyone whose activity would be covered by the license or registration, has been convicted of a felony, gross misdemeanor or any crime of theft, fraud, or issuance of a worthless check.
- B. The applicant has furnished false information in the application.
- C. The applicant has previously conducted activities covered by this chapter in the city without a required license or registration.
- D. The applicant has previously engaged in activities in violation of this chapter. (Ord. 250A, 7-17-2001)

3-5-6: **LICENSE FEES:** Fees for license shall be as set from time to time by ordinance¹. (Ord. 250A, 7-17-2001; amd. 2003 Code)

3-5-7: **TRANSIENT MERCHANT SEVEN DAY LICENSE:** Transient merchants shall first apply for and obtain a transient merchant seven (7) day license pursuant to Section 3-5-4 of this chapter and as set forth herein. All transient merchant seven (7) day licenses are subject to the following:

- A. Licenses are valid for a period of seven (7) days.
- B. No applicant shall be issued more than one license during any thirty-(30) day period.
- C. No license shall be issued unless the application is accompanied by a written consent to the activities signed by the owner of the property upon which the business activity is to be conducted.
- D. Transient merchant seven (7) day licenses shall not be issued for activities to occur in any of the following zoning districts: all residential districts.
- E. No transient merchant shall conduct activities in such a manner to impede, interfere or otherwise obstruct motor vehicle and/or pedestrian traffic.
- F. All transient merchants shall immediately remove all materials and debris from the activity location. (Ord. 250A, 7-17-2001)

3-5-8: **PEDDLER THIRTY DAY LICENSE:** Peddlers shall first apply for and obtain a peddler thirty (30) day license pursuant to Section 3-5-4 of this chapter and as set forth herein. All peddler thirty-(30) day licenses are subject to the following:

- A. ~~Licenses are valid for a period of thirty (30) days.~~

¹ See subsection 1-7-3A of this code.

- B. No peddlers shall conduct activities in such a manner to impede, interfere with or otherwise obstruct motor vehicle and/or pedestrian traffic and safety. (Ord. 250A, 7-17-2001)

3-5-9: **CHRISTMAS TREE SALES:** Vendor shall first apply for and obtain a Christmas tree sales license pursuant to Section 3-5-4 of this chapter and as set forth herein. All Christmas tree sales vendor licenses are subject to the following:

- A. Licenses are valid for a period of thirty (30) days.
- B. Written consent of the owner of the property where the sales will occur.
- C. The fee for a Christmas tree sales vendor will be the same as a transient merchant license.
- D. Licenses will only be granted for operations in commercially zoned districts. (Ord. 250B, 11-20-2001)

3-5-10: **OUTDOOR FOOD AND BEVERAGE PROMOTION AND SALES EVENT LICENSE:**

- A. Application For License; Duration: An application for a license for outdoor food and beverage promotion shall be applied for and may be granted by the city. Absent City Council approval, the duration of the outdoor food and beverage license shall be no longer than twenty-one (21) days per calendar year at any one location. Licenses may be issued on a per day, per week or per year basis. (Amended Ord. 529, 4-5-22)
- B. Document Depicting Sales Area Requirements At Site: A sketch shall be provided which details where said outdoor food and beverage promotion shall be located on the property, indicating lot boundary lines, building locations, setbacks and traffic patterns for both pedestrians and vehicles. Additional information may be required if sufficient documentation is not provided.
- C. Vending is not allowed within 150 feet of the property line of any restaurant within the City unless prior written authorization is provided from the restaurant. (Ord. 529, 4-5-22)
- D. Vending is not allowed in any City park unless a Park Exclusive Use License has been approved by City Council and issued to an

organization or individual. The vendor must have written authorization from said organization or individual when obtaining a City vending license. (Ord. 529, 4-5-22)

- E. County License Required: A license from the County Health and Environmental Services Department shall be applied for and granted, and a copy of such license shall be provided to the city at the time said application is completed.
- F. Hours: The hours of operation shall be between seven o'clock (7:00) A.M. and eleven o'clock (11:00) P.M. and shall be mentioned in the license application. (Ord. 250A, 7-17-2001)
- G. New License For Each Event; Fee: A new license shall be applied for and received for each event, subject to fees as set forth by ordinance ¹. (Ord. 250A, 7-17-2001; amd. 2003 Code)
- H. Exemptions: Mobile Food Units which are hired to vend on private property for private events and sales are not made to the general public are not required to get a license. The Mobile Food Units must be fully contained on private property and must comply with all other applicable State Laws and City Codes. (Ord. 529, 4-5-22)

3-5-11: **REGISTRATION OF CANVASSERS AND SOLICITORS:**

A. Charitable Canvassers And Solicitors:

1. Any organization, society, association or corporation desiring to solicit, or have solicited in its name, money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations, upon the streets, in office or business buildings, by house to house canvass or in public places for a charitable, religious, patriotic, philanthropic or other nonprofit purpose shall be exempt from Sections 3-5-3 and 3-5-4 of this chapter, provided a sworn registration application in writing on a form furnished by the city is filed which shall include the following information:

- a. Name and purpose of the cause for which the license is sought.
- b. Names and addresses of the officers and/or directors of the organization.
- c. The period during which the solicitation is to be carried on.

¹ See subsection 1-7-3A of this code.

d. Whether or not any commissions, fees, wages or emoluments are to be expended in connection with such solicitation.

2. Upon the foregoing being satisfied, such organization, association or corporation shall furnish all its members, agents or representatives conducting the solicitation credentials in writing stating the name of the organization, name of agent, and the purpose of the solicitation. Such credentials shall be kept on the person of the members, agents or representatives during the actual solicitation and be presented to anyone requesting to see same.

- B. Other Canvassers And Solicitors: Every solicitor and canvasser not included within Subsection A of this section shall register with the city before conducting business. Registration shall be made on the same form required for a license application. No license fee shall be required except the city may charge an investigation fee that shall be established by City Code. (Ord. 250A, 7-17-2001) (Ord. 352, 8-7-07)

3-5-12: **PROHIBITED PRACTICES:** No person under this chapter shall:

- A. Sell or solicit before the hour of nine o'clock (9:00) A.M. or after nine o'clock (9:00) P.M., unless a previous appointment has been made.
- B. Enter or conduct business upon any premises where a sign or plaque is conspicuously posted stating in effect that no peddlers or solicitors are allowed. Such signs shall have letters a minimum of one-half inch (1/2") high.
- C. Occupy for the purpose of advertising and/or conducting business any area within a sight triangle at any road intersection ¹.
- D. Occupy as a transient merchant, solicitor or peddler, any public right-of-way or other public property for the purpose of advertising and/or conducting business.
- E. Occupy for the purpose of advertising and/or conducting business in any area without the written consent of the property owner.
- F. Engage in any activity without a required license or registration. (Ord. 250A, 7-17-2001)

¹ See subsection 12-14-12C of this code.

