

CHAPTER 6

BUSINESS REGULATION AND LICENSING

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SECTION 1

ADMINISTRATION

SECTION:

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6-1-1: VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Section when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Effective Date: 06-01-1990

6-1-2: DEFINITIONS. As used in this Chapter, the following words and terms shall have the meanings stated:

- A. “Applicant” means any person making an application for a license under this Chapter.
- B. “Application” means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
- C. “Bond” means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.
- D. “Business” means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

- E. "License" means a document issued by the City to an applicant permitting him to carry on and transact a business.
- F. "Licensee" means an applicant who, pursuant to his application, holds a valid, current, un-expired and un-revoked license from the City for carrying on a business.
- G. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.
- H. "Sale", "Sell" and "Sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

6-1-3: APPLICATIONS. All applications shall be made as follows:

- A. All applications shall be made at the office of the City Clerk/Treasurer upon forms that have been furnished by the City for such purposes.
- B. Unless otherwise provided for in this Chapter, all such applications must be subscribed, sworn to, and include such information as the Council deems necessary considering the nature of the business for which license application is made.
- C. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.
- D. The City Clerk/Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Clerk/Treasurer may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.
- E. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

6-1-4: INSPECTIONS. Upon the filing of an application for a license, or at any time during the license period, the premises upon which the licensed activity is to take place, or is presently taking place, shall be open to inspection by the City.

6-1-5: ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

- A. Granting. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. Failure to pay any portion of a fee when due shall be cause for revocation. No license fee shall be refundable upon revocation or voluntarily ceasing to carry on the licensed activity. All applications, including proposed license periods, must be consistent with this Chapter.
- B. Issuing. If an application is approved, the City Clerk/Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than \$100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the premises therein described.
- C. Transfer. Unless otherwise provided herein, no license shall be transferable between persons or to a different location. It is unlawful to make any transfer in violation of this Subdivision.
- D. Termination. Licenses shall terminate only by expiration or revocation.
- E. Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. Grounds for revocation may be, but are not limited to, any of the following: (1) that the licensee suffered or permitted illegal acts upon licensed premises; (2) that the licensee had knowledge of such illegal acts but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.
- F. Duplicate License. Duplicates of all original licenses may be issued by the City Clerk/Treasurer, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee in an amount adopted by

resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

6-1-6: FIXING LICENSE FEES. Except as otherwise herein provided, all fees for license, late fee penalties, and investigation of applicants under this Chapter shall be fixed and determined by the Council, adopted by ordinance_and uniformly enforced. Such license fees may, from time-to-time, be amended by Council by ordinance. A copy of the ordinance setting forth currently effective license fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any such subdivision or categorization shall be included in the ordinance authorized by this Section.

Source: Ordinance 145, SS
Effective Date: February 6, 2010

6-1-7: CARRYING OR POSTING. All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in the place of business near the licensed activity. Provided, however, that in the case of a machine or other device licensing, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand and any officer or citizen.

6-1-8: PENALTY FOR PROPERTY OWNER. It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this Chapter.

6-1-9: RESPONSIBILITY OF LICENSEE. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefore, place such conditions and restrictions upon a license as it, in its direction, may deem reasonable and justified.

6-1-10: RENEWAL OF LICENSES. Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

6-1-11: INSURANCE REQUIREMENTS. Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk/Treasurer a policy or certificate of public

liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty (30) days written notice served upon the City Clerk/Treasurer. Cancellation or termination of such coverage shall be grounds for license revocation.

6-1-12: LICENSE DENIAL AND FIXING RATES – HEARING.

- A. Right to Deny. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.
- B. Rates. Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.
- C. Hearing. Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefore. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

6-1-13: WORKER'S COMPENSATION. No license shall be issued under this Chapter by the City until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Effective Date: 06-01-1990

SECTION 2

AMUSEMENT DEVICES

SECTION:

- 6-2-1: Definitions
- 6-2-2: License Required
- 6-2-3: Exception
- 6-2-4: Unlawful Use and Devices

6-2-1: DEFINITIONS. The following terms, as used in this Section, shall have the meanings stated:

- A. “Game of Skill” – Any device excepting pool and billiard tables, bowling alleys and shooting games, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for such privilege.
- B. “Coin amusement” – Any machine which upon the inserting of a coin, token, or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.
- C. “Video Game” – Any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.
- D. “Amusement device” – includes a game of skill, a coin amusement, or a video game, as defined in this Subdivision, or any combination thereof.
- E. “Distributor” – The person who places amusement devices on premises not owned by him or under his control, which devices may be played by the public generally for a price paid either directly or indirectly.
- F. “Arcade” – A contiguous area which more than six (6) amusement devices are kept for use by the public generally.

6-2-2: LICENSE REQUIRED. It is unlawful for any person to have upon premises owned or controlled by him (1) any amusement device, or (2) operate an arcade, without a license therefore from the City. It is unlawful for any person to be a distributor without a license therefore from the City.

6-2-3: EXCEPTION. This Section shall not apply to video games of chance licensed by the State.

6-2-4: UNLAWFUL USE AND DEVICES. It is unlawful for any person to: (1) sell or maintain a machine or device which is for gambling or contains an automatic pay-off device; (2) give any price, award, merchandise, gift, or thing of value to any person on account of operation of such device; (3) sell or maintain, or permit to be operated in his place of business, any amusement device equipped with an automatic pay-off device; (4) equip any amusement device with an automatic pay-off device; or (5) permit the playing of coin amusement machines between the hours of 1:00 AM and 6:00 AM of any day.

SECTION 3

DANCES

SECTION:

- 6-3-1: Definitions
- 6-3-2: License Required
- 6-3-3: License Fee
- 6-3-4: Application and License
- 6-3-5: Dance Regulations

6-3-1: DEFINITIONS. As used in this Section, the following works and terms shall have the meanings stated:

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

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

6-3-2: LICENSE REQUIRED. It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefore from the City.

6-3-3: LICENSE FEE. The license fee shall be in accordance with City's Fee Schedule, and shall include all cost associated with the issuance of the license and site inspection.

6-3-4: APPLICATION AND LICENSE.

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

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

C. No license shall be granted by the Council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than legitimate

business purpose which adjoins such dancing place, or which may be reached by stairs, elevators, or passageway leading from such dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washroom or lighting facilities.

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

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

F. The licensee shall employ, at his own expense, such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons in attendance at the Public Dancing Place and for the preservation of order and protection of property in and around the Public Dance site. Security personnel shall be present during the entire time said dance is being held and until all patrons have vacated the property, including parking lots owned by licensee. It should be noted that any public safety incidents that occur during the event may be used by the City Council in the determination to approve or disapprove any future licenses under this Section.

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

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

6-3-5: DANCE REGULATIONS.

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

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

C. **Certain Persons Prohibited.** No Licensee shall permit any person under the age of eighteen (18) years, unless said person is accompanied by his parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in the public dancing place.

