

## **700 Licensing**

### **701 Business License Procedures**

**701.010 Purpose and Scope.** The purpose of this chapter is to establish uniform procedures for the administration, issuance, and revocation of business licenses. The provisions of 701.010 through 701.130 shall apply to all licenses issued pursuant to this chapter, unless expressly provided otherwise.

**701.020 Applications.** License applications shall be submitted to the City Manager on forms which include the following information:

- (A) Date of application.
- (B) Name, address and telephone number of applicant.
- (C) Name, address and telephone number of applicant's business.
- (D) Applicant's Social Security Number or Minnesota Business Tax Identification Number.
- (E) If applicant is a corporation, the name and address of each shareholder owning more than a five (5%) percent interest in the corporation.
- (F) Information regarding applicant's education, training and experience in the type of work for which the license is being requested.
- (G) Other information, as determined by the City Manager, to be reasonably necessary in order to process the application.

**701.030 Fees.** License fees, as determined by the City Council and listed in Exhibit B, shall be submitted in full with the license application. When a license is issued for a term of less than one (1) year, the license fees shall be pro-rated at a rate of one-twelfth (1/12th) of the annual fee for each month or fraction of a month remaining in the license year. No refund of the license fee shall be made in the event the license is surrendered, revoked or suspended before its expiration.

**701.040 Term.** Each license shall expire on December 31 of each year, and after the initial year shall be issued for a term of one year.

**701.050 Prior Convictions.** No person shall be denied a license because of a prior conviction unless that conviction has been determined by the City Council or be directly related to the business for which a license is sought, as provided by Minnesota Statutes Chapter 364. No person shall be denied a license because of an arrest or arrests not followed by conviction.

**701.060 Administrative Fine, Suspension or Revocation.** The City may impose an administrative fine, suspend a license or revoke a license for a violation of the City's regulations relating to the issuance of the license or of any of the conditions/restrictions attached to the issuance of the license. Upon receipt of information indicating that a license violation has occurred, the City Manager shall send a License Violation Notice to licensee indicating the nature of the violation and whether such violation will result in an administrative fine, license suspension and/or license revocation.

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Except as provided in Section 706.050, if the stated disposition in the License Violation Notice includes a license suspension or revocation, the Notice shall also indicate that licensee has the option of requesting a hearing before the City Council prior to a license suspension or revocation or of waiving such hearing and accepting the disposition described in the license violation notice. The licensee shall file a written request for hearing within ten (10) days of the date specified in the License Violation Notice or licensee shall be deemed to have waived its right to a hearing. Upon receipt of a hearing request, the City Manager shall schedule a hearing before the City Council at the earliest opportunity and shall send a Hearing Notice to licensee. All notices required to be given by the City pursuant to this section shall be sent by certified mail to licensee's address as contained in the City's license application file.

**701.070 Where Allowed.** No license shall be issued for any premises unless located in an area where the business for which the license is sought is permitted under the zoning regulations.

**701.080 Display.** Except as otherwise specifically provided by this code, every license shall be kept conspicuously posted on the premises on or from which the business is operated, and shall be exhibited to any person upon request.

- 701.090 Transfers.** No license shall be transferable unless specifically provided by this code.
- 701.100 Inspection.** As a condition of the license, each licensee shall permit properly designated City Officers to inspect the licensee's premises and equipment at reasonable times to assure compliance with the requirements of this code.
- 701.110 Bonds.** Any bond required of a licensee shall be approved by the City Attorney as to form and the City Manager as to security, and shall be conditioned that the work shall be performed in accordance with this code and state laws and regulations, and any special rules or regulations prescribed by designated City employees; and shall be further conditioned to protect and save harmless the City from any liability, damage, or expense which the City may sustain by reason of granting the license.
- 701.120 Insurance.** Where a certificate or certificates of insurance are required under this chapter, the certificate shall show that the insurance is in effect for the entire term of the license, and shall contain a provision that the insurance may not be cancelled without ten days' notice to the City Manager. No license shall be effective and no work shall be performed or business conducted under a license during any period when the required insurance is not in effect. Where liability insurance is required, the amount shall be at least \$200,000 per claimant and \$600,000 per occurrence for injuries to persons and \$200,000 for property damage.
- 701.130 Background Investigations.** The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

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The Ramsey County Sheriff's Department is hereby required, as the exclusive law enforcement agency for the City of Shoreview, to do a criminal history background investigation on the applicants for the following licenses within the city:

- Liquor Licenses
- Tobacco Licenses
- Peddler Permits
- Massage Therapy Licenses

## Pawnbrokers

In conducting the criminal history background investigation in order to screen license applicants, the Sheriff's Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Sheriff's Department to the licensing authority, including the Deputy Clerk, or other city staff involved in the license approval process.