3-5-13: **SUSPENSION OR REVOCATION OF LICENSE:**

- A. **Basis For Suspension Or Revocation:** Any license issued under this chapter may be suspended or revoked at the discretion of the City Council for violation of any of the following:
1. Fraud, misrepresentation or incorrect statements in the application form.
 2. Fraud, misrepresentation or false statements made during the course of the licensed activity.
 3. Conviction of any offense for which granting of a license could have been denied.
 4. Violation of any provision of this chapter.
- B. **Multiple Persons Under One License:** The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as the suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
- C. **Notice Requirements:** Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the address listed on the license application.
- D. **Appeal Hearing:** Upon receiving the notice provided in Subsection C of this section, the licensee shall have the right to request a hearing. If no request for a hearing is received by the City Clerk within ten (10) regular business days following the service of the notice, the city may proceed with a suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated timeframe, a hearing shall be scheduled for the next available Regular City Council meeting. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision. (Amended Ord. 492, 5-7-19)
- E. **Emergencies:** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensee under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in this chapter.

F. Appeals: Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court. (Ord. 250A, 7-17-2001)

3-5-14: **VIOLATION; PENALTIES:** Whoever does any act forbidden by this chapter or omits or fails to do any act required by this chapter shall be guilty of a misdemeanor and subject to all penalties provided for under state law. (Ord. 250A, 7-17-2001)

CHAPTER 6

MESSAGE BUSINESSES AND SERVICES

SECTION:

- 3-6-1: Purpose
- 3-6-2: Findings
- 3-6-3: Definitions
- 3-6-4: Licenses Required; Exceptions
- 3-6-5: Applications For Licenses: Issuance Or Denial
- 3-6-6: Manager Required
- 3-6-7: Licensee Rules, Regulations And Restrictions
- 3-6-8: Off Site Massage Services
- 3-6-9: Building Requirements
- 3-6-10: Grounds For Denial, Revocation Or Suspension Of Licenses
- 3-6-11: Violations; Penalties

3-6-1: **PURPOSE:** The purpose of this chapter is to prohibit massage businesses and services to the public except those licensed as therapeutic massage establishments and therapeutic massage therapists pursuant to this chapter. The licensing regulations prescribed herein are necessary in order to prevent criminal activity and to protect the health, safety and the general welfare of the people of the city. The purpose of this chapter is not intended to impose restrictions or limitations on the freedom of protected speech or expression. (Amended Ord. 110, 8-1-1995)

3-6-2: **FINDINGS:** It is hereby found, for the following reasons, that within the city there is a need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public: (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

- A. Persons who have a 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 therapeutic massage establishments and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.

- C. License qualifications for and restrictions on therapeutic massage establishments and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
- D. Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
- E. Massage businesses that employ persons with no specialized and standardized training can tax city 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. (Amended Ord. 110, 8-1-1995)

3-6-3: **DEFINITIONS:** The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

CLEAN: The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

GOOD REPAIR: Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good, sound condition.

MASSAGE THERAPIST: A person who practices or performs therapeutic massage on a person for compensation and meets the licensing requirements set forth in this chapter.

OFF-SITE THERAPEUTIC MASSAGE SERVICES: Massage services conducted away from a licensed massage establishment. Such off-site massage service locations shall include, but not limited to, businesses and private homes.

ON-SITE THERAPEUTIC MASSAGE SERVICES: Massage services conducted at a licensed massage establishment. Such on-site massage service locations

shall include, but not be limited to, businesses and private homes.

PERSON: Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

THERAPEUTIC MASSAGE: The practice of applying pressure on, or friction against, or the rubbing, stroking, kneading, tapping, or rolling of the external parts of the human body with the hands or with the aid of a mechanical or electrical apparatus, appliance, or device with or without such supplementary aids as rubbing (isopropyl) alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparation, for the exclusive purpose of tension, stress, and pain relief, relaxation, increased range of motion, muscle tone improvement, physical fitness, or beautification and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse, or physical therapist, or an assistant who works solely under the direction of any of the above described professionals, or beautician and barber who confine their treatments to the scalp, face, and neck.

THERAPEUTIC MASSAGE

ESTABLISHMENT: An establishment in which the business of providing therapeutic massage services (on-site and off-site) to the public is carried on. (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

3-6-4: LICENSES REQUIRED; EXCEPTIONS:

A. Therapeutic Massage Establishment License: It shall be unlawful for any person to directly or indirectly, upon any pretense or by any device, engage in the business of keeping, conducting, or operating any massage establishment within the city, which is open to the public or for which any charge or fee is made, or any money or thing of value is solicited or received, except a "therapeutic massage establishment" as defined in Section 3-6-3 of this chapter, and then only after first obtaining a duly issued license therefore from the city. A person who operates an establishment described in this chapter without a valid license issued the city shall be guilty of a misdemeanor offense.

B. Therapeutic Massage Therapist License: It shall be unlawful for any

individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a Therapeutic Massage Therapist license. A person who practices, administers, or provides massage services as described in this chapter without a valid license issued by the city shall be guilty of a misdemeanor offense.

C. Exceptions: A therapeutic massage establishment or therapist license is not required for the following persons and places:

1. A health care facility licensed by the State of Minnesota.
2. A health care facility owned in whole or in part by the State of Minnesota or any of its agencies.
3. A medical clinic or hospital, so long as the massage is performed by a state licensed physician, chiropractor, osteopath, podiatrist, nurse, physical therapist, or an assistant working under the direction of any of the above described professionals.
4. A physical therapy clinic or athletic facility, so long as the massage is performed by a state licensed physical therapist, athletic director, coach or trainer.
5. A beauty parlor or barbershop located in a commercial or industrial district, so long as the massage is performed by a state licensed beautician or barber, and treatment is limited to the following:
 - a. Scalp, face, neck and shoulders, associated with a scalp massage.
 - b. Hands to elbows, associated with a manicure.
 - c. Feet to knees, associated with a pedicure. (Amended Ord. 110, 8-1-1995)

3-6-5: **APPLICATIONS FOR LICENSES; ISSUANCE OR DENIAL:**

A. Therapeutic Massage Establishment:

1. Form: An application for a therapeutic massage establishment license shall be made on a form supplied by the city. (Amended Ord. 110, 8-1-1995)
2. Initial License: All initial applications shall be accompanied by a non-

returnable investigation fee in the amount as set forth by ordinance ¹. Each application shall contain: (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

a. The names, addresses, and dates of birth of the owners, lessees, operators, and massage therapists of the proposed therapeutic massage establishment.

b. A legal description and location of the premises.

c. Information as to the conviction of any crime or offense committed by anyone listed on the application.

d. All applications by corporations shall include the names, addresses, and dates of birth of all persons having a beneficial interest therein.

e. A description of services to be provided.

f. Such other information as the City Council may require.

3. Insurance: Each applicant for a license shall file with the city a public liability insurance policy or certificate of insurance from a company authorized to do business in the State of Minnesota, insuring the applicant against any and all loss arising out of the use, operation, or maintenance of the therapeutic massage establishment. The policy of insurance shall be in limits of not less than five hundred thousand dollars (\$500,000.00). Failure to keep in full force and effect the insurance required herein is grounds for revocation.

4. Investigation Of Applicant: Prior to consideration of the application by the City Council, an investigation shall be made by the Code Enforcement Officer and the Building Official to determine compliance with this chapter of all premises proposed to be licensed, and by the County Sheriff's Department of all persons listed on the license application. (Amended Ord. 110, 8-1-1995)

5. Expiration Of License; Renewals: Each license shall expire on December 31 of that year. Licenses must be renewed annually. The renewal application shall be accompanied by an annual fee as set forth by ordinance¹. For a renewal, the applicant must provide full information, as required for the initial licenses, for any new owners, lessees, operators, or massage therapists proposed to be involved in the massage business, and also provide any changes in the name, address, criminal record, or other relevant information of any other owner, lessee, operator, or

¹ See subsection 1-7-3A of this code.