D. Hours of Dancing. No public dance shall be held on Sunday between the hours of midnight. and noon. No public dance shall be held on any day between the hours of midnight and 6:00 am. (Ord 214, SS 03/21/16 Effective Date 04/25/16)

SECTION 4

TOBACCO

(Ord 55, SS, 11-16-2009)

(Ord 216, SS, 03-21-2016)

SECTION:

- 6-4-1: Purpose
- 6-4-2: Definitions and Interpretations
- 6-4-3: License
- 6-4-4: Fees
- 6-4-5: Basis for Denial of License
- 6-4-6: Prohibited Sales
- 6-4-7: Vending Machines
- 6-4-8: Self-Service Sales
- 6-4-9: Responsibility
- 6-4-10: Compliance Checks and Inspections
- 6-4-11: Other Illegal Acts
- 6-4-12: Violations
- 6-4-13: Penalties
- 6-4-14: Exceptions and Defenses
- 6-4-15: Severability and Savings Clause

6-4-1: PURPOSE. Because the City recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have show that most smokers begin smoking before they have reached eighteen (18) years and that those persons who reach the age of eighteen (18) years without having started smoking are less likely to be smoking; and because smoking has been show to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

6-4-2: DEFINITIONS AND INTERPRETATIONS. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted

definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. The following terms shall have the definitions given to them:

- A. Tobacco or Tobacco Products. “Tobacco” or “Tobacco products” shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, fine cut or other chewing tobacco; cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; Cavendish, shorts, plug and twist tobaccos, dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.
- B. Tobacco Related Devices. “Tobacco related devices” shall mean any tobacco products as well as a pipe, rolling papers, or other device intentionally designated or intended to be used in a manner which enables the chewing, sniffing, or smoking or tobacco or tobacco products.
- C. Self-Service Merchandising. “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.
- D. Vending Machine. “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.
- E. Individually packaged. “Individually packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this Subdivision shall not be considered individually packaged.

- F. Loosies. “Loosies” shall mean the common term used to refer to a single or individual packaged cigarette.
- G. Minor. “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.
- H. Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.
- I. Moveable Place of Business. “Movable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
- J. Sale. A “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.
- K. Compliance Checks. “Compliance Checks” shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices.
- L. Nicotine or Lobelia Delivery Devices. “Nicotine or Lobelia Delivery Devices” shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.
- M. Electronic Delivery Device: “Electronic delivery devices” are products 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 such a product whether or not sold separately. Electronic delivery device does not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal use in tobacco cessation treatment for other

medical purposes, and is being marketed and sold solely for that approved purpose.

6-4-3: LICENSE. No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery device without first having obtained a license to do so from the City.

- A. Application. An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
- B. Action. The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.
- C. Term. All licenses under this ordinance shall be valid for one calendar year from the date of issue.
- D. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.
- E. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.
- F. Moveable Place of Business. No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.
- G. Display. All licenses shall be posted and displayed in plain view of the general public of the licensed premises.

H. Renewals. The renewal of a license under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the application and shall not entitle the holder to an automatic renewal of the license.

6-4-4: FEES. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be set by resolution by the Council.

6-4-5: BASIS FOR DENIAL OR LICENSE. The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of eighteen (18) years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices.
- C. The applicant has had a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, ordinance or other regulation, from holding such a license.

6-4-6: PROHIBITED SALES. It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device:

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, except as may otherwise be provided in this ordinance.

- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device between the licensee or the licensee's employee, and the customer.
- D. By means of loosies as defined in Section 6-4-2.F of this Code.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances naturally found in tobacco or added as part of an otherwise lawful manufacturing process.
- F. By any other means to any other person, or in any other manner or form prohibited by Federal, State, or local law, ordinance provision, or other regulation.
- G. It is unlawful for any licensee, or any officer, associate, member, representative, agent, or employee of such licensee, to engage, employ or permit any person under the age of eighteen (18) years of age to sell tobacco products, electronic delivery devices, or nicotine or lobelia delivery devices in any licensed premises.
- H. It shall be a violation of this ordinance to sell any liquid, whether or not such liquid contains nicotine that is intended for human consumption and use in an electronic delivery device that is not contained in packaging that is child-resistant. Upon request, a licensee shall provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

6-4-7: VENDING MACHINES. It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

6-4-8: SELF-SERVICE SALES. It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices shall either be stored behind the counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco,

tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices at the time of this ordinance is adopted shall comply with this Section within 30 days following the effective date of this ordinance.

6-4-9: RESPONSIBILITY. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

6-4-10: COMPLIANCE CHECKS AND INSPECTIONS. All licensed premises shall be open to inspection by the City police and other 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, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years. To enter the licensed premise to attempt to purchase tobacco, tobacco products tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by the City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance check shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in compliance checks shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for education, research, or training purposes, or required for the enforcement of a particular State or Federal law.

6-4-11: OTHER ILLEGAL ACTS. Unless otherwise provided, the following acts shall be a violation of this ordinance.

- A. **Illegal Sales.** It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device to any minor.
- B. **Illegal Possession.** It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.

- C. **Illegal Use.** It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. D. It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.

- E. **Use of False Identification.** It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, where 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.

6-4-12: VIOLATIONS.

- A. **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

- B. **Hearings.** If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

- C. **Hearing Officer.** The City Council shall serve as the hearing officer. Minors alleged to be in violation may request a hearing with the City Council serving as the hearing officer.

- D. **Decision.** If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 6-4-13 of this Code, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

- E. **Appeals.** Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.

- F. Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City elects to seek misdemeanor prosecution against an individual in violation of this ordinance, no administrative penalty shall be imposed against that individual.
- G. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- H. Minors. Minors alleged to be in violation of this ordinance shall be entitled to the same process as other alleged violators. Unless waived, a minor charged under this ordinance shall be entitled to all confidentiality protections under state law including a private hearing to an appropriate hearing officer.

6-4-13: PENALTIES.

- A. Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75.00 for a first violation of this ordinance; \$200.00 for a second offense at the same licensed premises within a twenty-four month period; and \$250.00 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.
- B. Other Individuals. Other individuals, other than minors regulated by Subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee of \$50.00.
- C. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices, shall be charged an administration fee of \$25.00 for any violation. In addition, a minor in violation of this section shall be ordered to attend the Anoka County Youth Tobacco Diversion program.

6-4-14: EXCEPTIONS AND DEFENSES. Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

6-4-15: SEVERABILITY AND SAVINGS CLAUSE. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

SECTION 5

GAMBLING

SECTION:

- 6-5-1: Definitions
- 6-5-2: Gambling Forms and Eligibility
- 6-5-3: Gambling Regulations
- 6-5-4: City Approval of Applications
- 6-5-5: Unlawful Act

6-5-1: DEFINITIONS. The following definitions shall apply to this Section:

- A. “Lawful Gambling” means the operation, conduct or sale of bingo, raffles, paddlewheels, tip boards and pull-tabs for a lawful purpose as herein defined.
- B. “Lawful Purpose” means one or more of the following: (1) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (2) initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (3) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (4) imposed by the State or the United States on receipts from lawful gambling. “Lawful Purpose” does not include the erection, acquisition, improvement, expansion, repair or maintenance of any real property, owned or lease by the organization, unless the Board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in (1) through (3) above.
- C. “Organization” means any fraternal, religious, veterans or other non-profit organization located in the City.
- D. “Profit” means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for gambling supplies and equipment, prizes, rent and utilities used during the gambling occasions, compensation paid to members for conducting gambling, taxes imposed by statute and maintenance of devices used in lawful gambling.
- E. “Board” means the Charitable Gambling Control Board.