Before the investigation is undertaken, the applicant must authorize the Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minnesota Chapter 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing, including all of the information as required in Minnesota Statute 364.05.

## 702 Contractor's License

**702.010 Electrical, Plumbing, HVAC and Well Contractors.** Except as otherwise provided by law, no person shall engage in the business of an electrical contractor, plumbing contractor, heating, ventilation or air-conditioning contractor, well contractor, or house mover without first obtaining a license or bond from the appropriate State agency. A copy of such contractors current license or such other evidence of licensure as is provided by the licensing agency shall be maintained on file with the City Manager. Where verification of a license is required, the City shall impose a license verification fee in an amount prescribed by City Council Resolution.

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**702.020 Residential Contractors.** No person may engage in the work of a residential building contractor, remodeler or specialty contractor for compensation without a valid license issued by the Minnesota Commissioner of Commerce.

(A) Definitions. As used herein, the following terms shall mean:

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- (1) "Remodeler" means a person in the business of contracting or offering to contract to improve existing residential real estate. A Remodeler has two or more special skills.
- (2) "Residential Building Contractor" means a person in the business of building residential real estate or of contracting or offering to contract to improve Residential Real Estate.
- (3) "Residential Real Estate" means a new or existing building constructed for habitation by one (1) to four (4) families, and includes detached garages.
- (4) "Specialty Contractor" means a person other than a Residential Building Contractor, Remodeler, or Material Supplier in the business of contracting or offering to contract to make part of an improvement to Residential Real Estate.

(B) Surcharge. In those cases where State licensing verification is required, a license verification fee shall be imposed on each building permit as set forth in Exhibit C.

- (C) Display of License Number. The license number of a licensee as issued by the Minnesota Commissioner of Commerce shall be placed on all applications submitted by and permits issued to Residential Building Contractors.

**702.030 Non-Residential General, Subcontractors and Specialty**

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**Contractors**. General Contractors shall be responsible for all of the work performed at a site. Subcontractors shall be required to comply with the provisions of the Shoreview Code relating to the specific license requested.

## **703 Solid Waste Haulers**

**703.010 License Required.** No person, firm, or corporation shall operate a service for the collection of solid waste, within the City of Shoreview, without first obtaining a license.

**703.020 Definitions.** As used herein:

(A)"Solid Waste" means refuse, garbage, rubbish, and other discarded solid materials including materials resulting from industrial, commercial and agricultural operations, and from community activities; waste materials consisting of earthen fill, boulders, rock and other materials normally handled in construction operations; and solids or dissolved material in domestic sewage or other liquids or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste, water effluents, dissolved materials in irrigation return flows, or other common water pollutants.

(B)"Refuse" means putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, including sewage treatment wastes, which are in dry form.

(C)"Garbage" means discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

(D)"Rubbish" means nonputrescible solid waste including paper, cardboard, crockery, grass clippings, wood, shrubbery, leaves, composted materials, or other yard wastes.

**703.030 Application Procedure.** Applicants may apply for a Solid Waste Collector License or a Rubbish Collector License on forms provided by the City Manager which shall include the following information or materials:

(A) The name and address of the applicant.

(B) A list of the equipment which the applicant proposes to use in the collection of such solid waste or rubbish.

- (C) Address and location of solid waste or rubbish disposal site.
- (D) The geographical area of the City of Shoreview in which licensee intends to collect solid waste or rubbish.
- (E) The description of applicant's customer rate structure and methods by which customers will be informed of applicant's services.
- (F) A copy of proposed rules which will be given to applicant's customers relating to the collection of solid waste or rubbish. Current copies of rules shall be kept on file with the City Manager.
- (G) Copies of proposed service rates as hereinafter required. Current copies of service rates shall be kept on file with the City Manager.
- (H) A Performance Bond in the amount of \$2500.00 conditioned as required by Section 701.110 and a Certificate of Insurance indicating that the applicant has liability coverages as required by Section 701.120.

