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## CHAPTER 4. LICENSING, PERMITS AND FEES

### SECTION 400 GENERAL LICENSING AND PERMITS

400.01 License or Permit Required. No person may conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for that activity or use. For the purpose of this Code a person will be deemed to be engaged in a business for which a license is required if the person:

- (a) Sells any goods or service for which a license is required.
- (b) Solicits such business or offers such goods or services for sale or hire.
- (c) Acquires or uses a vehicle or any premises in the City for such business purposes.

Agents or other representatives of non-residents of the City who do business in the City will be personally responsible for any failure of their principals or the businesses they represent to comply with this Code. A license is required for each branch establishment or location of a business as if it were a separate business. No license is required for mere delivery in the City of any property purchased or acquired in good faith from a regular place of business outside the City if there is no intent to evade this Code.

400.02 Application. A person required to obtain a license under this Code will apply to the Clerk for the license. The application will:

- (a) Be on forms provided by the Clerk.
- (b) Include an affidavit sworn to by the applicant before a person authorized to administer an oath.
- (c) Contain all information necessary to comply with the Code and any other information required by the Clerk, including full identification of the applicant, the applicant's address, and the address of the business.
- (d) Be accompanied by the applicable license fee stated in Section 405.05.

400.03 Bond. Where a bond is required for a license or permit, the bond will be a corporate surety bond executed on a form approved by the City Attorney and will be filed with the Clerk before the license or permit is issued. The bond will be in the amount and with the penalty provisions as required by the Code.

400.04 Procedure for Issuance. If, after investigation, the Clerk is satisfied that all requirements of law and this Code have been met, the Clerk will present the application and a report of the investigation and findings to the Council for action. If the license or permit does not require Council approval, the Clerk may issue the license or permit.

400.05 Appeal Procedure. Upon denial of a license or permit by the Clerk, an applicant may appeal the denial to the Council by filing a request for review with the Clerk within 10 days after notice of the denial. The Council will hear the applicant at its next regular meeting, and review the determination of the Clerk. The Council may then grant or deny the license.

400.06 License Period. All licenses will terminate on December 31 of the year issued, unless otherwise indicated.

400.07 Renewal. Applications for renewal of a license will be made to the Clerk on forms provided. The renewal application will contain the information required for the original application plus any additional information required by the Clerk.

400.08 Duplicates. A duplicate license certificate or tag may be issued by the Clerk to replace any license certificate or tag previously issued which has been lost, stolen, defaced or destroyed, without any wilful conduct on the part of the licensee, if the licensee files an affidavit with the Clerk attesting to such fact and pays to the Clerk a fee of seventy-five cents.

400.09 Refunds. License fees will not be refunded in whole or in part for non-use of a license, or for any change in the business or its location. The Clerk may refund a license fee collected through error, or in cases where the application for the license is denied.

400.10 Duties of Licensee. Every licensee will:

- (a) Permit reasonable inspections of the business and books and records of the business by City officers or employees.
- (b) Comply with all laws, ordinances, and regulations applicable to the licensed business.
- (c) Refrain from operating the licensed business after expiration or revocation of the license and during any suspension of the license.
- (d) Display the license in a conspicuous place on the licensed premises, vehicle, or device to which the license relates.
- (e) Pay prior to the date any penalty attaches for non-payment, all special assessments and real and personal property taxes levied against real and personal property owned by the licensee and used in the licensed business.

400.11 Unlawful Disposition. A licensee may not lend, sell, give or assign a license to any person, or allow any other person to use, display or possess the license.

400.12 Enforcement. Police officers and other appropriate officers of the City may inspect and examine all premises, businesses and enterprises subject to license under this Code.

400.13 Termination of License. If the Clerk determines that a licensee has not complied with some requirement of this Code, the Clerk will give the licensee written notice of the violation delivered either personally or by depositing the notice in the U.S. mail addressed to the address

stated on the license application which will constitute valid service of the notice. If the licensee cannot be found, the notice also may be posted on the licensed premises. The notice will require compliance with the provisions of law stated in the notice within a reasonable time as specified by the Clerk. Upon expiration of the stated time the Clerk may terminate the license if the license was issued by the Clerk. If the license was issued by the Council, the Clerk will report the matter to the Council and the Council may terminate the license.

400.14 Hearing. A licensee may by written notice request a hearing by the Council before termination. The hearing will be held not less than 10 days and not more than 20 days after the request. At the hearing the licensee will be advised of all information upon which the alleged violation is based, and the licensee will be given the opportunity to offer evidence regarding the alleged violation. After the hearing, the Council may make a final order suspending, terminating or reinstating the license.

## SECTION 405 FEES

405.01 License Fees. The fee for any license, permit or application required under this Code will be the amount stated in Section 405.05, which amount will be paid by the applicant at the time the application is submitted to the Clerk.

405.02 Rezoning. Any application to the City for the rezoning of land must be accompanied by a fee in the amount stated in Section 405.05. Rejection of the application by the Council will not entitle the applicant to a refund of all or any part of the fee.

405.03 Vacation of Street, Alley or Public Easement. Any application to the City for the vacation of all or part of any street, alley or public easement must be accompanied by payment of a fee in the amount stated in Section 405.05. Rejection of the application by the Council will not entitle the applicant to a refund of all or any part of the fee.