¹ See subsection 1-7-3A of this code.

massage therapist. The Code Enforcement Officer, Building Official, and/or County Sheriff's Department may conduct an investigation prior to any renewal.

B. Therapeutic Massage Therapist:

1. Form; Age Restriction: An application for a therapeutic massage therapist license shall be made on a form supplied by the city. All applicants shall be at least eighteen (18) years of age.

2. Initial License: All initial applications shall be accompanied by a non-returnable investigation fee in the amount as set forth by ordinance. Each application shall contain: (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

a. The name, age and address of the applicant.

b. The length of experience in this occupation and the past places of employment and positions held.

c. A description of any crime or other offense, including the time, place, date, and disposition, for which the applicant has been arrested and convicted.

d. A statement as to whether the individual has had any license denied, revoked, or suspended in the city or the State of Minnesota, the reason therefore, and the business activity or occupation of the individual subsequent to such suspension, revocation, or denial.

3. Educational Requirements: Each applicant for a Therapeutic Massage Therapist license shall furnish with the application proof of graduating from a school of therapeutic massage with a core curriculum of at least five hundred (500) hours of in class, teacher supervised instruction of which no more than two hundred (200) hours shall be clinical training.

4. Investigation Of Applicant; Issuance Or Denial Of License: A background check from the Bureau of Criminal Apprehension shall be required prior to issuance of a license. The license application shall thereafter be reviewed by the City Clerk, County Sheriff's Department, and such other departments as shall be deemed necessary. Such departments will thereafter submit their reports and recommendations to the City Clerk, who will submit all of the reports and recommendations to the City Council. The Council shall either grant or deny the license. (Amended Ord. 110, 8-1-1995)

5. Expiration Of License; Renewals: Each license shall expire on December 31 of that year. Licenses must be renewed annually. The renewal application shall be accompanied by an annual fee as set forth by ordinance¹

accompanied by an annual fee as set forth by ordinance¹. The Code Enforcement Officer, Building Official, and/or County Sheriff's Department may conduct an investigation prior to any renewal. (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

3-6-6: **MANAGER REQUIRED:** Before a license is issued under this chapter, the applicant shall designate in writing a natural person who is to be manager and in responsible charge of the business, and upon whom service of process may be made. Such person shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the city and County Sheriff's Department in writing of any change, indicating the name, address, and date of birth of the new manager, and the effective date of such change. (Amended Ord. 110, 8-1-1995)

3-6-7: **LICENSEE RULES, REGULATIONS AND RESTRICTIONS:**

A. All massage therapist licensees shall:

1. Display Of License: Display current licenses in a prominent place at the place of employment.

2. Hours Of Operation: Not allow the licensed premises to be open for business or allow patrons to be on the premises between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.

3. Genitalia To Be Covered: Require that a person who is receiving a massage shall have their genital areas covered with an appropriate opaque covering. (Amended Ord. 110, 8-1-1995)

B. In addition to the above rules, regulations, and restrictions, the City Council may, upon notice and hearing, promulgate such rules as he or she deems necessary to carry out the provisions and purposes of this chapter to protect the public health, to provide for safe and sanitary operation of licensed therapeutic massage establishments, to provide for the safety of therapeutic massage establishments, to provide for the safety of therapeutic massage and related massage equipment, and for the proper training of persons employed in the operation of such massage establishments. Notice of the promulgation of such rules, and the hearing date shall be given to all licensees, and notice of the hearing date published once in the legal newspaper of the city. The notice shall advise that at the hearing, written or oral comments on proposed rules will be received, and how a copy of the proposed rules can be obtained. Such rules shall be effective after such hearing when filed in the office of the City Clerk. Violation of such rules shall be sufficient grounds for

¹ See subsection 1-7-3A of this code.

adverse action against licenses issued under this chapter. (Amended Ord. 110, 8-1-1995)

3-6-8: OFF-SITE MASSAGE SERVICES:

- A. Sanitation Requirements: All licensed massage therapists conducting off-site massage services as permitted by the zoning ordinance shall establish and maintain a supply storage facility containing any and all materials used in conducting off-site massage services. The Code Enforcement Officer, Building Official, and/or other city representatives shall have the right to enter and inspect the storage facility at all reasonable times. Rules as to required sanitation and storage shall be adopted in accordance with this section.
- B. Records Kept: All licensed massage therapists shall keep a record of all off-site massage services performed. The record shall be legible, written in ink or other indelible medium, or in a computerized format, and in the English language. It shall include the name of the massage therapist, the name of the person receiving massage services, the address where the massage service was performed, and the date and time of such service. The record shall be maintained for a period of two (2) years from the date the massage service was performed. Such record shall be open for inspection to the City Administrator or his/her authorized representative at all reasonable times. (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

3-6-9: BUILDING REQUIREMENTS:

- A. Compliance With State Regulations: All persons who hereafter construct, extensively remodel, or convert buildings or facilities for use as therapeutic massage establishments, which are open to the public, shall comply with the requirements of the State Building Code and all amended codes. To the extent the building code or fire code does not impose more restrictive requirements, the provisions of this chapter shall govern.
- B. Construction And Maintenance Requirements:
 - 1. Floors, walls, and equipment in massage rooms, restrooms, bathrooms, janitor's closet, hallways, and reception area used in conjunction therewith must be kept in a state of good repair and clean at all times. Linens and other materials shall be stored at least twelve inches (12") off the floor. Clean towels and washcloths must be available for each customer.
 - 2. If massage is performed in individual rooms, the doors to the individual massage rooms shall not be equipped with locking devices and shall not

be blocked or obstructed from either side. (Amended Ord. 110, 8-1-1995)

3-6-10: **GROUND FOR DENIAL, REVOCATION OR
SUSPENSION OF LICENSES:**

- A. It shall be grounds for denial of the application or for revocation or suspension of the license if the applicant or licensee is not complying with or has a history of violations of the laws and ordinances that apply to the public health, safety, and morals.

- B. It shall be grounds for the denial, revocation, or suspension of the license: (Amended Ord. 110, 8-1-1995)
 - 1. If the licensee is convicted of any violation reasonably related to the licensed activity and/or occurring on the licensed premises, of any city ordinance or Federal or State Statute. (Amended Ord. 110, 8-1-1995; amd. 2003 Code)

 - 2. If there is fraud or deception involved in the license application.

 - 3. If the licensee is found to be in control or possession of any alcoholic beverages or narcotic drugs or controlled substances on the premises for which he or she is licensed to operate, possession of which is illegal as defined in Minnesota statutes or city ordinances.

 - 4. If the licensee has evidenced in the past willful disregard for health codes and regulations.

 - 5. If the applicant fails to provide all the information and certificates required by this chapter.

 - 6. If the licensee shall refuse to permit any authorized police officers or authorized members of the city to inspect the premises or operation.