**703.040 License Fee.** License fees for solid waste collectors and rubbish collectors shall be as prescribed, from time to time, by City Council resolution.

**703.050 Expiration of License.** All licenses, including licenses issued prior to the effective date of this regulation, shall expire annually on December 31. A pro rata share of license fees received by the City prior to the effective date of this regulation for license years which, but for the adoption of this regulation, would have expired after December 31, 2012, shall be credited to the license holder who elects to file a new application in accordance with the provisions of this regulation, or, at the license holder's option, shall be refunded.

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**703.060 Revocation.** A license holder's failure to comply with the provisions of the Shoreview Municipal Code or any of the conditions attached to the license shall be grounds for license revocation without refund of license fee.

**703.070 Equipment.** Licensees shall use equipment so constructed that the solid waste material will not leak or spill during transport to

the disposal site. The equipment used shall be kept clean and as free from offensive odors as possible; shall have the name, address and telephone number of the licensee painted on each side of the equipment in conspicuous lettering; and shall not be allowed to stand on any street, alley, or public place longer than is necessary to collect the solid waste material.

**703.080 Collection Service Hours.** Every licensee shall provide each customer with collection service at least once a week and collect all accumulated solid waste or rubbish located at the appropriate place. Collections shall be made between the hours of 6:00 a.m. and 6:00 p.m., Monday through Saturday.

**703.090 Conditions of License.**

- (A) All licensees providing service to residential property shall provide for the collection and disposal of grass clippings, wood, shrubbery, leaves, composted material, and other yard wastes and, as part of licensee's application, shall provide the City with a description of the rate structure for such services.
- (B) Solid waste collector licensees providing service to residential property shall provide a volume based 30, 60 and/or 90 gallon service; and optional services including walk-up and/or handicapped service, and, as part of licensee's application, shall provide the City with a description of the rate structure for such services.
- (C) Licensee shall notify the City of changes in service rate structures thirty (30) days prior to the institution of such change and shall notify customers at least twenty (20) days prior to the institution of such change.
- (D) Licensees are prohibited from collecting service fees in advance for more than three (3) month's service.
- (E) Solid waste collector licensees shall provide service for the prompt removal of all other waste material, except toxic or hazardous materials, by special arrangement with customers requesting such service.
- (F) On or before July 1, 2003, regular collection route and days of collection shall be brought into compliance with the collection district schedules approved by the City Manager.

**703.100 Interruption of Service.** Any licensee, who cannot provide service to its customers, shall notify the City Manager and licensee's customers immediately.

**703.110 Collection Districts.** Prior to April 1, 2003, the City Manager shall establish specific refuse and recycling collection districts and specific days of collection within these districts for all Licensees. The coordinated collection process is necessary to encourage citizen participation in the City's recycling effort; to ensure compliance with State mandates for solid waste management, as set forth in Minn. Stat. Chapter 115A; and will be beneficial to the safety and welfare of Shoreview residences by reducing the number of refuse and recycling vehicles using City streets at any one time. The following considerations will be utilized by the City Manager, in the City Manager's discretion, when establishing collection districts and schedules for collection:

- (A) Household counts within the district;
- (B) Compatibility of the Licensees existing refuse collection stops;
- (C) Compatibility with municipal boundaries; and
- (D) Coordination with recycling collection.

## **704 Tree Service License**

### **704.010 License Required.**

(A) Generally. No person shall engage in the business of tree trimming, tree removal, tree stump removal or tree maintenance and disease prevention without a license, except as provided in 704.010(B).

(B) Exceptions. No license shall be required for the removal of trees pursuant to an excavation or grading permit as required in the Building Code. No license shall be required for a homeowner engaged in tree trimming, tree removal, tree stump removal or tree maintenance and disease prevention on his own property or on property adjacent to his premises if the homeowner has the approval of the owner of the adjacent property.

**704.020 Applications.** In addition to the information required by 701.020, each application shall contain information regarding the applicant's education, special training, and experience relating to tree trimming, tree removal, tree stump removal or tree maintenance and disease prevention; the names of four persons for whom the applicant has trimmed, removed, or treated trees or stumps; and a description of the applicant's equipment.