405.04 Private Use of City-Owned Facilities. Each time the City permits a person to exclusively use City-owned facilities for a limited period of time, the person must pay the fee for that use stated in Section 405.05.

405.05 Establishment of Fee Amounts. The dollar amounts of fees required by the Code are as stated in the following table.

<b>Animal Licenses &amp; Fees</b>				
Fee No.	Code No.	Purpose of Fee	Item	Amount
1	440.02	Dog license	Bi-annual license	\$20.00
			Pro-rated license	\$10.00
			Duplicate license	\$5.00
2	510.04	Release of impounded dog	0 impounds last 12 months	\$40.00
			1 impound last 12 months	\$65.00
			2 or more impounds last 12 months	\$90.00
3	510.04	Impounded animals	Monthly retainer fee	\$100.00
			Euthanasia & disposal	\$75.00
			Cremation only	\$60.00
			Daily fee for boarding of cats	\$23.00
			Daily fee for boarding of dogs	\$25.00
			Minimum daily fee per animal	\$25.00

<b>Beer Licenses</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
4	465.02	Beer licenses	On-Sale Temporary License	\$10.00
			On-Sale Annual License	\$50.00
			Off-Sale Annual License	\$100.00

<b>Building Permit Fees</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Item</b>	<b>Amount</b>	
5	1103.03	\$1 - \$500	\$23.50	
		\$501 - \$2,000	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, up to and including \$2,000.00	
		\$2,001 - \$25,000	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, up to and including \$25,000.00	
		\$25,001 - \$50,000	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, up to and including \$50,000.00	
		\$50,001 - \$100,000	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, up to and including \$100,000.00	
		\$100,001 - \$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000.00, or fraction thereof, up to and including \$500,000.00	
		\$500,001 - \$1,000,000	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, up to and including \$1,000,000.00	
		\$1,000,001 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.15 for each additional \$1,000.00, or fraction thereof	
		Plan Review Fee	65% of Building Permit Fee	

<b>Cigarette Licenses</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
6	425.04	Annual cigarette license	Sale of cigarettes	\$50.00
			Sale of cigarette wrappers	\$50.00

<b>Contractor's Licenses</b>				
Fee No.	Code No.	Purpose of Fee	Item	Amount
7	410.04	Sewer installer license	If not a state licensed plumber	\$20.00
8	420.01	Annual tree trimming or removal		\$35.00
9	415.02	Gas fitter's license	Class A	\$42.00
10	415.02	Heating/ventilation installer	Class B	\$37.00

<b>Electrical Permit Fees</b>				
Fee No.	Code No.	Item	Amount	
11	416.03	Minimum Residential Fee	\$40.00	
		Minimum Commercial Fee	\$35.00	
		\$1 - \$500	Minimum	
		\$501 - \$1,000	\$15.00 plus 2.75% of amount over \$500	
		\$1,001 - \$5,000	\$28.75 plus 2.50% of amount over \$1,000	
		\$5,001 - \$10,000	\$128.75 plus 2.25% of amount over \$5,000	
		\$10,001 - \$25,000	\$241.25 plus 2.00% of amount over \$10,000	
		\$25,001 - \$50,000	\$541.25 plus 1.75% of amount over \$25,000	
		\$50,001 and up	\$978.75 plus 1.50% of amount over \$50,000	
		Re-inspections		\$25.00
		Swimming pool flat rate		\$45.00
		Plan Review Fee for commercial jobs valued over \$30,000 will be 10% of permit fee		

<b>False Alarm Fees</b>				
Fee No.	Code No.	Purpose of Fee	Item	Amount
12	545.02	3-6 false alarms	Within one calendar year	\$50.00
		7-10 false alarms	Within one calendar year	\$100.00
		In excess of 10 false alarms	Within one calendar year	\$150.00

<b>Facilities Use Fee</b>				
Fee No.	Code No.	Purpose of Fee	Amount	
13	405.04	Private Use of Public Facilities	\$10.00 Fee plus \$50.00 refundable deposit	

<b>Heating and Gas Fitting Permit Fees</b>				
Fee No.	Code No.	Purpose of Fee		
14	415.08	Heating, Ventilating, Air-conditioning and Refrigeration		
		(1) Central System	2% of estimated cost with a minimum of	\$40.00
		(2) Additions, Alterations & Repairs	2% of estimated cost with a minimum of	\$40.00
		(3) Addition of A/C to heating system	2% of estimated cost with a minimum of	\$40.00

	(4) Furnace or boiler replacement	1.25% of estimated cost with a minimum of	\$40.00
	(5) Gas Piping	First (3) units	\$7.50
		Each additional unit	\$4.00

<b>Parking Permits</b>				
Fee No.	Code No.	Purpose of Fee	Item	Amount
15	450.02	Annual parking permits	All Purposes	\$100.00
			Beaches Only	\$50.00
			Each additional permit after 2nd	\$10.00
			Temporary daily parking fee	\$5.00
16	1120.02	Manufactured home parking	Per home parking fee	\$10.00