 - 7. If the licensee is found to be violating provisions of this chapter. (Amended Ord. 110, 8-1-1995)

3-6-11: **VIOLATIONS; PENALTIES:** Every person who commits or attempts to commit, conspires to commit, or aids or abets in the commission of any act constituting a violation of this chapter, whether individually or in connection with one or more persons, or as principal, or agent, or accessory, shall be guilty of a misdemeanor, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any of the provisions of this chapter is likewise guilty of a misdemeanor. Each violation of this chapter shall constitute a separate offense. Conviction of a

violation of this chapter shall be grounds for suspension or revocation of any license issued hereunder. (Amended Ord. 110, 8-1-1995)

CHAPTER 7

ADULT USE BUSINESSES

SECTION:

- 3-7-1: Purpose And Intent
- 3-7-2: Definitions
- 3-7- 3: Compliance With Regulations; Interpretation
- 3-7- 4: License Required; Exemptions
- 3-7- 5: Application For License
- 3-7- 6: License Fees And Term; Renewals
- 3-7- 7: Standards For Issuing License
- 3-7- 8: Non-transferability Of License
- 3-7- 9: Display Of License
- 3-7-10: General Requirements
- 3-7-11: Responsibilities Of Operator
- 3-7-12: Inspections
- 3-7-13: Suspension Or Revocation Of License
- 3-7-14: Violations; Penalty

3-7-1: **PURPOSE AND INTENT:**

- A. Purpose: It is the purpose of this chapter to regulate adult use businesses to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:
 - 1. Prevent additional criminal activity within the city.
 - 2. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.
 - 3. To locate adult use businesses within certain areas of the city.
 - 4. To prevent concentration of adult use businesses within certain areas of the city.
- B. Intent: The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. (Amended Ord. 222, 4-1-1997)

3-7-2: **DEFINITIONS:**

ADULT USE/ADULT

USE BUSINESS: Any of the businesses and activities (offering services, entertainment, or the sale of merchandise) described in this definition constitutes an "adult use" and are subject to the regulations of this chapter.

**Adult Book And
Media Store:**

A. An establishment having either fifteen percent (15%) or more of its stock/inventory or fifteen percent (15%) or more of the floor area, or exceeding one thousand (1,000) square feet, used for the display, sale or lease of books, magazines, films, videotapes or other media which are characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas.

B. An establishment that offers for the display, sale or lease of the foregoing matters, which does not meet the definition shall still be required to display signage at the entrance of the section devoted to adult materials, as provided in Section 3-7-10 of this chapter, and enclose said section so as not to be visible from the rest of the media store.

Adult Cabaret: An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or specified anatomical areas.

**Adult Hotel
Or Motel:**

A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**Adult Mini
Motion Picture
Theater:**

A. A theater in an enclosed building, from which minors are excluded, with a capacity for less than fifty (50) persons used for presenting motion pictures, including, but not limited to, film and videotape, having as a dominant theme material

distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

B. Any business which presents motion pictures from which minors are excluded, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for viewing on the premises, including, but not limited to, private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpts of motion pictures offered for sale or rent.

Adult Modeling
Studio:

An establishment which excludes minors, whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted on, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Motion

Picture Arcade: Any place which excludes minors wherein coin operated or token-operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five (5) 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.

Adult Motion

Picture Theater: A theater in an enclosed building, from which minors are excluded, with a capacity of fifty (50) or more persons used regularly and routinely for presenting live entertainment or motion pictures, including, but not limited to, film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult Novelty

Business: A business, from which minors are excluded, which sells, offers to sell, or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

**BOOTHS, STALLS
OR PARTITIONED
PORTIONS:**

Enclosures specifically offered to persons for a fee or as an incident for the observation of dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. This definition does not include private offices that are utilized by the employees. These offices shall not be open to the general public other than employees.

**DOORS, CURTAINS
OR PORTAL
PARTITIONS:**

Full, complete, nontransparent closure devices through which one cannot see or view any activity taking place within the enclosure.

HEALTH OFFICER: The health officer of the city.

MINOR: Any person under the age of eighteen (18) years.

**SPECIFIED
ANATOMICAL
AREAS:**

Any of the following conditions:

A. Less than completely and opaquely covered:

1. Human genitals, pubic region, or pubic hair;

2. Buttock; and

3. Female breasts below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if opaquely covered.

**SPECIFIED
SEXUAL
ACTIVITIES:**

Any of the following conditions:

A. An act of sexual intercourse, normal or perverted, actual

or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between human beings and an animal.

B. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.

C. Masturbation or lewd exhibitions of the genitals including any explicit, close up representation of a human genital organ.

D. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals, in an act of apparent sexual stimulation or gratification. (Amended Ord. 222, 4-1-1997)

3-7-3: **COMPLIANCE WITH REGULATIONS; INTERPRETATION:** No adult use business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use business which is prohibited by any ordinance of the city, the laws of the State of Minnesota, or the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including, but not limited to, statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors. (Amended Ord. 222, 4-1-1997)

3-7-4: **LICENSE REQUIRED; EXEMPTIONS:** No adult use business shall be operated or maintained in the city without first obtaining a license to operate issued by the city. A license may be issued for only one adult use business located at a fixed and certain place. Any person, partnership or corporation that desires to operate more than one adult use business in the city shall have a separate license for each such business. All public and private schools located within the city are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum. (Amended Ord. 222, 4-1-1997)

3-7-5: **APPLICATION FOR LICENSE:**

- A. Information Required: Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application for a license shall be upon a form provided by the city and shall include the following information:
1. Names, addresses and birth dates of applicant;
 2. Proof that the applicant is at least eighteen (18) years of age;
 3. Address of the adult use business to be operated by the applicant;
 4. Kind, name and location of every business or occupation applicant or spouse has been engaged in during the preceding ten (10) years;
 5. Whether the applicant has ever been convicted of a felony involving sexual conduct, or the use or distribution of a dangerous weapon. If the answer to the last is yes, state the jurisdiction in which the offense or offenses occurred. The applicant may attach any explanation he or she deems appropriate;
 6. Representations as to the applicant's character;
 7. Whether the applicant is the owner and operator of the business and if not, who is;
 8. If the applicant is a corporation, the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent (5%) of the stock in said corporation and all officers and directors of the corporation; and
 9. A sketch drawing or diagram (drawn to scale) showing the configuration of the premises, including a statement of total floor space occupied by the business.
 10. Other such information as the City Council may request or require from time to time.
- B. Submission: Upon a completed application for a license, the City Clerk shall submit the request to the City Council for approval or denial.
- C. False Information Prohibited: No person shall make a false statement or material omission in a license application. Any false statement or material omission shall be grounds for denying or revoking a license.

- D. Changes In Information: Each licensee shall have a continuing duty to properly notify the City Clerk of any change in the information or facts required to be furnished in the application for a license. This duty shall continue throughout the period of the license, and failure to comply shall constitute cause for revocation or suspension of the license. (Amended Ord. 222, 4-1-1997)

3-7-6: **LICENSE FEES AND TERM; RENEWALS:**

- A. Payment Of Fees; Refunds: Each application for a license shall be accompanied with a receipt from the City Finance Director/Treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund. Upon rejection of any application for a license, the City Finance Director/Treasurer shall refund the amount paid. (Amended Ord. 222, 4-1-1997)
- B. Term Of License; Fees Prorated: All licenses shall be issued for a period of one year and shall expire on December 31 each year. The fees for licenses are established by ordinance ¹ and shall not be prorated.
- C. Renewal Of License: The application for renewal of any existing license shall be made at least ninety (90) days prior to the date of the expiration of the license. (Amended Ord. 222, 4-1-1997; amd. 2003 Code)

3-7-7: **STANDARDS FOR ISSUING LICENSE:** To receive a license to operate an adult use business, an applicant must meet the following standards:

- A. The applicant or his or her spouse has not been denied a similar license by any other city, county or state within the preceding twelve (12) months or has not had such a license revoked or suspended within the preceding twelve (12) months.
- B. All current real estate taxes have been paid on the licensed premises.
- C. The licensed premises meets all the provisions of this chapter as well as all building and fire codes.
- D. The applicant or spouse has not been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by state law, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the applicant. (Amended Ord. 222, 4-1-1997)

3-7-8: **NONTRANSFERABILITY OF LICENSE:** No license or interest in a license may be transferred to any person, partnership or corporation. The transfer of a license or any interest in a license shall automatically and immediately revoke the license. (Amended Ord. 222, 4-1-1997)

¹ See subsection 1-7-3H of this code.