**704.030 Eligibility.** No license shall be granted unless the City Council is satisfied that the applicant is competent and has the necessary equipment to perform the work safely and in accordance with all applicable laws and provisions of this code, and meets all requirements of this chapter.

**704.040 Equipment.** If any of the proposed work may affect a public right-of-way, the applicant shall furnish and maintain appropriate warning lights and barricades, and shall apply for and obtain the appropriate permit required by the Building Code for work within a public right-of-way.

**704.050 Revocation and Suspension.** In addition to the provisions of 701.060, any instance where work performed is found to be improper, defective, or so unsafe as to jeopardize life or property, shall constitute grounds for suspension or revocation of a license.

**704.060 Bond.** Each applicant shall give a \$2,500 surety bond to the City, in accordance with 701.110 of this code.

**704.070 Insurance.** Each licensee shall file with the City Manager a certificate of insurance indicating that the licensee has public liability insurance, in accordance with 701.120 of this code.

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## **705 Lawn Fertilizer Application Control**

**705.010 License Required.** No person, firm, corporation or franchisee shall engage in the business of commercial lawn fertilizer application within the City unless a license has been obtained from the City Manager as provided herein.

**705.020 License Application Procedure.** Applications for a commercial lawn fertilizer applicator license shall be submitted to the City Manager. The application shall consist of the following:

- (A) Application Form. Application forms shall be provided by the City and shall include the following information:
- (1) Name, address and telephone number of applicant and any individuals authorized to represent the applicant.
  - (2) Description of lawn fertilizer formula proposed to be applied on lawns within the City.
  - (3) A time schedule for application of lawn fertilizer and identification of weather conditions acceptable for lawn fertilizer application.
- (B) Fertilizer Sample. A sample of lawn fertilizer shall be submitted to the City along with the initial application for a license, and, thereafter, at least 30 days before fertilizer composition changes are implemented. A sample submittal can be replaced by a chemical analysis certified by an independent testing laboratory.
- (C) License Fee. The license fee shall be as designated, from time to time, by City Council resolution. The license shall expire on the 31st day of December. The license fee shall not be prorated.
- (D) Performance Bond. A bond in the amount of \$1,000.00 shall be submitted with the application form. The bond shall be conditioned upon compliance with the City's regulations. Actions to collect bond proceed shall not prevent the City from filing criminal complaints for ordinance violations.

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**705.030 Conditions of License.** Commercial lawn fertilizer applicator licenses shall be issued subject to the following conditions which shall be specified on the license form:

- (A) Random Sampling. Commercial lawn fertilizer applicators shall permit the City to sample any commercial lawn fertilizer application to be applied within the City at any time after issuance of the initial license.
- (B) Possession of License. The commercial lawn fertilizer application or a copy thereof shall be in the possession of any party employed by the commercial lawn fertilizer applicator when making lawn fertilizer applications within the City.
- (C) State Regulations. Licensee shall comply with the provisions of the Minnesota Fertilizer and Soil Conditioner Law as contained in Minnesota Statutes Sections 17.711 through and including 17.729 and amendments thereto.

## **706 Tobacco Products**

**706.010 Purpose and Intent.** The purpose of this ordinance is to regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect minors and young adults against the serious effects associated with the initiation and use of tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391, as it may be amended from time to time. In making these findings, the City Council accepts the conclusions and recommendations of the U.S. Surgeon General reports, “The Health Consequences of Smoking—50 Years of Progress” (2014) and “Preventing Tobacco Use Among Youth and Young Adults” (2012); the Center for Disease Control in their studies, “Tobacco Use Among Middle and High School Students – United States, 2011-2015,” and “Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997,” and of the following medical professionals in these medical journals: Xin Xu et al., Annual Healthcare Spending Attributable to Cigarette Smoking: An Update, Am. J. Prev. Med. 48(3): 326-33 (Mar. 2015); Giovino GA, “Epidemiology of Tobacco Use in the United States,” Oncogene (2002) 21, 7326-40; Khuder SA, et al., “Age at Smoking Onset and its Effect on Smoking Cessation,” Addictive Behavior 24(5):673-7, September-October 1999; D’Avanzo B, et al., “Age at Starting Smoking and Number of Cigarettes Smoked,” Annals of Epidemiology 4(6):455-59, November 1994; Chen, J & Millar, WJ, “Age of Smoking Initiation: Implications for Quitting,” Health Reports 9(4):39-46, Spring 1998; Everett SA, et al., “Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students,” Preventive Medicine, 29(5):327-33, November 1999, copies of which are adopted by reference.