<b>Planning and Zoning Fees</b>				
Fee No.	Code No.	Purpose of Fee	Item	Amount
17	1200.07	Subdivision: Preliminary Plat	Filing fee	\$300.00
18	1200.03	Subdivision: Final Plat	Filing fee	\$300.00
19	405.07	Subdivision Escrow Fee	Consultant review	\$3,000.00
20	1200.04	Administrative Plat	Filing fee	\$200.00
21	1315.03	Variance application	Filing fee	\$300.00
22	1115.05	Temporary sign permit	Filing fee	\$50.00
23	405.02	Rezoning application	Filing fee	\$200.00
24	405.03	Vacation application	Street, alley, public easement	\$100.00
25	1320.04	Special use permits	Filing fee	\$150.00
26	1306.06	Home occupation permit	Annual fee	\$50.00
27	1355.03	Special event permit	Filing fee	\$100.00

<b>Plumbing Fees</b>				
Fee No.	Code No.	Purpose of Fee	Item	Amount
28	410.04	Residential plumbing fee	Minimum fee	\$40.00
			Fee per fixture	\$8.50
		Water softener	Minimum fee	\$15.50
		Water heater	Minimum fee	\$15.50
29	410.04	Commercial plumbing fee	Minimum fee	\$40.00
			Fee per fixture	\$9.50
		Water softener	Minimum fee	\$15.50
		Water heater	Minimum fee	\$15.50

<b>Police Services Fees</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
30	215.03	Release of impounded property	Fee includes cost + \$2.00 per day	\$50.00
31	430.01	Peddler, transient merchant	Per peddler for 6 month period	\$50.00

<b>Annual Refuse Collection License</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
32	460.01	Annual refuse collection license	Per hauler	\$50.00

<b>Utility Fees and Permits</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
33	1005.02	Sewer Use Rates	Per quarter unit	\$75.00
34	1005.01	Sewer Connection Permit Fee	Residential	\$18.00
35	1200.10	Sewer Connection Fee	Per lot or multiple family unit	\$2,400.00
36	1020.02	Storm Sewer Management	Per month	\$5.00
37	1000.06	Water System Use Rates		
		Minnetonka Boulevard	125% of current Minnetonka Rate	
			Quarterly trunk charge	\$20.00
			Quarterly administrative charge	\$10.00
		Commercial	125% of current Minnetonka Rate	
			Quarterly trunk charge	\$20.00
			Quarterly administrative charge	\$10.00
			Sales tax (use, trunk, admin)	6.5%
		The Pines	Current Minnetonka rate	
			Quarterly trunk charge	\$20.00
			Quarterly administrative charge	\$10.00
		Amesbury	Current Shorewood Rate	
			Quarterly trunk charge	\$20.00
			Quarterly administrative charge	\$10.00
			Annual safe water surcharge	\$5.21
38	1000.03	Water Connection Permit	Stub in only	\$25.00
			5/8" meter deposit	\$90.00
			Larger than 1" service	\$50.00
			Fire sprinkler with service connect	\$50.00
			Surcharge	\$0.50
			Delinquent water bill charge	\$5.00
39	1000.08	Water Meter Charge	City's cost of meter plus 15%	
40	410.05	Water Service	Reconnect fee	\$15.00

<b>Watercraft Mooring Fees</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
<b>41</b>	<b>900.06</b>	<b>Annual mooring permit fee</b>	<b>Docks</b>	<b>\$750.00</b>
			<b>Buoys</b>	<b>\$450.00</b>
			<b>Shore Space per front foot</b>	<b>\$48.00</b>
			<b>Slide</b>	<b>\$175.00</b>
			<b>Canoe Rack</b>	<b>\$100.00</b>
			<b>Street End Slide</b>	<b>\$175.00</b>
			<b>B1 Slide</b>	<b>\$262.50</b>
<b>42</b>	<b>550.03</b>	<b>Fire Alarm User's Fee</b>	<b>In excess of one false alarm within one calendar year</b>	<b>\$200.00</b>

405.06 Fee Established by Resolution. Fees will be payable to the City in amounts established by annual resolution of the Council for miscellaneous items and administrative services, including without limitation, special assessment searches, accident reports, copying, ordinances, maps, minutes of Council and various commission meetings, printed forms, and certified copies.

405.07 Escrow Fees. Any application to the City for a subdivision must be accompanied by a escrow fee in the amount stated in Section 405.05. The escrow fee will be used to pay for the cost of any review of these applications provided by the City Attorney, City engineer or special consultant. The City will refund the applicant for any amount remaining from the Escrow Fee after deducting the cost of the review.

## SECTION 410 PLUMBING AND PLUMBERS

410.01 License Required. No person may engage in the business of plumbing, or construct, extend, alter or repair any plumbing work or house drainage, or construct cesspools, or connect any house drainage with cesspools, or with the sewer or water supply system of the City without first obtaining a license from the Clerk.

410.02 Insurance. The applicant must provide evidence of public liability insurance written by an insurer licensed to do business in the State, including products liability insurance, with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The term of the insurance must include the entire term of the license.

410.03 Bond. A license will not be effective until the applicant has furnished the Clerk with a copy of the bond given to the State for the issuance of a master plumber's license. The City and its residents may look to the bond to insure the performance of all plumbing work undertaken in the City (including all water and sewer connections), to insure that any streets and sidewalks excavated by the licensee are restored to their former condition to the satisfaction of the Director of Public Works with a warranty for one year, and to insure the performance of all other requirements of this Code.