6-5-2: GAMBLING FORMS AND ELIGIBILITY. All forms of legal gambling may be carried on, but only by an organization, and subject to the provisions of this Section and Minnesota Statutes, Section 349.11, Et. Seq.

6-5-3: GAMBLING REGULATIONS.

- A. Premises. If the organization owns or leases property for organizational activities, which may or may not include lawful gambling activities, a majority in value of such real property shall be situated within the City. If the organization owns or leases no real property except that it leases space on real property for lawful gambling activities only, such premises shall be licensed under City Code, Chapter 5 for on-sale of liquor. If the organization carries on lawful gambling upon leased premises, such lease shall be in writing and for a term of at least one (1) year, and the rental payments shall not be based upon a percentage of receipts or profits from such gambling.
- B. Contribution Toward City Fund. Ten percent (10%) of the net profits from lawful gambling within the City by the organization must be paid on a monthly basis to a fund administered and regulated by the City. Net profits are defined in Minn. Stat. Sec. 349.213, Subd. 1(e). (Ord 175, SS, 10/7/12)
- C. Expenditures. All one hundred percent (100%) gross profits from the premises of each licensed organization conducting lawful gambling within St. Francis must be expended for lawful purposes conducted with the City's trade area. The City's trade area shall be defined as the City of St. Francis and each City and Township contiguous to St. Francis. (Ord 175, SS, 10/7/12)
- D. Limitations on Licenses. No organizations shall hold more than one license from the Board which authorizes lawful gambling at more than one location, whether such location be within or without the City.
- E. Special Bingo Regulations. Bingo shall only be conducted by an organization which has been in existence for at least three (3) years, has at least thirty (30) active members, and on premises which it owns.

6-5-4: CITY APPROVAL OF APPLICATIONS. Unless it finds that the applicant can or had complied with all of the applicable regulations set forth in Section 6-5-3 of this Code, the Council shall, upon receipt from the Board of a notice of application for issuance or renewal of a license, take action to disapprove the same and inform the Board.

6-5-5: UNLAWFUL ACT. It is unlawful for any person to violate this Section.

SECTION 6

GARBAGE AND REFUSE HAULERS

SECTION:

- 6-6-1: Definitions
- 6-6-2: License Required
- 6-6-3: Exception
- 6-6-4: Hauler Licensee Requirements

6-6-1: DEFINITIONS. The following terms, as used in this Section, shall have the meanings stated:

- A. "Garbage" means all putrid wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes.
- B. "Refuse" means ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrid wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

6-6-2: LICENSE REQUIRED. It is unlawful for any person to haul garbage or other refuse for hire without a license therefore from the City, or to haul garbage or other refuse from his own residence or business property other than as herein excepted.

6-6-3: EXCEPTION. Nothing in this Section shall prevent persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed: (1) that all garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top, (2) that all other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo, and, (3) that all garbage and other refuse shall be dumped or unloaded only at the designated sanitary land-fill.

6-6-4: HAULER LICENSEE REQUIREMENTS.

- A. Hauler licenses shall be granted only upon the condition that the licensee have water-tight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or

unloaded only at the designated sanitary land-fill or RDF plant, and strictly in accordance with regulations relating thereto.

- B. Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the City Clerk/Treasurer evidence that he has provided public liability insurance on all vehicles in at least the sum of \$100,000.00 for the injury of one person, \$300,000.00 for the injury of two or more persons in the same accident, and \$50,000.00 for property damages.
- C. Licensees shall deliver all refuse to the designated sanitary land-fill or RDF plant.
- D. The Council, in the interest of the maintaining healthful and sanitary conditions in the City, hereby reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.
- E. Each applicant shall file with the City Clerk/Treasurer, before a garbage and refuse hauler's license is issued or renewed, a schedule of proposed rates to be charged by him during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Nothing herein shall prevent a licensee from petitioning the Council for review of such rates during the licensed period, and the Council may likewise consider such petition and make new rates effective at any time. No licensee shall charge rates in excess of the rates approved by the Council.
- F. All licensees shall comply with all applicable statutes and County ordinances.

SECTION 7

KENNELS

SECTION:

6-7-1: Kennels

6-7-1: KENNELS.

- A. Defined. For the purpose of this Section, the term “kennel” means any place, building, tract of land, abode or vehicle, wherein or whereon two or more dogs, over six months of age are kept, kept for sale, or boarded.
- B. License Required. It is unlawful for any person to operate or maintain a kennel without a license therefore from the City.
- C. Exception. Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this Section.
- D. Minimum Land Requirement. Licenses shall only be issued, and kennels maintained, on tracts of land containing at least five contiguous acres.

SECTION 8
PAWNBROKERS

SECTION:

6-8-1: Pawnbrokers

6-8-1: PAWNBROKERS.

- A. Defined. The term “pawnbroker” means a person who loans money secured by deposit or pledge of personal property, or who buys personal property on condition of selling the same or returning the same back at a stipulated price.
- B. License Required. It is unlawful for any person to engage in or carry on the business of pawnbroker without a license therefore from the City.
- C. Records.
 - 1. Each person licensed hereunder shall keep a record of each transaction made in the course of his business. Such record shall be in the form prescribed by the Chief of Police and shall, in all instances, be legibly made in ink and be in the English language. The record so kept shall include the following information about each transaction:
 - a. The name, address and date of birth of the person pledging or selling the item.
 - b. The time and date of the transaction.
 - c. A complete description of the item pledged or sold, including all identifying numbers and identifying marks.
 - d. The identification presented of the individual making the pledge or selling the item.
 - e. A description of the person pledging or selling the item.
 - f. The amount of money paid or loaned for the item.
 - g. The signature of the person pledging or selling the item.
 - h. Any other information the Police Chief shall require.

2. The records herein shall be kept available for police inspection at any reasonable time at the licensee's place of business.
- D. Minors. It is unlawful for any pawnbroker to purchase or receive on deposit or pledge any property from any minor person under the age of eighteen years.
- E. Redemption Period. Any person pledging an article shall have ninety (90) days to redeem the same before the pledge becomes forfeitable.
- F. Police Order to Hold Property. Whenever the Chief of Police or any member of the police force designated by the Chief of Police, shall notify any such dealer or dealers not to sell any property so received on deposit or purchased by them, or permit the same to be redeemed, such property shall not be sold or permitted to be redeemed until such time as may be determined by the Chief of Police or member of the police force designated by the Chief of Police so requiring them to be held.
- G. Hours and Days of Operation. It is unlawful for any pawnbroker to receive any property as a purchase or pledge between the hours of 9:00 PM and 7:00 AM on any weekday, nor between the hours of 9:00 PM on Saturday and 7:00 AM on Monday, nor on New Year's Day, the Fourth of July, Thanksgiving Day and Christmas Day.
- H. Report of Stolen or Lost Goods. If any goods, articles, or things shall be advertised in any public newspaper as having been lost or stolen, and such goods, articles or things shall then be, or shall thereafter come into the possession of the licensee, said licensee shall, upon actual notice thereof, notify the Police Department in writing that certain goods, articles or things advertised are in said licensee's possession, and shall not thereafter dispose of the same except upon written authority to do so from the Chief of Police.