3-7-9: **DISPLAY OF LICENSE:** The license shall be displayed in a conspicuous public place in the adult use business. (Amended Ord. 222, 4-1-1997)

3-7-10: **GENERAL REQUIREMENTS:** Adult uses and adult use businesses shall be permitted subject to the following requirements:

A. Building Standards:

1. No commercial building, structure, premises or part thereof, or facilities therein, shall be constructed, used, designed or operated for the purpose of persons to engage in specified sexual activities. (Amended Ord. 222, 4-1-1997)

2. Booths, stalls, or partitioned portions of a room or individual rooms used for the viewing of adult media or other forms of entertainment, having doors, curtains or portal partitions are prohibited, unless such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side wall open to an adjacent public room or area. Such booth, stall or room shall be illuminated in a manner that the persons in the area used for viewing the adult media or other forms of entertainment are visible from adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the offered entertainment. (Amended Ord. 222, 4-1-1997; amd. 2003 Code)

3. The above building standards shall not apply to buildings, structures and premises that are lawfully operating as hotels, motels, apartment complexes, condominiums or rooming houses.

B. Location:

1. An adult use shall not be located within five hundred feet (500'), measured in a straight line from the building or edge of leased building space to the property line, of any residential zoning district (R-1, R-2, R-3, R-4, R-5) or multiple dwelling zoning district (M-1 and M-2) boundary or property, or in a Planned Unit Development which is or projected to be residential.

2. An adult use shall not be allowed within one thousand feet (1,000'), measured in a straight line from the building edge of leased building space, of another existing adult use.

3. An adult use shall not be located within one thousand feet (1,000'),

measured in a straight line from the building to the property line, of any existing school, place of worship, hospital, library, daycare facility or park land.

C. Operation:

1. No adult use shall be conducted in any manner that permits the observation from any property not approved as an adult use of any materials depicting, describing or relating to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

2. All entrances to the business, with the exception of emergency fire exits that are not usable by patrons to enter the business, shall be visible from a public right-of-way.

3. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books, magazines, photographs, video tapes, or any other material.

4. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior of the premises.

D. Signs: All adult uses shall prominently display a sign at the entrance and located within two feet (2') of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. No one under 18 years of age allowed". Said sign shall have letters at least three-eighths inch (3/8") in height and no more than two inches (2") in height.

E. Hours Of Operation: No adult use business shall be open to the public from the hours of eleven o'clock (11:00) P.M. to eight o'clock (8:00) A.M. (Amended Ord. 222, 4-1-1997)

F. Sale Of Liquor: An adult use licensee shall not sell or dispense 3.2 percent malt liquor or intoxicating liquor. (Amended Ord. 222, 4-1-1997; amd. 2003 Code)

3-7-11: **RESPONSIBILITIES OF OPERATOR:**

A. Violations By Employees:

1. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
 2. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- B. Minors: No employee of an adult use business shall allow any minor to loiter around or to frequent an adult use business or to allow any minor to view adult entertainment.
 - C. Sanitary Conditions: The operator shall maintain the premises in a clean and sanitary manner at all times.
 - D. Lighting: The operator shall maintain at least ten (10) foot-candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles; provided, however, at no time shall there be less than one foot-candle of illumination in said aisles as measured from the floor.
 - E. Business Transactions: All business transactions shall occur within the licensed building.
 - F. Employee Background: No employees shall have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by state law, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the employee.
 - G. Compliance With Provisions: The operator shall ensure compliance of the establishment and its patrons with the provisions of this chapter.
(Amended Ord. 222, 4-1-1997)

3-7-12: **INSPECTIONS:** Members of the city police/Sheriff's Department, the Fire Marshal, or designee, the Health Official, the Building Official or designee and the Zoning Administrator or designee, shall have the authority to

enter an adult use business at reasonable times to inspect the premises for the purposes of enforcing this chapter and all other applicable state laws. (Amended Ord. 222, 4-1-1997)

3-7-13: SUSPENSION OR REVOCATION OF LICENSE:

A. Basis For Revocation: The City Council shall revoke a license for any of the following reasons:

1. Discovery that false or misleading information or data was given on any initial or renewal application or material facts were omitted from any such application.

2. The operator or an employee of the operator violates any provisions of this chapter or any rule or regulation adopted by the City Council pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the City Council finds that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.

3. The operator becomes ineligible to obtain a license.

4. Any cost or fee required to be paid by this chapter is not paid.
(Amended Ord. 222, 4-1-1997)

5. Any 3.2 percent malt liquor or intoxicating liquor is served or consumed on the premises of the adult use business. (Amended Ord. 222, 4-1-1997; amd. 2003 Code)

B. Notice Of Suspension Or Revocation: The City Council, before revoking or suspending any license, shall give the operator ten (10) days' written notice of the charges against him or her and an opportunity for a public hearing before the City Council, at which time the operator may appear with or without counsel and may present such evidence and witnesses as he or she deems appropriate.

C. Term Of Revocation: Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult use business for six (6) months from the date of revocation of the license. (Amended Ord. 222, 4-1-1997)

3-7-14: VIOLATION; PENALTY: Any individual, partnership or corporation

who is found to have violated the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law. (Amended Ord. 222, 4-1-1997)

CHAPTER 8

VEHICLE SALES BUSINESS

- 3-8-1: Purpose and Intent
- 3-8-2: Definitions
- 3-8-3: License Required
- 3-8-4: Application for License
- 3-8-5: Review of Application; Issuance or Denial
- 3-8-6: License Fees and Term; Renewals
- 3-8-7: Conditions of License
- 3-8-8: Standards
- 3-8-9: Violation Provisions
- 3-8-10: Revocation of License

3-8-1: **PURPOSE AND INTENT:** It is the purpose of this chapter to regulate vehicle sales to establish reasonable and uniform regulations to prevent adverse impacts on the health, safety, morals and general welfare of the citizens of the city.

3-8-2: **DEFINITIONS:**

- A. Gross Vehicle Weight Rating: The total weight of a fully equipped vehicle and payload including the amount of weight that can be carried and towed.
- B. Vehicle Sales: the sale of cars and trucks as limited by the City Code, excluding recreational vehicles.

3-8-3: **LICENSE REQUIRED:** No person shall engage in the business of selling, trading or advertising the sale of new or used vehicles within the city without first obtaining a license as provided in this Chapter. For the purposes of this chapter, anyone who, as a part of their livelihood, engages in the regular sale, trade or exchange of vehicles shall be deemed to be doing business as a new or used vehicle dealer.