410.04 Permits. Every licensed plumber, before constructing, extending, altering or repairing any plumbing work or connecting any plumbing work with a cesspool or City water or sewer system, except as provided in this Code, will apply to the Building Inspector for a permit for that purpose, and will pay the permit fees required under Section 405.05.

410.05 Restoring Water Service. If water service is restored after it has been discontinued, the owner will pay to the City a service fee for restoring the service as required under Section 405.05.

## SECTION 415 LICENSING AND REGULATION OF GAS FITTERS

415.01 Definition. The term “Gas Fitter” means any person engaged in the business of installing, altering, repairing, testing or extending any fuel tanks, power plants, gas or oil piping or gas or oil appliance items or connections.

415.02 License Required. No person, firm or corporation may engage in the business of a gas fitter within the City without first obtaining a license under Section 415 and paying the license fee set forth in Section 405.05.

415.03 Classes of Licenses. There are two classes of gas fitter’s licenses: Class A and Class B.

Subd. 1. Class A. The holder of a Class A license may perform “Hayes Orsatt” safety tests on gas and oil burners and may, after first obtaining the proper permit, install, alter, repair, test or extend fuel tanks, power plants, gas or oil burners, gas or oil piping and gas or oil appliance items and connections, including clothes dryers, gas ranges, gas water heaters and barbecue grills.

Subd. 2. Class B. The holder of a Class B license may only install, alter or repair only gas or oil appliance items and connections, such as clothes dryers, gas ranges, gas water heaters and barbecue grills.

415.04 Issuance. Licenses will be issued according to the following requirements.

Subd. 1. Applicant’s Training. Applications for the license will include a description of the applicant’s training and experience as a gas fitter.

Subd. 2. Examination. The Building Inspector may require the applicant to take an examination given by the Building Inspector to test the applicant’s knowledge and experience as a gas fitter. If the examination is required, a score satisfactory to the Building Inspector will be a condition to issuance of the license. If the applicant does not obtain a satisfactory score, the applicant may not take the examination again within the next 30 days.

Subd. 3. Bond, Insurance. No license will be issued until the applicant has delivered to the City:

- (a) A performance bond in the amount of at least \$2,000 in favor of the City and in favor of all persons suffering damages by reason of the breach of the conditions of the bond. The bond will be in a form prescribed by the City and will be conditioned upon the faithful performance of all contracts performed in the City and upon compliance with this section. A copy of the bond given to the State for the issuance of a master plumber’s license will satisfy the requirements of this Section.
- (b) A certificate of comprehensive liability insurance issued by an insurance company licensed to do business in the State and naming the applicant and the City as insureds. The minimum limits of coverage for such insurance are:

- (1) Each claim, at least \$100,000
- (2) Each occurrence, at least \$200,000
- (3) Property damage, at least \$50,000

This insurance must be kept in force during the term of the license and must provide for notification to the City 10 days before termination or cancellation. Any license issued under this Section will automatically be revoked upon notification of termination or cancellation of the insurance and will remain revoked until the required insurance is provided.

415.05 Duration. The license will be issued for a calendar year or the remaining portion thereof and will be renewable annually on or before January 1 of each year.

415.06 Revocation. The license may be revoked or refused renewal by the Council for cause. Any work done in violation of State Law or Section 415, or refusal on the part of a licensee to correct any defective work, may be cause for revocation of or refusal to grant or renew a license. Any revocation or suspension of or refusal to grant or renew a license may be appealed to the Council for a hearing on the matter conducted according to Section 400.14.

415.07 Transfer. No person, firm or corporation licensed under Section 415 may allow any other person, firm or corporation other than a bona fide employee to use the license.

415.08 Permits for Class A License Work. A person having a Class A license may do work which can be performed only with a Class A license only if a permit for the job is issued according to the following requirements:

- (a) At the discretion of the Building Inspector the applicant for the job permit may be required to take and complete to the satisfaction of the Building Inspector an examination given by the Building Inspector.
- (b) A fee for the job permit will be paid according to 405.05.
- (c) Every permit issued under this Subsection 415.08 will expire in accordance with Section 400.06.

415.09 Inspections. Upon completion of any gas fitter work, the gas fitter will notify the Building Inspector or his authorized representative that the work for which a permit was issued is ready for inspection and testing. The Building Inspector or his authorized representative will also be notified before any portion of the work is connected within the building and will be given reasonable time and opportunity to inspect the work before the building operations progress to a point where the work can no longer be examined and inspected. No work may be covered until it has been inspected. No newly constructed building may be occupied until the inspector has made a final inspection, has approved the installation and has issued a certificate of occupancy.

## SECTION 416 LICENSING AND REGULATION OF ELECTRICIANS

416.01 Inspection Required. Any person making a new electrical installation in the City of Deephaven that is governed by the provisions of the Minnesota Electrical Act, Minnesota Statutes, Section 326.241 through 326.48 inclusive, shall request inspection of such work by the City before commencement of any installation required to be inspected. Such request shall be made according to standardized procedures specified by the Building Official.

416.02 License to be Filed. Each person doing electrical work in the City of Deephaven governed by this Section shall file with the City before commencement of any such work a copy of that person's current license issued by the State Board of Electricity pursuant to the Minnesota Electrical Act or such other evidence of such license as may be provided by said Board. This requirement may be satisfied by the submission of a written statement signed and dated by the person required to make said filing that the required license or evidence thereof was previously filed with the City, the address in connection with which that information was filed, and that all the information contained on said license or evidence thereof is still current.