SECTION 9

SAUNA PARLOR AND MASSAGE PARLOR

SECTION:

- 6-9-1: Definitions
- 6-9-2: License Required
- 6-9-3: License Application
- 6-9-4: Restrictions and Regulations
- 6-9-5: Unlawful Acts
- 6-9-6: License Condition and Unlawful Act
- 6-9-7: Exception
- 6-9-8: Resident Manager or Agent
- 6-9-9: Nudity or Obscenity Prohibited

6-9-1: DEFINITIONS. As used in this Section, the following words and terms shall have the meanings stated:

- A. "Sauna" means a steam bath used for the purpose of bathing, relaxing, or weight reduction, utilizing steam as the agent therefore.
- B. "Sauna Parlor" means any room or rooms wherein persons may, for a fee or other consideration paid either directly or indirectly, receive a sauna.
- C. "Massage" means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse who works solely under the direction of such person, physical therapist, athletic director and trainer, or beautician and barber who confine their treatment to the scalp, face and neck.
- D. "Massage Parlor" means any room or rooms wherein persons may, for a fee or other consideration paid either directly or indirectly, receive a massage, except that a barber or beauty shop, or an exercise or aerobics studio, may employ not more than one "massage therapist" who is licensed under the provisions or Section 6-10-1 of this Code, without the necessity of obtaining a license for a message parlor hereunder. (Ord 7, SS, 6-3-1991)
- E. "Masseur" means a male person who, for compensation, practices massage.
- F. "Masseuse" means a female person who, for compensation, practices massage.

6-9-2: LICENSE REQUIRED. It is unlawful for any person to operate a sauna parlor or a massage parlor without a license therefore from the City. It is unlawful for any person, except those persons exempt under Section 6-9-1.C and 6-9-1.D of this Code, to practice massage in any place except upon licensed premises. (Ord 7, SS, 6-3-1991)

6-9-3: LICENSE APPLICATION. All initial applications for licenses to operate sauna parlors or massage parlors shall be accompanied by a non-returnable investigation fee. Applications shall contain the names and addresses of the owners, lessees and operators of the applicant, together with a description and location of the premises. The application shall also include information as to any convictions of any crime or offense committed by the applicant, together with such other information as the Council may require before consideration of the application. All applications by corporations shall include the names and addresses of all persons having a beneficial interest therein. An investigation by the Building Inspector shall be conducted of all premises proposed to be licensed before consideration by the Council. The Police Department shall conduct an investigation of all persons proposed to be licensed before consideration by the Council. All applications shall thereafter be considered by the Council.

6-9-4: RESTRICTIONS AND REGULATIONS.

- A. Licenses shall be granted only for operation upon fixed premises which must be located in a commercial or industrial district as established by the zoning laws of the City.
- B. Licenses shall be granted only upon a showing of compliance with all laws of sanitation.
- C. No beer, liquor, narcotic drug or controlled substances, as such terms are defined by State Statutes or the City Code, shall be permitted on licensed premises.
- D. Violation of any law or regulation relating to building, safety or health, shall be grounds for revocation of any license.
- E. There shall be no locks on doors of massage rooms.
- F. Only massage therapists who are licensed by the City shall practice massage.
- G. No sauna or massage parlor shall discriminate between persons on the basis of race, color, creed, sex or national origin or ancestry.

6-9-5: UNLAWFUL ACTS.

- A. It is unlawful for any licensee to fail to at all times observe all restrictions, regulations and maintenance requirements contained in this Section.
- B. It is unlawful for any licensee to be open for business between the hours of 8:00 PM and 8:00 AM of any day, or to permit any patron to be present upon licensed premises after 9:00 PM and before 8:00 AM of any day.

6-9-6: LICENSE CONDITION AND UNLAWFUL ACT.

- A. All premises licensed under this Section shall at all times be open to inspection by any health or police officer to determine whether or not this Section and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches and seizures.
- B. It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police or health officer from making such inspection.

6-9-7: EXCEPTION. This Section shall not apply to a health care facility (1) owned by a municipal corporation organized under the laws of the State of Minnesota, or (2) owned by the State of Minnesota or any of its agencies, or (3) licensed by the State of Minnesota.

6-9-8: RESIDENT MANAGER OR AGENT. Before a license is issued under this Section to an individual who is a non-resident of the State, to more than one individual whether or not they are residents of the State, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the State as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceased to be a resident of the State or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

6-9-9: NUDITY OR OBSCENITY PROHIBITED.

- A. Definitions. As used in this Section, the following words and terms shall have the meanings stated:
1. “Nudity” means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
 2. “Obscene performance” means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.
 3. “Obscenities” means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
 4. “Sado-masochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
 5. “Sexual conduct” means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the 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.
 6. “Sexual excitement” means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.
- B. Unlawful Act. It is unlawful for any person issued a license provided for in this Section to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

SECTION 10

MASSAGE THERAPIST LICENSE

SECTION:

- 6-10-1: Definitions
- 6-10-2: License Required
- 6-10-3: Licensing Requirements
- 6-10-4: Restrictions and Regulations

6-10-1: DEFINITIONS. As used in this Section, the following words and terms shall have the meanings stated:

- A. "Massage therapy" means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, licensed nurse, physical therapist, athletic director and trainer, or beautician and barber who confine their treatments to the scalp, face and neck.
- B. "Massage therapist" means a person who, for compensation, practices massage.

6-10-2: LICENSE REQUIRED. It is unlawful for any person to practice massage therapy without a license therefore from the City.

6-10-3: LICENSING REQUIREMENTS.

- A. License Application. All applications for a license to practice as a massage therapist shall be accompanied by a medical certificate from a physician duly licensed to practice medicine in the State of Minnesota stating that the applicant has no communicable disease. All initial applications shall be accompanied by a non-returnable investigation fee. All initial applications shall also be accompanied by front and side view photographs. Applications shall contain such other information as the Council may, from time to time, require. All applicants shall be at least eighteen (18) years of age.
- B. Educational Requirements.
 - 1. Each applicant for a massage therapist license shall furnish the application proof of the following:

- a. A diploma or certificate of graduation from a school approved by the American Massage Therapist Association or similar reputable massage association; or,
 - b. A diploma or certificate, of graduation from a school which is either accredited by a recognized education accrediting association or agency, or is licensed by the State or local government agency having jurisdiction over the school.
2. Each applicant shall also furnish proof at the time of application of a minimum of 100 hours successfully completed course work in the following areas:
- a. The theory and practice of massage, including, but not limited to, Swedish, Esalen, Shiatsu, and or Foot Reflexology techniques; and,
 - b. Anatomy, including, but not limited to, skeletal and muscular structure and organ placement; and,
 - c. Hygiene.