3-8-4: **APPLICATION FOR LICENSE:**

- A. Information Required: Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk including the following:
 - 1. Completed city application form
 - 2. Fee as established by City Code.

3. Completed Minnesota Vehicle Dealer License Commercial Location Checklist

3-8-5: **REVIEW OF APPLICATION; ISSUANCE OR DENIAL:** The City Clerk shall submit the application to the City Council for its consideration. The Council, by motion, may grant or refuse to grant the license after consideration of the application.

3-8-6: **LICENSE FEES AND TERM; RENEWALS:** The fee for every such license shall be established by resolution of the City Council. Every such license shall expire on December 31 next after it is issued.

3-8-7: **CONDITIONS OF LICENSE:**

- A. Transferability: The license shall not be transferable from one person to another, and a new license must be applied for each time a place of business is changed.
- B. Posting: Every such license shall be kept conspicuously posted in the place for which the license is issued and shall be exhibited to any person upon request.
- C. Inventory: Vehicles allowed to be sold or stored on site shall be limited to vehicles that are eligible to be issued a title up to a gross vehicle weight rating of 12,500 pounds.
- D. Restrictions and Conditions: The Council may impose any conditions or restrictions it deems necessary or advisable in the public interest, including but not limited to the hours of operation, building materials, fencing, landscaping, screening, lighting and signage.
- E. Review: The Council may review the license at any time for the purpose of adding additional conditions to mitigate adverse impacts on the health, safety, morals and general welfare of the citizens of the city.

3-8-8: **STANDARDS:** The following standards are established for all businesses engaged in the selling, trading or advertising the sale of new or used vehicles within the city:

- A. Parking areas shall conform to the requirements of City Code 12-13-9. The Site Plan shall clearly identify parking for customers and parking for display of vehicles for sale. Parking shall be prohibited in drive lanes, on landscaped areas and any place other than approved on the site plan.
- B. All businesses engaged in the sales, trade or advertising the sale of new or used vehicles within the City limits shall conduct these activities only on

properties for which they have been granted a license under this chapter. This provision shall not apply to promotional events and activities conducted outside the city limits.

- C. Vehicles that are visibly damaged shall not be visible from public streets and shall not be stored outdoors for more than 48 hours.
- D. Outdoor storage of vehicle parts or other materials, including but not limited to tires, scrap metal, glass, pallets and refuse shall be prohibited.
- E. Sales of used vehicle parts shall be prohibited.
- F. The dismantling or reduction of vehicles shall be prohibited.
- G. Signage shall conform to City Code 12-13-8 and shall be further restricted as follows:
 - 1. All signs posted on vehicles shall be inside the vehicle.
 - 2. No sign posted on vehicles shall contain text font or other information that is larger than three inches in height.
- H. The estimated value of improvements to the licensed property shall exceed the estimated land value of the licensed property as estimated by Anoka County.

3-8-9: **VIOLATION PROVISIONS:** Any person who shall violate any portion of this chapter shall be guilty of a misdemeanor.

3-8-10: **REVOCAION OF LICENSE:** Every such license may be revoked by the Council after the license has been given reasonable notice and an opportunity to be heard for the violation of any provision of this chapter or for the violation of any conditions or restrictions in the motion granting the license or any motion thereafter passed by the Council. (Amended 4-4-06, Ord. 324)

CHAPTER 9
CANNABINOID PRODUCTS

SECTION:

- 3-9-1: Findings and Purpose
- 3-9-2: Definitions
- 3-9-3: Retail License
- 3-9-4: Responsibility of Licensee
- 3-9-5: Sales of Cannabinoids Derived from Hemp
- 3-9-6: Testing Requirements
- 3-9-7: Labeling Requirements
- 3-9-8: Additional Requirements for Edible Cannabinoid Products
- 3-9-9: Prohibited Sales
- 3-9-10: Adulterated or Misbranded Products
- 3-9-11: Signage
- 3-9-12: Age Verification
- 3-9-13: Hours of Sales
- 3-9-14: Compliance Checks and Inspections
- 3-9-15: Underage Persons
- 3-9-16: Penalties; Revocation or Suspension of License

3-9-1: **FINDINGS AND PURPOSE:** The City Council makes the following findings regarding the need to regulate, license, and inspect establishments that sell certain cannabinoid products and regulate possession of cannabinoid products by minors:

- A. By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. § 151.72 to allow for the sale of certain cannabinoid products.
- B. This new law does not prohibit municipalities from licensing the sale of cannabinoid products derived from hemp locally.
- C. The Minnesota Legislature recognized the danger of cannabis use among youth by prohibiting the sale of any product containing cannabinoid or tetrahydrocannabinol (THC) extracted or otherwise derived from hemp to those under the age of 21 and requiring that edible cannabinoid products be packaged without appeal to children and in child-resistant packaging or containers.
- D. Due to the passage of this new law by the Minnesota Legislature, the City Council believes the following rules, regulations, and standards

for licensing the sale of cannabinoid products, and possession of cannabinoid products by minors, are necessary to promote and protect the public health, safety, and general welfare of the residents of Andover.

The purpose of this ordinance is to establish licensing, sale and possession regulations for the sale and possession of cannabinoid products derived from hemp as provided in Minn. Stat. § 151.72.

3-9-2: **DEFINITIONS:** The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

CANNABINOID

PRODUCT:

Any product that contains more than trace amounts of Tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. §151.72, as may be amended from time to time. Cannabinoid Product does not include medical cannabis as defined in Minn. Stat. §152.22, subd. 6, as may be amended from time to time. (Amended ord. 546, 2-7-23)

CERTIFIED HEMP:

The definition for the same provided in Minn. Stat. § 151.72, Subd. 1(b), as may be amended.

CITY:

The City of Andover, Minnesota.

COMPLIANCE CHECK:

The system the City uses to investigate and ensure that those authorized to sell cannabinoid products are following and complying with the requirements of this ordinance and state laws. Compliance checks involve the use of compliance check minors, as authorized by this Chapter, who purchase or attempt to purchase cannabinoid products. Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to cannabinoid products.

COMPLIANCE CHECK

MINORS:

Any person at least 17 years of age, but under the age of 21 years.

DELIVERY SALE:

The sale of any cannabinoid products to any person for personal consumption and not for resale when the

sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed Retail Establishment. Delivery sale includes, but is not limited to, the sale of any cannabinoid products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.

EDIBLE CANNABINOID PRODUCT:

Any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid product in connection with food ingredients, and is not a drug. (Amended ord. 546, 2-7-23)

HEMP OR INDUSTRIAL HEMP:

The definition for the same provided in Minn. Stat. § 18K.02, Subd. 3, as may be amended.

LABEL:

The definition for the same provided in Minn. Stat. § 151.01, Subd. 18, as may be amended.

LABELING:

The definition for the same provided in Minn. Stat. § 151.72, Subd. 1(f), as may be amended.

LICENSE:

A retail license issued by the City of Andover, authorizing the holder to sell cannabinoid products.

MATRIX BARCODE:

The definition for the same provided in Minn. Stat. § 151.72, Subd. 1(g), as may be amended.

MINOR:

Any person under the age of 21 years.

MOVEABLE PLACE OF BUSINESS:

Any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.

OPERATOR:

The person in legal possession and control of a location by reason of ownership, lease, contract or

agreement, for the sale of cannabinoid products at retail.