416.03 Permit Fee. No requested inspection will be made until the applicant has paid to the City the required permit fees as set forth in Section 405.05 of this Code.

416.04 Violations and Penalties. The activities described as crimes in Minnesota Statutes, Section 326.246, shall also constitute violations of this Section 416.

416.05 Electrical Inspector. Pursuant to authority set forth in Minnesota Statutes, Section 326.244, Subd. 4 and the Minnesota Electrical Act, the City of Deephaven hereby creates the position of Electrical Inspector.

Subd. 1. The Electrical Inspector shall inspect new electrical installations for compliance with the Minnesota Electrical Act, the ordinances of the City of Deephaven, and accepted standards of construction for safety to life and property.

Subd. 2. The Electrical Inspector must be a licensed master or journeyman electrician under Minnesota Statutes, Section 326.242, Subd. 1 (1) or Subd. 2 (1) and may not otherwise engage or be employed in the sale or installation of electrical wiring, devices, appliances or equipment, and shall have no financial interest in any concern engaged in any such business.

Subd. 3. The Electrical Inspector shall be responsible for the enforcement and administration of the laws, ordinances and standards referred to in Subd. 1 above.

Subd. 4. In addition to any powers or duties given the Electrical Inspector, the inspector shall have the powers and duties set forth in Minnesota Statutes, Section 326.244, Subd. 2. For purposes of administering those Statutes, any reference to the "board" shall mean the City of Deephaven.

## SECTION 420 LICENSING FOR TREE TRIMMING OR REMOVAL

420.01 License Required. No person may engage in the business of trimming or removing trees in the City without first obtaining a license from the City to do so. Licenses will be issued only upon payment to the Clerk of the fee set forth in Section 405.05.

420.02 Insurance. Each applicant for a license will include with his application policies or certificates of insurance by an insurance company authorized to do business in the State evidencing the following insurance coverage:

- (a) Workers compensation insurance as required by State law.
- (b) Insurance against claims for death, bodily injury and property damage liability in the amounts of at least \$500,000 for injury to or death of any one person, \$500,000 for injury to or death of more than one person in any one accident, and \$100,000 for damage to property.

## SECTION 425 SALE, LICENSING, POSSESSION AND USE OF TOBACCO

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

425.02 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:

Subd. 1. 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.

Subd. 2. Tobacco Related Devices. “Tobacco related devices” shall mean any tobacco products as well as pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Subd. 3. Self-Service Merchandising: “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related 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, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 4. Vending Machine. “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

Subd. 5. Individually Packaged. “Individually packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

Subd. 6. Loosies. “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7. Minor. “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8. Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 9. Moveable Place of Business. “Moveable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10. Sale. A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11. Compliance Checks. “Compliance Checks” shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related 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, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

425.03 License. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related devices without first having obtained a license to do so from the city.

Subd. 1. Application. An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant’s residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk 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.

Subd. 2. 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.

Subd. 3. Term. All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.

Subd. 4. 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.

Subd. 5. 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.

Subd. 6. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

Subd. 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

Subd. 8. Renewals. The renewal of a license issued 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. (Note: City may use different timeline.) The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

425.04. 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 forth in Section 405.05.

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

- A. The applicant is under the age of 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 or tobacco related devices. (Note: The five year ban

is a common number but it could be modified. Bans longer than five years, however, are more risky.)

- C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related 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.

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

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, 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, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or the licensee's employee, and the customer.
- D. By means of loosies as defined in Section 200 of this ordinance.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally 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 other local law, ordinance provision, or other regulation.

425.07 Self-Service Sales. It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related 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 the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage behind a counter or other area not freely accessible to customer, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this ordinance is adopted shall comply with this Section within 30 days of adoption.

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

425.09 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, 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, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by 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 a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, 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 educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

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

Subd. 1. Illegal Sales. It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.

Subd. 2. Illegal Possession. It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 3. Illegal Use. It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

Subd. 4. Illegal Procurement. It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 5. 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, wither 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.

#### 425.11 Violations.

Subd. 1. 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.

Subd. 2. Hearings. If a person accused of violating this ordinance to requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The City Administrator shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under Section 1300 of this ordinance, 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.

Subd. 5. 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.

Subd. 6. 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, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

#### 425.12 Penalties.

Subd. 1. 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 for a first violation of this ordinance; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 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.

Subd. 2. Other Violations. 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.

Subd. 3. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be cited in family court.

Subd. 4. Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this ordinance.

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

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

SECTION 430 LICENSING OF PEDDLERS AND TRANSIENT  
MERCHANTS AND CANVASSERS

430.01 General. No person may engage in the activities of a peddler, transient merchant or canvasser without first obtaining a license under Section 430 and paying the license fee set forth in Section 405.05 and without obtaining a license under Minnesota Statutes, Chapter 329.

430.02 Definitions.

Subd. 1. Peddler. A person who goes from house to house or from place to place, or from street to street to sell goods, wares, merchandise or personal service or to make sales and deliveries to purchasers.

Subd. 2. Transient Merchant. A person who uses a structure, car, trailer or vacant lot for the exhibition and sale of merchandise or for offering service, and who is engaged in a temporary business either traveling from place to place or in one locality.