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**706.020 Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) Compliance Checks. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of persons under the age of 21 as authorized by this ordinance. Compliance checks shall also mean the use of persons under the age of 21 who purchase or attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products 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 investigating or enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices.
- (B) Electronic Delivery Device. Any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption through inhalation of aerosol or vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.
- (C) Flavored Product. Any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint, or wintergreen, that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery device, including, but not limited to, any taste or smell relating to chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related

device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco, menthol, mint, or wintergreen, shall constitute presumptive evidence that the product or device is a flavored product.

- (D) Indoor Area. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- (E) Loosies. The common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and offered for sale. The term “loosies” does not include individual cigars with a retail price, before any sales taxes, of more than \$2.00 per cigar.
- (G) Minor. Any natural person who has not yet reached the age of 18 years.
- (H) Moveable Place of Business. 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.
- (I) Nicotine or Lobelia Delivery Products. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery products does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation or for other medical purposes and is being marketed and sold solely for that approved purpose.

- (J) Retail Establishment. Any place of business where tobacco, tobacco products, tobacco-related devices, or delivery devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores, restaurants, and drug stores.
- (K) Sale. Any transfer of goods for money, trade, barter or other consideration.
- (L) Self-Service Merchandising. Open displays of tobacco, tobacco products, tobacco-related devices, or delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or 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, or delivery device between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.
- (M) Tobacco or Tobacco Products. Tobacco or tobacco products includes cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars, cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour, cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clipping, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco or tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- (N) Tobacco-Related Devices. Tobacco-related devices includes any pipe, rolling papers, ashtray, 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.

- (O) Vending Machine. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco-related devices or delivery device 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.

**706.030 License.**

- (A) License Required. No person shall sell or offer to sell any tobacco, tobacco-related device, electronic delivery device or nicotine or lobelia delivery products without first having obtained a license to do so from the city.
- (B) Application. An application for a license to sell tobacco, tobacco-related devices, electronic delivery device or nicotine or lobelia delivery products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City 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.
- (C) Action. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City 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 City Council's decision.

- (D) Term. All licenses issued under this section shall be valid for the calendar year during which it is approved.
- (E) Revocation or Suspension. Any license issued under this section may be revoked or suspended as provided in Section 706.130.
- (F) Transfers. All licenses issued under this section 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 City Council.
- (G) 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 section.
- (H) Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
- (I) 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 30 days but no more than 60 days before the expiration of the current license.
- (J) Issuance as privilege and not a right. The issuance of a license issued under this section 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.
- (K) Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any retail establishment or any licensed retail tobacco shop. Smoking for the purposes of sampling tobacco, tobacco related devices, electronic delivery devices or nicotine or

lobelia delivery products or any other product is prohibited.

**706.040 Fees.** No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the City Code Exhibit B, as it may be amended from time to time.

**706.050 Basis for Denial of License.**

- (A) Grounds for denying the issuance or renewal of a license under this chapter include but are not limited to the following:
  - (1) The applicant is under the age of 21 years.
  - (2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.
  - (3) The applicant has had a license to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products revoked within the preceding 12 months of the date of application.
  - (4) The applicant fails to provide any information required on the application, or provides false or misleading information.
  - (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
- (B) 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.
- (C) 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 chapter.

**706.060 Prohibited Sales.** It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery products:

- (A) To any person under the age of 21 years.
- (B) By means of any type of vending machine.
- (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-related device, electronic delivery device, or nicotine or lobelia delivery products and whereby there is not a physical exchange of the tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery products between the licensee, or the licensee's employee, and the customer.
- (D) By means of loosies as defined in Section 706.020.
- (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. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- (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.

**706.065 Flavored Products.** No person shall sell, offer for sale, or otherwise distribute any flavored products. This restriction does not apply to retail establishments that:

- (1) Prohibit persons under 21 from entering at all times; and
- (2) Derive at least ninety (90) percent of their revenues from the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.

**706.070 Self-Service Sales.** It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products by any means whereby the customer may have access to those 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-related device, electronic delivery device, or nicotine or lobelia delivery products between the licensee or his or her clerk and the customer. All tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products shall either be stored behind a 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. This section shall not apply to retail stores which derive at least 90 percent of their revenue from tobacco, tobacco-related products electronic delivery devices, and nicotine or lobelia delivery products and where the retailer ensures that no person younger than 21 years of age is present, or permitted to enter, at any time.