RETAIL

ESTABLISHMENT:

Any fixed place of business where cannabinoid products may be available for sale to the general public after obtaining a license from the City. For the purposes of this Chapter. Retail Establishments shall be limited to those establishments only open to customers 21 years of age and older. Retail Establishment for purposes of this ordinance does not include exclusive liquor stores or residences.

SALE:

Any transfer of goods for money, trade, barter, or other consideration.

SELF-SERVICE

DISPLAYS:

Open displays of cannabinoid products in any manner where any person shall have access to the cannabinoid products without the assistance or intervention of the licensee or the licensee's employee.

VENDING MACHINE:

Any mechanical, electrical, or electronic or other type of device which dispenses cannabinoid products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase cannabinoid products.

3-9-3: RETAIL LICENSE:

- A. No person shall directly or indirectly keep for retail sale or sell at retail any cannabinoid product in the City unless a license therefore shall first have been obtained.
- B. Only Retail Establishments, as identified in this Chapter, shall be eligible to receive a license.
- C. An application for a license to sell cannabinoid products shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, the location of the building and the part intended to be used by the applicant under such license, the kind or nature of business, and any additional information the City deems necessary. Upon the filing of such

application with the City Clerk, and investigation as the City deems necessary, it shall be presented to the City Council for consideration, and if granted by the City Council, a license shall be issued by the City Clerk upon payment of the required fee.

- D. The fees for licenses under this Chapter shall be determined by the City Council. Each such license shall expire on December 31 of each year. Licenses shall not be transferable from one person or entity to another, nor shall they be transferable from one premises to another premises.
- E. Every license issued under this Chapter shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.
- F. The renewal of a license issued under this Chapter shall be made in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- G. No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.
- H. If a license is mistakenly issued or renewed to a person, the City will revoke the license upon the discovery that the person was ineligible for the license under this ordinance. The City will provide the license holder with notice of the revocation, along with information on the right to appeal.
- I. The following shall be grounds for denying the issuance or renewal of a license under this Chapter:
 - (1) The applicant is under the age of 21 years;
 - (2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to cannabinoid products;
 - (3) The applicant has had a license to sell cannabinoid products suspended or revoked within the preceding 24 months of the date of application;
 - (4) The applicant fails to provide any information required on the application, or provides false or misleading information;

- (5) The applicant is prohibited by federal, state, or other local law, ordinance, or regulation from holding such a license;
 - (6) The business for which the license is requested is a moveable place of business. Only fixed-location Retail Establishments that are not excluded under the definition for Retail Establishments in this ordinance are eligible to be licensed.
 - (7) The applicant has failed to pay any required application or licensing fees to the City.
- J. There shall be no more than three (3) licenses issued in any one (1) year. Retail Establishments renewing a current license shall have priority over new Retail Establishments requesting a new license provided:
- (1) The renewing Retail Establishment complies with the requirements for renewal under this Chapter; and
 - (2) There have been no violations under this Chapter by the renewing Retail Establishment.
- K. Location and Proximity restrictions. No license shall be issued to any Retail Establishment located within a residential zone district. Additionally, no license shall be issued if the proposed location is within one thousand (1,000) feet of one or more of the following locations:
- (1) Any school, church with a daycare or childcare establishment located within a commercial zone, with the distance computed by direct measurement in a straight line from the nearest legal parcel line of the land used for the school, church or childcare establishment to the nearest external portion of the building in which the licensed Retail Establishment is proposed to be located.
 - (2) Any other Retail Establishment licensed pursuant to this Chapter, with the distance computed by direct measurement in a straight line from the nearest external portion of the building in which one (1) Retail Establishment is located to the nearest external portion of the building in which the other Retail Establishment is proposed to be located. In the event that the City receives two (2) or more applications for a license with

proposed locations within one thousand (1,000) feet of each other, the City shall act upon only the first complete application received and shall not issue a license to subsequent applications proposing to be located within one thousand (1,000) feet.

- (3) Any alcohol or drug treatment facility, with the distance computed by direct measurement in a straight line from the nearest external portion of the building in which the alcohol or drug treatment facility is located to the nearest external portion of the building where the Retail Establishment is proposed to be located.

3-9-4: **RESPONSIBILITY OF LICENSEE:** All licensees under this Chapter shall be responsible for the actions of their employees in regard to the sale of cannabinoid products on the licensed premises, and the sale of such item by an employee shall be considered a sale by the license holder. All licensees shall comply with the provisions of this Chapter and all state and federal laws and regulations.

3-9-5: **SALES OF CANNABINOID PRODUCTS:** In accordance with Minn. Stat. § 151.72, Subd.3, as may be amended:

- A. Cannabinoid products: Including edible cannabinoid products, may be sold for human or animal consumption only in accordance with Minn. Stat. §151.72, Subd. 3, as may be amended, and only if all of the requirements of this section are met. (Amended ord. 546, 2-7-23)
- B. No other substance extracted or otherwise derived from hemp may be sold for human consumption if the substance is intended:
 - (1) For external or internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
 - (2) To affect the structure or any function of the bodies of humans or other animals.
- C. No cannabinoid products may be sold to any individual who is under the age of 21. (Amened ord. 546, 2-7-23)

D. Products that meet the requirements of this section are not controlled substances under Minn. Stat. § 152.02.

3-9-6: **TESTING REQUIREMENTS:** All testing must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 4, as may be amended.

3-9-7: **LABELING REQUIREMENTS:** All labeling must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 5, as may be amended.

3-9-8: **ADDITIONAL REQUIREMENTS FOR EDIBLE CANNABINOID PRODUCTS:** In accordance with Minn. Stat. § 151.72, Subd. 5a, as may be amended:

A. An edible cannabinoid product must not:

- (1) Bear the likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children;
- (2) Be modeled after a brand of products primarily consumed by or marketed to children;
- (3) Be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or snack food item;
- (4) Contain an ingredient, other than a hemp-derived cannabinoid, that is not approved by the United States Food and Drug Administration for use in food;
- (5) Be packaged in a way that resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product; or
- (6) Be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.

B. An edible cannabinoid product must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of sale to a customer. The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol.

- C. If an edible cannabinoid product is intended for more than a single use or contains multiple servings, each serving must be indicated by scoring, wrapping, or other indicators designating the individual serving size.
- D. A label containing at least the following information must be affixed to the packaging or container of all edible cannabinoid products sold to consumers:
 - (1) The serving size;
 - (2) The cannabinoid profile per serving and in total;
 - (3) A list of ingredients, including identification of any major food allergens declared by name; and
 - (4) The following statement: "Keep this product out of reach of children."
- E. An edible cannabinoid product must not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

3-9-9: **PROHIBITED SALES:**

- A. **Samples Prohibited.** Sampling of cannabinoid products within any Retail Establishment licensed under this ordinance is prohibited. No person shall distribute samples of any cannabinoid products free of charge or at a nominal cost. The distribution of cannabinoid products as a free donation is prohibited.
- B. **Coupon and Price Promotion.** No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any cannabinoid products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.
- C. **Prohibition Against Retail Sales of Cannabinoid Products by Vending Machines.** No person will sell or dispense cannabinoid products through use of a vending machine.

- D. **Delivery Sales.** All sales of cannabinoid products must be conducted in person, in a licensed Retail Establishment under this ordinance, in over-the-counter sales transactions.