Subd. 3. Canvasser. A person who goes from door to door or place to place to sell merchandise or other property or services, and who solicits, takes or attempts to take orders.

430.03 Application and Issuance. In addition to the information required under Section 400.02 the application will include:

- (a) State of incorporation and registration.
- (b) Principal place of business, registered place of business, and local place of business.
- (c) Position with corporation or other business entity.
- (d) Name and address of supplier or owner of property, or provider of services, to be sold.
- (e) Description of property or services to be sold and the days and the hours during the day sale is intended.
- (f) Physical description of applicant.
- (g) Criminal convictions, if any, other than traffic violations.

The application must be filed together with evidence of a license under Minnesota Statutes, Chapter 329.

430.04 Duration and Conditions.

Subd. 1. Dates. The license will expire fourteen (14) consecutive calendar days after the date of issuance. The license will specify the commencement and expiration dates.

Subd. 2. Number. The license will be issued to only one individual.

Subd. 3. Carried or Posted. The license must be carried by the licensee or conspicuously posted in the licensee's place of business.

Subd. 4. Hours. Business activities may be conducted under the license only during the hours of 9:00 a.m. and 8:00 p.m.

Subd. 5. Access. No peddler or solicitor shall walk on or about any side or rear yard or attempt to make contact at any point other than the main point of entrance or front door of a residence.

Subd. 6. Departure. All peddlers or solicitors shall promptly depart from the premises following completion of a transaction or following an unsuccessful attempt to contact the resident of the premises.

Subd. 7. Harassment. No peddler or solicitor shall commit any act or conduct constituting harassment, a nuisance theft, deceit, or menacing or otherwise unlawful activities or violate any other provisions of this Code or State Law.

#### 430.05 Exclusion of Peddlers from Private Premises.

Subd. 1. Placard. Any resident of the City who wishes to exclude peddlers and canvassers from the resident's premises may place near the usual entrance to the premises a printed placard or sign bearing the following notice: "Peddlers and canvassers prohibited." The placard will be at least 3-3/4 inches long and 3-3/4 inches wide and the printing will not be smaller than forty-eight point type.

Subd. 2. Exclusion List. Any resident of the City who wishes to exclude peddlers and canvassers from the resident's premise may request to be placed on a list maintained by the City that would prohibit peddlers and canvassers from entering onto the resident's premises.

Subd. 2. Peddler Prohibited. No peddler or canvasser may enter upon any premises where such a placard or sign is placed or enter upon any premises of any resident whose name and address is listed on the Exclusion List.

Subd. 3. Placard Removal. No person other than the person occupying the premises may remove, injure or deface such a placard or sign.

#### 430.06 Exemptions.

Subd. 1. Exempt Persons. Sections 430.01 through 430.04 do not apply to:

- (a) Newspaper carriers.
- (b) Farm and garden product vendors.
- (c) Charitable, political or religious vendors or solicitors, unless done primarily for the profit of the individual, corporation or other business entity engaged in the activity.

- (d) Vendors of perishable food products who have regular routes in the City.
- (e) Persons having licenses or permits under other applicable sections of the Code or under State laws or regulations.

Subd. 2. Law, Regulations and Ordinance Compliance Required. The license exemptions stated in this Section do not relieve any person from compliance with State laws and regulations or other applicable ordinances.

## SECTION 440 LICENSING OF DOGS

440.01 Definitions. The following terms, for the purpose of this Section, will have the meanings specified:

Subd. 1. Owners Any person owning, keeping, harboring, or acting as custodian of a dog or other animal, or the parent or guardian of any person under the age of 18 years owning, keeping, or harboring a dog or other animal.

Subd. 2. Dog: Any animal of the species *Canis familiaris*, including both males and females of the species.

440.02 Licensing.

Subd. 1. License Required. No owner may keep a dog over six months of age within the City unless the owner has a current license for the dog.

Subd. 2. Application. Application for a dog license will be made on a form provided by the City, and will include:

- (a) Name, address, and telephone number of owner.
- (b) Name of applicant (if different from owner).
- (c) Description of dog, including sex, breed, name, age, color, whether spayed or neutered.
- (d) Written evidence of vaccination for rabies by a licensed veterinarian within the past 12 months with a killed rabies vaccine or within the past 24 months with a live rabies vaccine.

Subd. 3. Expiration. Dog licenses will be issued on a bi-annual basis by the Clerk and will expire on December 31 on the odd numbered year. Licenses purchased after January 1 of the even number year will be prorated at one half of the cost of the license and will expire on December 31 of the odd numbered year.

Subd. 4. License Tags. The City will obtain a sufficient number of metallic tags suitably numbered or lettered, and indicating the current year. The City will deliver one tag for each dog which is licensed. Every dog must wear a collar or harness with a license tag affixed. A tag will be issued for only one dog, and will not be transferable or assignable to any different dog or new owner. No person may counterfeit any dog license or tag. If a tag is lost or stolen, the owner may obtain a new tag by surrendering the receipt copy for the license and paying the license fee for a duplicate tag as set forth in Section 405.05.

## SECTION 450 PARKING PERMITS

450.01 Permit Required. No person may leave or park any vehicle on any street or municipally controlled land within the posted area adjacent to any public bathing beach, boat launching or docking area, or other public grounds within the City on any day of the week during the period from May 1 to October 1 of each year without having attached to the vehicle a permit authorizing such parking.