**706.080 Responsibility.** All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

**706.090 Compliance Checks and Inspections.** All licensed premises shall be open to inspection by the Ramsey County Sheriff's Office 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 persons over 15 years but less than 21 years to enter the licensed premises to attempt to purchase tobacco, tobacco-related products, or tobacco-related devices.

Prior written consent from a parent or guardian is required for any minor who participates in a compliance check. Persons used for the purpose of compliance checks shall be supervised by city designated law enforcement officers. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco,

tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products when those items are obtained as part of the compliance check. No person used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all people lawfully engaged in a compliance check shall answer all questions about the person'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.

**706.100 Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this chapter:

- (A) Illegal Sales. It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery products to any person under 21.
- (B) Use of False Identification. It shall be a violation of this chapter for any person to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

**706.110 Exceptions and Defenses.** Nothing in this chapter shall prevent the providing of tobacco, tobacco-related devices, electronic delivery device, or nicotine or lobelia delivery products to a person under 21 as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

**706.120 Severability.** If any section or provision of this ordinance is held invalid, such invalidity shall not affect other sections or provisions which can be given force and effect without the invalidated section or provision.

**706.130 Administrative Fine, Suspension or Revocation.** Any violation of the City's regulations relating to the issuance of a license required by this ordinance, or any violation of any conditions/restrictions attached to the issuance of such license,

shall be cause for the imposition of an administrative fine, the suspension of the license, or the revocation of the license pursuant to the procedures described in Shoreview Code Section 701.060.

If the violation relates to the sale of tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to persons under 21 by licensee or licensee's employees, the following administrative fines, suspensions or revocations shall be imposed:

- (A) The first such violation within 24 months shall subject the licensee to the payment of an administrative fine of \$250 plus an additional compliance check;
- (B) The second violation within 24 months shall subject licensee to the payment of an administrative fine of \$500 plus an additional compliance check;
- (C) The third violation within 24 months shall subject the licensee to the payment of an administrative fine of \$1,000 and to a minimum seven (7) business-day suspension of the license;
- (D) The fourth violation within 24 months shall subject the licensee to the payment of an administrative fine of \$1,500 and to a minimum fifteen (15) business-day suspension of the license;
- (E) The fifth violation within 24 months shall subject the licensee to the payment of an administrative fine of \$2,000 and to a minimum of thirty (30) business-day suspension of the license.
- (F) The sixth violation within 24 months shall be cause for revocation of the license for up to one year.

The imposition of an administrative fine and a suspension of license or to a license revocation pursuant to this section shall be preceded by a hearing before the City Council.

**706.140 Administrative Fine – Individuals.** An individual who sells tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under 21 years of

age will be charged an administrative penalty. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the City Council. A decision that a violation has occurred must be in writing. The following administrative fines shall be imposed:

- (A) First Violation within 24 months - \$50.00
- (B) Second Violation within 24 months - \$100.00
- (C) Third Violation within 24 months - \$150.00
- (D) Fourth Violation within 24 months - \$200.00
- (E) Fifth Violation within 24 months - \$250.00

Failure to pay this penalty by an individual who sells tobacco to a person under 21 years of age will result in a misdemeanor violation for the first offense. Additional offenses within five years of a previous conviction will result in a gross misdemeanor.

**706.150 Administrative Penalties Procedures.** The following procedure should generally be followed for Council review of tobacco license violations that are subject to the administrative penalties established in 706.130 and 706.140:

- (A) The City Manager or designee will contact the licensee/seller asking if the licensee/seller will sign an admission of the facts of the alleged violation and an acceptance of the administrative penalty listed in Section 706.130 and 706.140. Licensees/sellers have the right to request a hearing before the City Council if not in agreement with the violation or the administrative penalty. The City Manager may also schedule a hearing before the Council if he/she believes there is a valid reason to deviate from the administrative penalty.
- (B) If a hearing is requested, it will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57 to 14.70. The Council will issue written findings on the alleged violation and an order imposing sanctions, if any.
- (C) If the licensee/seller and the City Manager agree on the violation and the administrative penalty, a written admission will be provided to the Council with a proposed order. For first and second violations, the matter will be scheduled as part of the consent agenda, and it is expected that

the Council will generally issue the proposed order without discussion. Nevertheless, the Council may choose to schedule the matter for special Council review and action. The City must provide at least ten (10) days notice to the licensee/seller before this review is conducted. Any violations beyond the second violation must be scheduled for a hearing before the Council.