6-10-4: RESTRICTIONS AND REGULATIONS.

- A. Whenever a massage is given it shall be required by the massage therapist that the person who is receiving the massage shall have his/her buttocks, anus and genitals covered with an appropriate non-transparent covering.
- B. Any massage therapists performing any massages shall at all times have their anus, buttocks, breasts and genitals covered with a non-transparent material.
- C. All massage therapist licenses shall comply with any and all amendments to this Section. Failure to do so shall be grounds for revocation of any license.

(Ord 54, SS, 7-20-1998)

SECTION 11

ADULT ENTERTAINMENT

(Ord 14, SS, 5-4-1992)

SECTION:

- 6-11-1: Purpose and Intent
- 6-11-2: First Amendment Rights
- 6-11-3: Definitions
- 6-11-4: Application of this Ordinance
- 6-11-5: Non-Conforming Uses
- 6-11-6: Location
- 6-11-7: Permitted Zoning Districts
- 6-11-8: Hours of Operation
- 6-11-9: Operations
- 6-11-10: Signs
- 6-11-11: Adult Entertainment Uses-Accessory
- 6-11-12: Licenses
- 6-11-13: Separation
- 6-11-14: Effective Date

6-11-1: PURPOSE AND INTENT. It is the purpose of this Ordinance to regulate Adult Entertainment Uses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- A. Prevent additional criminal activity within the City;
- B. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- C. To locate Sexually Oriented Business away from residential areas, schools, churches, and parks and playgrounds;
- D. Prevent Concentration of Adult Entertainment Uses within certain areas of the City.

6-11-2: FIRST AMENDMENT RIGHTS. The provisions of this Ordinance 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 Ordinance 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.

6-11-3: DEFINITIONS. As used in this Section, the following words and terms shall have the meaning stated:

- A. “Adult Body Painting Studio” means an establishment or business which provides the service of applying of paint or other substance whether transparent or non-transparent to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas”.
- B. “Adult Bookstore” means a business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, if such shop is not open to the public generally but only one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities”, or “specified anatomical areas”.
- C. “Adult Cabaret” means an establishment which provides dancing or other live entertainment, if such establishment excludes minors by reason 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”.
- D. “Adult Companionship Establishment” means an establishment which excludes minors be reason of age, or which provides the service of engaging or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- E. “Adult Entertainment Use” means Adult Bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.
- F. “Adult Establishment” means a business engaged in any of the following activities which utilizes any of the following business procedures or practices:
 - 1. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there either by law or by the operators of such business; or
 - 2. Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting exposing, describing, discussing or relating to “specified sexual activities” or “specified anatomical areas”.

Specifically included in the terms, but without limitation are adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, and adult body painting studios.

- G. “Adult Hotel or Motel” means 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”.
- H. “Adult Massage Parlor, Health Club” means an establishment which restricts minors by reason of age and which provides the services of a massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- I. “Adult Mini-Motion Picture Theatre” means a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors be reason of age or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- J. “Adult Modeling Studio” means an establishment 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 upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- K. “Adult Motion Picture Arcade” means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrical, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.
- L. “Adult Motion Picture Theatres” means a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual medial material if said business as a prevailing practice excludes minors by reason of age or if said material is distinguished or characterized by emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

- M. “Adult Novelty Business” means a business which has a principal activity relating to the sale of devices which simulate human genitals or devices which are designated for sexual stimulation.
- N. “Adult Sauna” means a sauna which excludes minors by reason of age or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- O. “Adult Uses – Accessory” means a use, business, or establishment having 10% or less of its stock in trade or floor area located to, or 20% or less of its gross receipts derived from movie rentals, magazine sales, or sales of other merchandise, in which there is an emphasis on “specified sexual activities” or “specified anatomical areas”.
- P. “Church means a building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.
- Q. “School” means a public school as defined in Minnesota Statutes 120.05 or a non-public school or a non-sectarian non-public school as defined in Minnesota Statutes 123.932.
- R. “Specified Anatomical Areas” means the following:
1. Less than completely or opaquely covered human genitals, pubic region, buttock(s), anus, or female breast(s) below a point immediately above the top of the areola; and
 2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- S. “Specified Sexual Activities” means the following:
1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
 3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
 4. Fondling or touching of nude human genitals, pubic region, buttock(s), or female breast(s); or
 5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or
 6. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
 7. Human excretion, urination, menstruation, vaginal or anal irrigation.
- T. "Youth Facility" means a playground, park, public swimming pool, public library, or licensed day care facility.

6-11-4: APPLICATION OF THIS ORDINANCE.

- A. Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.
- B. No Sexually Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of St. Francis, the laws of the State of Minnesota, or the United States of America. Nothing in this ordinance 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.

6-11-5: NON-CONFORMING USES. Sexually Oriented uses which do not conform to the requirements, restrictions and prohibitions of this Ordinance shall be classified as legal non-conforming uses and may continue in operation until December 31, 1993. After December 31, 1993, all non-conforming uses shall be terminated and become illegal unless brought into conformance with this Ordinance. The City shall

attempt to identify all such uses which become classified as non-conforming under the provisions of this Subdivision and shall notify the property owners and operators of such uses in writing of the change in status of such property under this Ordinance. The owner of any property on which a Sexually Oriented is located may apply to the City for an extension of the termination date. The applicant shall have the burden of proving hardship based upon the established termination date. In making its decision, the City may consider any factor relevant to the issue, including but not limited to:

- A. The degree of magnitude of threat to the public health, safety and general welfare posed by the secondary impacts of the non-conforming operation.
- B. The length of time that the Sexually Oriented business has been operating.
- C. The ease by which the property could be converted to a conforming use.
- D. The nature and condition of the improvements on the property.
- E. The value and condition of the improvements on the property.
- F. The amount of the applicant's investment in the business.
- G. The amount of the investment already realized.
- H. The cost of relocating the Sexually Oriented Use.

6-11-6: LOCATION. During the term of this Ordinance, not Adult Entertainment Use shall be located less than five hundred (500) feet from any residential zoning district boundary site used for residential purposes and less than one thousand (1,000) feet from any church site, from any school site, or from any youth facility. In addition, no adult entertainment use may be located within one thousand (1,000) feet of another adult entertainment use. For purposes of this Ordinance this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, youth facility site, or another adult entertainment use site to the nearest point of the structure housing the proposed adult entertainment use.

6-11-7: PERMITTED ZONING DISTRICTS. Adult Entertainment Uses will be allowed in the Light Industrial District and the General Commercial District after issuance of a Conditional Use Permit. Adult Entertainment Uses will need to comply with all Conditional Use Permit Standards and Site Plan Requirements prior to operation.

6-11-8: HOURS OF OPERATION. Adult Entertainment Uses shall be limited to 8:00 AM to 12:00 PM for its hours of operation. A differing time schedule may be approved by the City, if it can be satisfactorily demonstrated by the operator to the City that extended operational hours:

- A. Will not adversely impact or affect uses or activities within one thousand (1,000) feet.
- B. Will not result in increased policing and related service calls.
- C. Are critical to the operation of the business.