450.02 Permit Issuance Procedure. Permits will be issued without payment of a permit fee to employees of the City, residents of the City and owners of property in the City as shown by the City's tax records. Only one permit will be issued to a resident unless the resident provides the Clerk with the license number of each vehicle to be used by the permittee. Permits will be issued to others only upon payment to the Clerk of the fee stated in Section 405.05. The permit will entitle permittee to park a vehicle within the posted areas. The first sticker to be issued without payment of the permit fee will be mailed out without charge. A second sticker will be given free of charge at City Hall upon completion of appropriate forms. There will be a charge for any additional stickers in the amount stated in Section 405.05.

450.03 Temporary Permits. The Chief of Police may issue up to 10 temporary parking permits to an owner or resident for a gathering or function which would, in the opinion of the Chief, necessitate additional parking in an area where parking permits are required under this Section. The temporary parking permits will be issued for a specified period of time, not to exceed 24 hours, and the date and time of the permit will be indicated on the permit.

450.031. Guest Permits. A resident may request two guest parking permits to allow guests to park in a permitted parking zone directly in front, or as close as possible to the resident's home for a period of not more than 48 continuous hours. The permits may be issued by the Chief of Police for a given calendar year.

450.04 Permit Display. The permit must be affixed to the lower rear corner of the rearmost left side window of the vehicle. The permit must be affixed so that it will remain in clear view at all times. When the period for which the permit is issued has expired, the permit must be removed.

450.05 Transfer. No person may sell, assign or otherwise transfer a permit to any other person.

## SECTION 455 FIREARM PERMITS

455.01 Permit Required. No person may fire off, discharge or explode any gun, pistol or firearm within the City without a current and effective permit to do so issued by the Council.

455.02 Issuance. The Council may issue a firearm permit to any person it deems suitable for a period not to exceed one year and upon such terms and conditions as are determined by the Council. A permit will not be issued contrary to rules, regulations or statutes of the State or its administrative agencies or departments.

455.03 Revocation. The Council may summarily revoke a firearm permit at any time.

455.04 Exception. This Section does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law.

## SECTION 460 REFUSE COLLECTION LICENSES

### 460.01 Refuse Collectors Regulations.

Subd. 1. License Required. No person may collect refuse for hire from any other person in the City without first obtaining a license as provided in this Section and paying the license fee set forth in Section 405.05.

Subd. 2. Licensing Procedure. Any person seeking a license to collect refuse in the City may apply to the Council on a form provided by the Clerk. In addition to the information required under Section 400.02 the application will include a description of the equipment which is proposed to be used in the collection and the portion of the City in which the collections will be made.

Subd. 3. Insurance. Applicants for licenses or renewals of licenses must submit evidence of insurance for personal injury and property damage liability and indemnity coverage with coverage in the amount of at least \$500,000 for death or personal injury and at least \$100,000 for property damage.

Subd. 4. Number of Licenses. The number of licenses to be issued under this Section will be determined by the Council. The number will be set so as not to adversely affect the efficient collection of refuse in the City.

Subd. 5. Vehicle Identification and Maintenance. Each refuse collection vehicle must be lettered on the outside to identify the licensed refuse collector. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste, or refuse containing such materials, must be covered, leak-proof, durable and of easily cleanable construction. The vehicles or containers used for the collection and transportation of garbage, rubbish or refuse must be reasonably airtight so that unreasonable quantities of dust, paper or other collected materials do not escape. The vehicles or containers must be kept clean to prevent nuisances, pollution or insect breeding, and must be maintained in good repair. The vehicles may not stand in any street, alley, or public place for a period longer than is necessary to collect refuse. Vehicles or containers used for the collection and transportation of any solid waste must be loaded and moved in such a manner that the contents will not fall, leak or spill and must be covered when necessary to prevent blowing of material. Where spillage does occur, the material must be picked up immediately by the collector or transporter and returned to the vehicle or the containers and the area properly cleaned.

## SECTION 465 BEER LICENSING

465.01 Definitions. For purposes of this Section, the following terms will have the meanings given them in this Section.

Subd. 1. Beer. Any malt liquor containing not less than 0.5 percent alcohol by volume nor more than 3.2 percent alcohol by weight. The same as “non-intoxicating malt liquor,” as defined by state law.

Subd. 2. Original Package. The container in which beer is first sealed for distribution.

Subd. 3. On-sale. Any sale of beer to be consumed on the licensed premises.

Subd. 4. Off-sale. Any sale of beer to be consumed off the licensed premises.

Subd. 5. Bona Fide Club. An organization organized for social purposes, business purposes, for intellectual improvement, or for the promotion of sports where the serving of beer is incidental to and not the main purpose of the club.

465.02 License Required. No person may sell, vend, deal in or dispose of, or keep for sale, any beer within the corporate limits of the City without an appropriate license and payment of the appropriate license fee in accordance with Section 405.05. Licenses may be of two kinds: on-sale and off-sale.

Subd. 1. On-Sale. Retail on-sale licenses will permit the licensee to sell beer for consumption on the licensed premises only. Annual on-sale licenses will be granted only to bona fide clubs, and restaurants. A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the sale of beer for a specified day or number of days during a year.