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## **707 Fireworks**

**707.010 Definition.** For purposes of this regulation, the following terms shall mean:

- (A) "Commercial fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges, toy cannons and toy canes in which explosives are used, any type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablet or other device containing any explosive substance and commonly used as fireworks. The term "fireworks" shall not include those devices defined below as "Consumer Fireworks".
  
- (B) "Consumer fireworks" means toy pistols, toy guns, in which paper caps containing 0.25 grains or less of explosive compound are used and toy pistol caps which contain less than 0.20 grains of explosive mixture as well as wire or wood sparklers of not more than 100 grams of mixture per item, other than sparkling items which are nonexplosive and nonaerial and contain less than 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes or glowworms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drops pops, each consisting of not more than twenty-five hundredth grains of explosive mixture. The use of consumer fireworks is not permitted on public property. This paragraph does not authorize the purchase of consumer fireworks by persons younger than 18 years of age.

**707.020 Permit or License Required.** No person shall use or display any fireworks, except as provided herein.

- (A) Commercial Fireworks. Supervised public displays of commercial fireworks by City, fair associations, amusement parks and other organizations other than the City and fair associations must obtain a permit for such public displays. Such permits

shall allow the use and display of commercial fireworks for that display only. No permit so granted shall be transferable.

- (1) Application. In addition to the information required by 701.020, the application shall state the name and address of the person who will supervise the display, the name and address of the person who will conduct the display, the location of the display, and the date and time of the display.
- (2) Investigation. The Fire Chief, or his designee, shall investigate each application to determine whether the operator of the display is competent and whether the display will be of such a character or will be so located, discharged, or fired as to be hazardous to any person or property.
- (3) Conditions. Every display shall be conducted so as not to endanger any person or property. Every display shall be conducted in accordance with all applicable provisions of this code, state law, and regulations including regulations of the State Fire Marshall.

(B) Consumer Fireworks. Except as herein provided, no person shall keep for retail sale, sell at retail or otherwise dispose of or use consumer fireworks unless licensed by the City of Shoreview. License applications shall be submitted to the City Manager together with the license fees as determined from time to time by City Council resolution. A license shall be issued for the specific premises identified in the application and shall not be transferable.

- (1) Application. In addition to the information required by 701.020, the application shall provide:
  - (a) The net or gross quantity of explosive material to be kept on the premises for retail sale or other disposition.
  - (b) The interior floor plan of the building showing the place(s) of storage and/or display.
  - (c) The location, type and capacity of sprinkler(s) and fire extinguishers.

- (d) A Certificate of Insurance indicating the applicant has liability coverage as required by Section 701.020. The Certificate must demonstrate the insurer has been notified of the type and quantity of consumer fireworks kept on the premises.
- (2) Term. A license shall expire on December 31<sup>st</sup> of each year.
- (3) License Restrictions. A license shall be issued subject to the following restrictions:
- (a) No transient sales of consumer fireworks are permitted.
  - (b) No outdoor sales, storage or retail display of consumer fireworks is permitted unless the property is licensed in accordance with other applicable zoning regulations.
  - (c) Use of fireworks and consumer fireworks is prohibited on property where sale and/or storage is permitted.
  - (d) Smoking is prohibited within buildings where sales and/or storage of consumer fireworks is permitted.
  - (e) A list of consumer fireworks kept on the premises shall be available for inspection at all times.
  - (f) Material Safety Data Sheets (MSDS) for all consumer fireworks kept on the premises shall be available for inspection at all times.
  - (g) A minimum of two (2) water-type extinguishers, with minimum 2 ½ gallon capacity. One of these extinguishers shall be kept within 15 feet of any storage and display area(s).
  - (h) Samples of the consumer fireworks shall be made available to the Fire Chief, or his designee, upon request for testing and training purposes only.
  - (i) Other restrictions may be attached to the license as deemed necessary by the City Manager and the Fire Chief.