6-11-9: OPERATIONS. The operation of an Adult Entertainment Use shall comply with the following operational standards:

- A. An establishment operating as an Adult Entertainment Use shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of M.S. Chapter 617 or other applicable Federal or State Statutes or local Ordinances.
- B. All entrances to the business, with the exception of emergency, fire exits which are not usable by patrons to enter the business, shall be visible from a public right-of-way.
- C. The layout of the display area 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.
- D. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

6-11-10: SIGNS. Signs for Adult Entertainment Uses shall comply with the City's Sign Ordinance, and in addition signs for Adult Entertainment Uses shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.

6-11-11: ADULT ENTERTAINMENT USES-ACCESSORY. Adult Entertainment Uses – Accessory shall comply with the following regulations:

- A. Comprise no more than ten (10) percent of the floor area of the establishment in which it is located.

- B. Comprise no more than twenty (20) percent of the gross receipts of the entire business operation.
- C. Does not involve or include any activity except the sale or rental of merchandise.
- D. Shall restrict from and prohibit access to minors by the physical separation of such items from areas of general public access:
 - 1. Movie Rental. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation of the business.
 - 2. Magazines. Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - 3. Other Uses. Adult Uses – accessory not specifically cited shall comply with the intent of this Section, subject to the approval of the City Council.
- E. Adult Uses – accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.
- F. Adult Uses – accessory shall be exempt from the Licensing and Conditional Use Permit requirements.

6-11-12: LICENSES. All establishments, including any business operating at the time of this Ordinance becomes effective, operating or intending to operate an Adult Entertainment Use, shall apply for and obtain a license with the City of St. Francis.

- A. License Required.
 - 1. A person is in violation of City Code if he/she operates an Adult Entertainment Use without a valid license, issued by the City.
 - 2. An application for a license must be made on a form provided by the City. The application must be accompanied by a Site Plan that is in compliance with the City Code Requirements. The Site Plan shall show the configuration of the premises, including a statement of total floor space occupies by the business.

3. The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to be in compliance with all City Regulations.
4. Applications for license shall be made only on the forms provided by the City. Four (4) complete copies of the application shall be furnished to the office of the City Clerk containing the address and legal description of the property to be used; the names, addresses, phone numbers of the owner, lessee (if any), and the operator or manager; the name address, and phone number of two persons who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's manager's or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, and nature of such crime or offense including the disposition thereof; the name and addresses of all creditors of the applicant, owner, lessee, or manager in so far as and regarding credit which has been extended for the purposes of constructing, equipping, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.

If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names and addresses of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.

5. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having interest in the premise upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise.

B. Issuance of License.

1. The Police Chief shall recommend approval of the issuance of a license by the City to an applicant within forty-five (45) days after receipt of an application unless he/she finds one or more of the following to be true:
 - a. An applicant is under eighteen (18) years of age.
 - b. An applicant or an applicants spouse is overdue in his/her payment to the City, County, or State of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an Adult Entertainment Use.
 - c. An applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - d. An applicant or an applicants spouse has been convicted of a violation of a provision of this Chapter, other than the offense of operating an Adult Entertainment Use without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
 - e. An applicant is residing with a person who has been denied a license by the City to operate an Adult Entertainment Use within the preceding twelve (12) months, or residing with a person whose license to operate an Adult Entertainment Use has been revoked within the preceding twelve (12) months.
 - f. The premises to be used the Adult Entertainment Use has not been approved by all City Departments as being in compliance with applicable laws and ordinances; such inspections shall be completed within thirty (30) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the inspections shall be completed within thirty (30) days from the date the deficiency has been corrected.
 - g. The license fee required by this Chapter has not been paid.
 - h. An applicant has been employed in an Adult Entertainment Use in a managerial capacity within the preceding twelve (12) months and had demonstrated that he/she is unable to operate or manage an Adult Entertainment Use premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

- i. An applicant or applicant's spouse has been convicted of a crime involving any of the following offenses: Any sex crimes as defined by Minnesota State Statute 609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith;

Any obscenity crime is defined by Minnesota Statute 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
3. An applicant who has been convicted or whose spouse has been convicted of an offense listed in Section 6-11-12.B.1.i of this Code may qualify for an Adult Entertainment Use license only when the time period required by Section 6-11-12.B.1.i of this Code has elapsed.
4. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Entertainment Use. The license shall be posted in a conspicuous place at or near the entrance to the Adult Entertainment Use so that it may be easily read at any time.
5. The City Council shall act to approve or disapprove the license application within one hundred twenty (120) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within one hundred twenty (120) days from the date that the deficiency has been corrected.

6. Within ninety (90) days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk of the City.
- C. Fees. An initial investigation fee of \$400.00 shall be charged at the time the application is filed; no part of this fee shall be refundable. If after review of the application the license is approved, the license holder shall pay \$400.00 for the initial license and \$4,000.00 per annum each time the license is renewed.
- D. Inspection.
1. An applicant or license shall permit representatives of the police department, Planning Department, Fire Department, and Building Inspection Department, to inspect the premises of an Adult Entertainment Use for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
 2. A person who operates an Adult Entertainment Use or his/her agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.
 3. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
- E. Expiration of License.
1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6-11-12.A of this Code. Application for renewal should be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected.
 2. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.
- F. Suspension.
1. The City may suspend a license for a period not to exceed ninety (90) days if it determines that a licensee or an employee of a license has:

- a. Violated or is not in compliance with any provision of this Chapter.
 - b. Engaged in excessive use of alcoholic beverages while on the Adult Entertainment Use premises.
 - c. Refused to allow an inspection of the Adult Entertainment Use premises as authorized by this Chapter.
 - d. Knowingly permitted any type of gambling by any person on the Adult Entertainment Use premises.
 - e. Demonstrated inability to operate or manage an Adult Entertainment Use in a peaceful or law-abiding manner, thus necessitating action by law enforcement officers.
2. A suspension by the City shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the persons in charge thereof.

G. Revocation.

1. The City may revoke a license if a cause of suspension in Section 6-11-12.F of this Code occurs and the license has been suspended within the preceding twelve (12) months.
2. The City shall revoke a license if it determines that:
 - a. A licensee gave false or misleading information in the material submitted to the City during the application process;
 - b. A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;
 - c. A licensee or employee has knowingly allowed prostitution on the premises;
 - d. A licensee or an employee knowingly operated the Adult Entertainment Use during a period of time when the licensee's license was suspended.
 - e. A licensee has been convicted of an offense listed in Section 6-11-12.B.1.i of this Code of which the time period required in Section 6-11-12.B.1.i of this Code has not elapsed.

- f. On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 6-11-12.B.1.i of this Code for which a conviction has been obtained, and the person or persons were employees of the Adult Entertainment Use at the time the offenses were committed.
 - g. A licensee or an employee has knowingly allowed an act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
 - h. A licensee is delinquent in payment to the County or State for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the Adult Entertainment Use.
 - 3. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
 - 4. Section 6-11-2.G.2.g of this Code does not apply to adult motels as a grounds for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.
 - 5. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Entertainment Use license for one year from the date of revocation became effective. If subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Section 6-11-12.G.2.e of this Code an applicant may not be granted another license until the appropriate number of years required under Section 6-11-12.B.1.i of this Code has elapsed.
 - 6. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.
- H. Transfer of License. A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Entertainment Use under the authority of a license at any place other than the address designated in the application.