Subd.2. Off-Sale. Retail off-sale licenses will permit the licensee to sell beer in original packages for consumption off the premises only.

465.03 License Applications.

Subd. 1. Form. An application for an annual license will include the name of the applicant, applicant’s age, representations as to applicant’s character with such references as may be required, citizenship status, the address and legal description of the premises to be licensed, the names of the owner of the premises and operator of the business, the period applicant has been in business at such location, and such other information as the Council may require. It is unlawful to make any false statement in the application.

Subd. 2. Temporary License. An application for a temporary license will include the name of the applicant, the address of the headquarters of the organization, the location of the premises to be licensed, the dates for which the license is being requested, and such other information as the Council may require.

Subd. 3. Proof of Financial Responsibility. Before the issuance of a beer license, the applicant must demonstrate proof of financial responsibility as defined in Minnesota

Statutes, Section 340A.409, with reference to liability under the statutes, Section 340A.801. Such proof will be filed with the Commissioner of Insurance except that if a license involves sales of beer of a prospective vendor who is not required by law to file such proof with the Commissioner of Insurance, such proof will be filed with the Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision must conform to Minnesota Statutes, Section 340A.409.

Subd. 4. Approval of Security. Liability insurance policies required by this Section but not by state law will be approved as to form by the City Attorney. Operation of a business licensed by this Section without having on file with the State Insurance Commissioner or the City at all times effective security as required in Subdivision 3 is a cause for revocation or suspension of the license.

#### 465.04 Granting of Licenses.

Subd. 1. Investigation. The Council will investigate the facts included in the application. After investigation, the Council will grant or deny the application in its discretion. Opportunity will be given to any person to be heard for or against the granting of the license.

Subd. 2. Transfers. Each license will be issued to the applicant only and will be issued for the premises described in the application. The license may not be transferred to another person or to other premises.

#### 465.05 Persons Ineligible for a License. No license will be granted to or held by any person who:

- (a) Is under 21 years of age.
- (b) Has within five years before the license application, been convicted of a felony, or of violating any law of the State or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer, and cannot show competent evidence under Minnesota Statutes, Section 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee.
- (c) Is a manufacturer of beer or is interested in the control of any place where beer is manufactured. A manufacturer of beer may without a license from the City sell beer to licensed dealers holding either on-sale or off-sale licenses.
- (d) Is an alien.
- (e) Is not of good moral character.
- (f) Is or during the period of the license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor.
- (g) Is not the proprietor of the establishment for which the license is issued.

465.06 Eligibility for Temporary Licenses. Temporary licenses may be issued to organizations referred to in Minnesota Statutes, Section 340A.403.

465.07 Places Ineligible for a License. No license will be granted for sale on any premises where a licensee has been convicted of the violation of this Code, or of the State beer or liquor laws, or where any license under this Section has been revoked for cause until one year has elapsed after such conviction or revocation.

465.08 Conditions of License. Every license will be granted subject to the conditions in the following subdivisions and all other provisions of this Code and of any other provision of the City or State law.

Subd. 1. Insurance. Compliance with financial responsibility requirements of State law and of this Section is a continuing condition of any license granted pursuant to this Section.

Subd. 2. Inspections. All premises licensed under this Section will be open to inspection by any police or other properly designated officer or employee of the City, or any Councilmember, at any time during which the licensed premises are open to the public.

Subd. 3. Gambling. No gambling, nor any gambling device prohibited by law, is permitted in any licensed premises.

Subd. 4. Duration. All licenses for the sale of beer will be issued for a period of one year.

Subd. 5. Display. All licenses issued under this Section will be posted in a conspicuous place on the licensed premises at all times.

Subd. 6. Intoxicating Liquor. It is the duty of every licensee to prevent the consumption of intoxicating liquor on the licensed premises. Any licensee who knowingly permits intoxicating liquor to be consumed on the licensed premises may have his license revoked by the Council.

465.09 Violations. It is unlawful for any:

- (a) Licensee or his employee to sell or serve beer to any person under the age of 21 years or to permit any person under the age of 21 years to consume beer on the licensed premises.
- (b) Person other than the parent or legal guardian to procure beer for any person under the age of 21 years.
- (c) Person to induce a person under the age of 21 years to purchase or procure beer.
- (d) Person under the age of 21 years to misrepresent his age for the purpose of obtaining beer.

- (e) Person under the age of 21 years to consume any beer unless in the company of his parent or guardian.
- (f) Person under the age of 21 years to have in his possession any beer, with intent to consume it at a place other than the household of his parent or guardian. Possession of such beer at a place other than the household of his parent or guardian will be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

465.10 Hours of Operation. Licensees under this Section must observe the following restrictions upon the hours of operation:

Subd. 1. Closing Hours. No sale of beer may be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday, inclusive. Neither will any sale of beer be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon.

Subd. 2. Restriction. No beer may be sold, served, consumed, or may remain available for consumption, within premises licensed under this Section for on-sale at any time the sale of beer is not permitted under this Section.

465.11 Revocation. Any violation of any provisions or condition of this Section or any falsification of any statement in the application, is grounds for revocation. A license granted under this Section may be revoked by the Council after written notice to the licensee and a public hearing. The notice will give at least 10 days notice of the time and place of the hearing and will be posted in a conspicuous place on the licensed premises at all times.