3-9-10: **ADULTERATED OR MISBRANDED PRODUCTS:** A cannabinoid product shall be considered adulterated or misbranded under the provisions set forth in Minn. Stat. §151.72, Subd. 6, as may be amended.

3-9-11: **SIGNAGE:** At each location where cannabinoid products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.

3-9-12: **AGE VERIFICATION:** At each location where edible cannabinoid products are sold, the licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this Section that the person appeared to be 30 years of age or older.

3-9-13: **HOURS OF SALES:** No sales of cannabinoid products will be allowed at the licensed premises after 10:00 p.m. and before 8:00 a.m. daily.

3-9-14: **COMPLIANCE CHECKS AND INSPECTIONS:** All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, compliance check minors to enter the licensed premise to attempt to purchase cannabinoid products. Compliance check minors used for the purpose of compliance checks shall be supervised by City law enforcement officers. Compliance check minors used for compliance checks shall not be guilty of unlawful possession of cannabinoid products when such items are obtained as a part of the compliance check. No compliance check minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all compliance check minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his/her

employee and shall produce any identification, if any exists, for which he/she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law or regulation.

3-9-15: UNDERAGE PERSONS:

A. **Illegal sales.** It shall be a violation of this Chapter for any person to sell or otherwise provide any cannabinoid products to any minor.

B. **Illegal possession.** It shall be a violation of this Chapter for any minor to have in his/her possession any cannabinoid product. This subdivision shall not apply to compliance check minors lawfully involved in a compliance check.

C. **Illegal procurement.** It shall be a violation of this Chapter for any minor to purchase or attempt to purchase or otherwise obtain any cannabinoid product, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any cannabinoid product. This subdivision shall not apply to compliance check minors lawfully involved in a compliance check.

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

3-9-16: PENALTIES; REVOCATION OR SUSPENSION OF LICENSE: A violation of any provision of this Chapter shall constitute a misdemeanor, unless otherwise specified by other federal or state laws or regulations. A violation of any provision of this Chapter shall be cause for consideration of immediate revocation or suspension of the license by the City Council. Any fee paid to the City for a license shall be forfeited upon revocation or suspension of the license.

CHAPTER 10
ADMINISTRATIVE HEARINGS

SECTION:

- 3-10-1: Requesting a Hearing
- 3-10-2: Hearing Officer
- 3-10-3: The Hearing
- 3-10-4: Authority of Hearing Officer
- 3-10-5: Hearing Officer's Decision
- 3-10-6: City Council Review
- 3-10-7: Additional Penalties
- 3-10-8: Judicial Review

3-10-1: **REQUESTING A HEARING:**

- A. Any person contesting an administrative penalty, suspension or revocation of a license issued pursuant to this Title may, within 10 days of the time of issuance of the administrative penalty, suspension or revocation, request a hearing before a hearing officer.
- B. Any request for a hearing before a hearing officer shall be made in writing on a form provided by the city for such a request and be either delivered personally to the city at city hall or mailed to the city by United States first class mail, postage prepaid. If mailed, the request must be received by the city within the prescribed 10 days.
- C. The hearing shall be held at city hall within 30 days of receipt of a timely submitted request for a hearing.
- D. Failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing. A hearing officer may waive this result upon good cause shown. A determination of good cause shall be made by the hearing officer, but specifically does not include forgetfulness or intentional delay.
- E. A hearing request filing fee shall be paid simultaneously with the filing of the hearing request, in the amount adopted by ordinance by the city council.
- F. In cases where an administrative penalty, suspension or revocation of a license decision is upheld by the hearing officer, in addition to any administrative penalty or other conditions imposed by the hearing officer, the offender shall be responsible for payment of the costs of the hearing, including the hearing officer's fees, in an amount not to exceed \$1,000.

3-10-2: **HEARING OFFICER:** The city council may periodically approve a list of lawyers from which the city administrator will randomly select a hearing officer, who must not be a city employee, to hear and determine a matter for which a hearing is requested.

3-10-3: **THE HEARING:**

- A. Notice of the hearing must be served in person or by mail on the alleged violator and/or owner of the property at least ten days prior to the hearing date, unless a shorter time period is accepted by all parties.
- B. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidentiary procedure will not apply.
- C. The hearing officer may record the hearing and receive testimony and exhibits.
- D. The hearing officer must receive and give weight to the evidence presented, including reliable hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

3-10-4: **AUTHORITY OF HEARING OFFICER:**

- A. The hearing officer has the authority to determine whether a violation has occurred, or is occurring, and, upon his/her findings, may:
 - 1. Uphold the Administrative Penalty, suspension or revocation of the license;
 - 2. Modify the Administrative Penalty, suspension or revocation of the license;
 - 3. Overturn the Administrative Penalty, suspension or revocation of the license; or
 - 4. Impose any combination of the foregoing provisions that the hearing officer deems to be reasonable.
- B. In rendering their decision, the hearing officer may consider any or all of the following factors:
 - 1. The frequency of reoccurrence of the violation;
 - 2. The seriousness of the violation;
 - 3. The history of the violation;
 - 4. The violator's conduct after issuance of the notice of hearing;
 - 5. The good faith effort by the violator to comply;
 - 6. The impact of the violation upon the community; and

7. Any other factors the hearing officer deems appropriate to achieve a just result.

3-10-5: **HEARING OFFICER'S DECISION:**

- a. The hearing officer's decision must be in writing.
- b. The decision of the hearing officer is final without any further right of administrative appeal.
- c. The hearing officer's decision may be appealed to the city council by submitting a request in writing to the city clerk within seven (7) days after issuance of the hearing officer's decision.

3-10-6: **CITY COUNCIL REVIEW:**

- A. *Appeal of hearing officer's decision.* The hearing officer's decision in any of the following matters may be appealed by a party to the city council for administrative review:
 1. An alleged failure to obtain a permit, license, or other approval from the city council as required by city ordinance;
 2. An alleged violation of a permit, license, or other approval, or the conditions attached to the permit, license, or approval, that was granted by the city council; and
 3. An alleged violation of regulations governing a person or entity who has received a license granted by the city council.
- B. *Appeal to the city council.* To appeal to the city council, the party seeking the appeal must submit a request in writing to the city clerk within seven (7) days after the issuance of the hearing officer's decision. The appeal must be accompanied by a fee as established by the city council.
- C. *Hearing by the city council.* The appeal will be heard by the city council after notice served in person or by registered mail at least ten (10) days in advance of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the hearing officer's decision.
- D. *City council decision.* The city council must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The city council is not bound by the hearing officer's decision, but may adopt all or part of the hearing officer's decision. The city council's decision must be in writing.
- E. *Finding of violation and imposition of penalty.* If the city council makes a finding of a violation, it may:
 1. Uphold the hearing officer's decision;
 2. Modify the hearing officer's decision;

3. Overturn the hearing officer's decision; or
4. Impose any combination of the foregoing provisions that the city council deems to be reasonable.

3-10-7: **ADDITIONAL PENALTIES:** Failure to pay an Administrative Penalty within the time allowed is grounds for suspending or revoking a license related to the violation and/or the property upon which the violation occurred.

3-10-8: **JUDICIAL REVIEW:** An aggrieved party may obtain judicial review of the decision of the hearing officer or the city council by proceeding under a writ of certiorari in district court.

All other Titles, Chapters and Sections of the City Code shall remain as written and adopted by the Andover City Council.