6-11-13: SEPARATION. Every section, provision, or part of this ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

6-11-14: EFFECTIVE DATE. This Ordinance becomes effective thirty (30) days after its passage and publication pursuant to City Charter.

SECTION 12

REGULATING THE SALE OF FIREWORKS

SECTION:

- 6-12-1: Sale of Fireworks
- 6-12-2: Definition
- 6-12-3: Application
- 6-12-4: Processing Application
- 6-12-5: Conditions of License
- 6-12-6: Restrictions Regarding Operation
- 6-12-7: License Period and License Fee
- 6-12-8: Revocation of License
- 6-12-9: Consumer Use Restrictions

6-12-1: SALE OF FIREWORKS. It is unlawful to sell fireworks in the City in violation of Minnesota Statutes 624.20 through 624.25, inclusive, which are adopted by reference. "Legal fireworks" as defined in this Section may, however, be sold upon issuance of and possession of a current license by the City.

6-12-2: DEFINITION. For purposes of this Section "legal fireworks" is defined to mean:

Wire or wood sparklers of not more than one hundred (100) grams of mixture per item, other sparkling items which are non-explosive and non-aerial and contain seventy-five (75) grams or less of chemical mixture per tube or a total of two hundred (200) grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

6-12-3: APPLICATION. The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where fireworks will be sold; the type of legal fireworks to be sold; the estimated quantity of legal fireworks that will be stored on the licensed premises.

6-12-4: PROCESSING APPLICATION. The application must be filed with the City Clerk together with the license fee. Following an inspection of the premises proposed to be licensed by the Fire Marshall, the City Council may issue the license if the conditions for the license approval are satisfied and the location is properly zoned.

6-12-5: CONDITIONS OF LICENSE. The license shall be issued subject to the following conditions:

- A. The applicant is eighteen (18) years of age.
- B. The license is non-transferable, either to a different person or location.
- C. The licensed premises must be a permanent building equipped with an automatic sprinkler system or comply with National Fire Protection Association Standard 1124 (2003 Edition) as it relates to temporary structures. (Ord 84, SS, 5-5-2005)
- D. The license must be publicly displayed on the licensed premises.
- E. The premises are subject to inspection by City employees including but not limited to agents of the police and fire departments during normal business hours.
- F. The sale of legal fireworks must be allowed by the zoning ordinance and must comply with all zoning ordinance requirements including signs.
- G. The premises must be in compliance with the State Building Code and State Fire Code.

(Ord 84, SS, 5-5-2004)

6-11-6: RESTRICTIONS REGARDING OPERATION.

- A. Prohibited Transactions. No permit holder or agent or employee thereof shall sell, distribute or furnish any legal fireworks to a person under the age of eighteen (18) years (as verified by a current, valid driver's license, or a current, valid photo identification card), or to any person who is obviously intoxicated, chemically impaired or incompetent.
- B. Inspection of Items. The permit holder must, at all times during the term of the permit, allow the authorized agents of the fire department and the police department to enter the premises where the permitted business is located, including all display, sale or storage areas during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise therein for the purpose of verifying compliance with the requirements of this chapter, and any other applicable state and federal regulations. Upon request, the permit holder must provide a test sample to the inspector for the purpose of verifying the chemical content of the merchandise.

- C. Maintenance of Order. Permit holders shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
- D. Smoking Prohibited. Permit holders must strictly prohibit any cigarette, cigar, or pipe smoking in or around the permitted premises and conspicuously post and maintain appropriate "NO SMOKING" signage throughout.
- E. Proper Disposal of Unsold Legal Fireworks. It shall be the responsibility of the permit holder to properly dispose of all unsold legal fireworks. Any consequential cost to the City for disposal of these goods shall be the ultimate responsibility of the permit holder.
- F. Maintenance of Sales and Storage Areas. Any significant deviation, enlargement or alteration from the approved site plan for the sales display and storage areas covered by the permit must be pre-approved in writing by the fire department.
- G. Confiscation and Destruction of Illegal Fireworks. Any authorized agent of the fire department or police department may seize, take, remove or cause to be removed all stocks of fireworks or other combustibles offered or exposed for sale, stored or held in violation of this Chapter or other applicable law. Any consequential cost to the City for disposal of these goods shall be the ultimate responsibility of the permit holder.

6-12-7: LICENSE PERIOD AND LICENSE FEE. Licenses shall be issued for a calendar year. The annual license fee will initially be \$50.00 but will thereafter be established in an annual resolution establishing fees for the City of St. Francis. License fees shall not be prorated.

6-12-8: REVOCATION OF LICENSE. Following written notice and an opportunity for a hearing, the City Council may revoke a license for violation of this Section or state law concerning the sale, use or possession of fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for twelve (12) months.

6-11-9: CONSUMER USE RESTRICTIONS.

- A. It is unlawful to use, fire or discharge any legal fireworks along the route of and during any parade, or at any place of public assembly, including any event in the City for which a block event permit has been issued.
- B. It is unlawful to throw, toss, shoot, or otherwise launch any legal fireworks at any person, animal, vehicle or other thing or object.

- C. It is unlawful to discharge any legal fireworks within three hundred (300) feet of any building or location at which legal fireworks are sold at retail or otherwise stored for any reason.
- D. It is unlawful for any person under the age of eighteen (18) to possess, use or discharge any legal fireworks unless a responsible adult directly supervises the juvenile.
- E. It is unlawful for any person to use or discharge legal fireworks between the hours of 10:00 PM and 8:00 AM in the City limits.
- F. Legal fireworks may only be discharged in an area with a water source connected to a hose or other acceptable means of extinguishing a fire. (Ord 74, SS, 6-16-2003)

SECTION 13

TAXICABS

(Ord 142, SS, 11-16-2009)

SECTION:

- 6-13-1: Definitions
- 6-13-2: Operator License Required
- 6-13-3: Taxicab Driver License
- 6-13-4: Exceptions
- 6-13-5: Taxicab Operator Application
- 6-13-6: Taxicab Driver Application
- 6-13-7: Conditions for Taxicab Operator License
- 6-13-8: Conditions for Taxicab Drive License
- 6-13-9: Vehicle Requirement
- 6-13-10: Insurance Required
- 6-13-11: Business Records
- 6-13-12: Rates
- 6-13-13: Suspension or Revocation
- 6-13-14: Transfers
- 6-13-15: Term
- 6-13-16: Renewal
- 6-13-17: Fees

6-13-1: DEFINITIONS. The following terms, as used in this Section, shall have the meanings stated:

- A. "Taxicab" shall mean and include any motor vehicle engaged in the carrying of persons for hire, whether over a fixed route or not, and whether the same be operated from a street stand or subject to calls from a garage, or otherwise operated for hire except buses or limousines as herein defined, but the term shall not include vehicles regularly used by undertakers in carrying on their business. Taxi cabs shall not include any vehicle owned and operated by any non-profit agencies, school buses or political subdivision.
- B. "Street" shall mean and include any street, alley, avenue, court, bridge, lane, or public place in the City.
- C. "Taxicab driver" shall mean and include any person who drives a taxicab, whether such person be the owner of such taxicab or be employed by a taxicab owner or operator.

- D. “Operator” shall mean and include any person owning or having control of the use of one (1) or more taxicabs used for hire upon the streets or engaged in the business of operating a taxicab within the City.
- E. “Limousine” shall mean a plain painted, unmarked motor vehicle which carries passengers for hire, driven by a uniformed chauffeur, subject to call only from its own garage or central place of business, and which charges its customers a flat rate by the trip or by the hour, day or longer period of time.

6-13-2: OPERATOR LICENSE REQUIRED. No person shall engage in the business of operating one (1) or more taxicabs on the streets in the City of St. Francis without first obtaining a taxicab operator license.

6-13-3: TAXICAB DRIVER LICENSE. No person shall drive a taxicab for hire on the streets in the City of St. Francis without first obtaining a taxicab driver license.

6-13-4: EXCEPTIONS. Any taxicab currently licensed to operate in any other municipality in this state may carry passengers for hire from a community where it is licensed to any location in the City of St. Francis, but no such taxicab operator/driver may pick up passengers within the City unless there is a valid driver and/or operators license pursuant to this Section.

6-13-5: TAXICAB OPERATOR APPLICATION. An application of a new or renewal taxicab operator license shall be submitted to the City Clerk on forms provided by the City. In addition to such information as required by the Clerk, the application shall include the following:

- A. Name, address, date of birth, and telephone number of the applicant.
- B. The number of vehicles to be used as part of the taxicab operation.
- C. The description of the method to be used to distinguish the vehicles as taxicabs operating pursuant to the applicant’s business.
- D. Number of persons, other than the applicant, to be employed, full time or part time, as taxicab drivers.
- E. Personal history and background information regarding the applicant sufficient to address the requirements of this Section.
- F. Evidence to the satisfaction of the City that each of the vehicles to be used in the taxicab operation meet the requirements of this Section.

G. Proof of insurance as required by this Section.

6-13-6: TAXICAB DRIVER APPLICATION. An application for a taxicab driver license shall be submitted to the City Clerk on forms provided by the City. In addition to such information as the Clerk may require pursuant to this Section, the application shall include the following:

- A. Name, address, date of birth, and telephone number of the applicant.
- B. Personal history and background information regarding the applicant sufficient to address the requirements this Section.

6-13-7: CONDITIONS FOR TAXICAB OPERATOR LICENSE. A new or renewal taxicab operator license shall not be issued to an applicant if any one of the following conditions exists:

- A. The applicant is not the owner or lessee of the vehicles to be used in the taxicab operation.
- B. The applicant is less than eighteen (18) years of age, or, if a corporation, partnership, or association, is not properly chartered or otherwise authorized to conduct business as a taxicab operator under the laws of the State of Minnesota.

6-13-8: CONDITIONS FOR TAXICAB DRIVER LICENSE. A new or renewal taxicab driver license shall not be issued to an applicant if any one of the following conditions exists:

- A. The applicant is less than eighteen (18) years of age.
- B. The applicant has been convicted of any one of the following crimes or offenses: murder, criminal vehicular homicide or injury, felony assault, criminal sexual conduct, indecent exposure, felony controlled substance violation, driving under the influence of alcohol or controlled substance, leaving the scene of an accident, or reckless or careless driving, unless the applicant has demonstrated rehabilitation in accordance with Minnesota Statutes §364.03.
- C. The applicant has been convicted of or pled guilty to three motor vehicle moving violations within the immediately preceding twelve (12) months.
- D. The applicant fails to provide any information on the application or provides false or misleading information.

6-13-9: VEHICLE REQUIREMENT. Each vehicle used to transport passengers for hire as part of a taxicab operation must meet the following requirements:

- A. Be clearly marked to identify the vehicle as a taxicab for hire and include at least the name and telephone number of the taxicab business or company.
- B. Be equipped with an accurate, operating meter, and with an operating radio, telephone, or similar device.
- C. Have passed a safety and functional inspection conducted by a service station or motor vehicle repair garage acceptable to the City. The City reserves the right to make its own independent examination and inspection of taxicabs as it deems necessary.
- D. Be clean, painted and free of rust or substantial bodily damage. There shall be no loose or hanging metal, body molding, or chrome stripping. The taxicab must be equipped with all required fenders, bumpers, doors, door handles, lights, and turn signals, all of which must be in good working order.
- E. The taxicab must properly display current State of Minnesota motor vehicle registration plates.

6-13-10: INSURANCE REQUIRED.

- A. A taxicab operator must maintain a commercial general liability insurance policy issued by an insurance company authorized to do business in the State of Minnesota, and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, the general aggregate limit must not be less than \$2,000,000 and the aggregate limit will apply on a per license year basis. The insurance must cover liability arising from operations of the taxicab business including, but not limited to, personal injuries and advertising injuries. The City must be named as an additional insured under the policy.
- B. A taxicab operator must also maintain automobile liability insurance issued by a company authorized to do business in the State of Minnesota and, if necessary, umbrella liability insurance with a limit of not less than \$1,000,000 for each accident. If such insurance contains a general aggregate limit, the general aggregate limit must not be less than \$2,000,000. Insurance shall cover liability arising out of any incident involving a motor vehicle used as part of the taxicab operation.

- C. A certificate of insurance acceptable to the City shall be filed with the City prior to commencement of operations. The certificate and the required insurance policies shall contain a provision that the coverage afforded under the contract will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the City.

6-13-11: BUSINESS RECORDS. A taxicab operator shall maintain, at a minimum, the following records:

- A. Order slips upon which are recorded all trips requested showing the time and place of origin and the destination of each trip. Order slips must be maintained and preserved, in chronological order, in a safe place for at least twelve (12) consecutive months. All order slips shall be available to the City upon demand.
- B. Current business records, including, but not limited to information on all drivers and vehicles, at the operator's designated place of business. Such business records shall be made available for inspection by the City during reasonable business hours.

6-13-12: RATES. Each taxicab operated under this Section shall have a rate card setting forth the authorized rates of fare displayed in such a place as to be in view of all passengers.

6-13-13: SUSPENSION OR REVOCATION. Any license issued under the provisions of this Section shall be suspended or revoked by the City Council if the licensee has:

- A. Violated any of the provisions of this Section.
- B. Discontinued operations for more than sixty (60) consecutive days.

6-13-14: TRANSFERS. Any license issued under this Section is not transferable.

6-13-15: TERM. All licenses issued under this ordinance expire on December 31st of the year issued.

6-13-16: RENEWAL. The renewal of any license under this section shall be handled in the same manner as the original application. The request for renewal shall be made thirty (30) days but no more than sixty (60) days before the expiration of the current license.

6-13-17: FEES. The applicant is responsible for the license fee as established by ordinance and any other costs incurred by the City associated with confirming the information requested above.