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- (4) Storage. The licensee shall comply with all applicable provisions of the State of Minnesota Building and Fire Codes. If there is a conflict between the regulations of the State and the regulations of the City, the more restrictive regulations shall apply. The following quantities of consumer fireworks shall not be exceeded without the express written approval of the Fire Chief, or his designee.
- (a) In buildings without an approved automatic sprinkler system, a maximum quantity of fifty (50) pounds net pyrotechnic composition or two hundred (200) pounds gross weight, if the pyrotechnic composition is not known, may be kept on the premises.
- (b) In buildings with an approved automatic sprinkler system, a maximum quantity of one hundred (100) pounds net pyrotechnic composition or four hundred (400) pounds gross weight, if the pyrotechnic composition is not known, may be kept on the premises.
- (5) Inspections. The premises shall be inspected at least twice annually by the Fire Chief, or his designee, to verify compliance with the terms and conditions of the license.
- (6) Exception for Private Use.
- (a) No license is required for private use of consumer fireworks by members of the general public on private property.

## **708 Charitable Gambling**

**708.010 Definitions.** As used herein, the following terms shall mean:

(A) "Active member" means a member who has paid all dues to the organization, who is eighteen (18) years of age or older, who has equal voting rights with all other members, who has equal opportunity to be an elected officer, who has equal right and responsibilities of attendance at regularly scheduled meetings of the organization, whose name and membership origination date appears, knowingly and willingly, on a list of members of the organization, and who has been a member of the organization for at least 6 months. If the organization does not have a dues structure, the dues portion of this definition will not apply.

(B) "Allowable expense" means reasonable sums that are necessarily and actually expended for the following purposes:

Gambling supplies and equipment;  
Rent;  
Utilities used during gambling occasions;  
Compensation paid to members for conducting gambling on a compensation scheduled devised by the organization for its employees for the conduct of lawful gambling;  
Maintenance of devices used in lawful gambling;  
Accounting services;  
License renewal;  
Bond for gambling manager;  
Insurance on gambling activities;  
Investigation fee;  
One-third of the amount of increase in the annual premium of liability insurance.

(C) "Gross profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

(D) "Gross receipts" means the total amount collected by an organization from participants in lawful gambling. Gross receipts for bingo include any amounts received by the organization that has been paid by a person at the bingo occasion to play the game, without which the player could not play the game.

- (E) "Lawful gambling" means the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and/or pull-tabs.
- (F) "Net profit" means gross profit less reasonable sums actually expended for allowable expenses.
- (G) "Organization" means any fraternal, religious, veterans or other non-profit organization.
- (H) "Trade area" means the corporate boundaries of the City of Shoreview and each city immediately contiguous to the City of Shoreview.

**708.020 Organization License Required.** Only organizations which have received a license from the Minnesota Charitable Gambling Control Board are eligible for a premises permit to conduct lawful gambling within the City in compliance with the provisions of M.S. 349.11 to M.S. 349.60 and the regulations adopted by the Minnesota Charitable Gambling Control Board.

**708.030 Premises Permit and Fee.** An applicant for a premises permit shall pay a non-refundable investigation fee of \$100 to the City when an application is submitted for City review.

**708.040 Local Gambling Tax.**

- (A) Imposition. A local gambling tax is hereby imposed on all organizations receiving City approval to conduct lawful gambling within the City of Shoreview. The tax shall not exceed an amount equal to three percent (3%) of the organization's gross profits from lawful gambling activities conducted within the City of Shoreview. Proceeds of the tax shall only be used for the purpose of regulation of the gambling activities of all organizations licensed to conduct lawful gambling within the City of Shoreview. As used herein, regulation includes administrative and enforcement costs.
- (B) Estimated Tax. The City shall calculate the organization's estimated annual local gambling tax based upon the organization's records or upon any other reliable information available to the City. The estimated local gambling tax payments shall be submitted to the City Manager in quarterly installments for the period ending March 31, June 30,

September 30 and December 31. The estimated payment, together with a copy of the organization's Minnesota State Tax Payment Records containing sufficient data to enable the City to verify the manner in which the organization calculated the local gambling tax payment, shall be submitted to the City Manager on or before the 20<sup>th</sup> day of the month following the end of the quarter.

- (C) Reconciliation. On or about January 20<sup>th</sup> of each year, the City shall calculate its actual expenses incurred for the purpose of regulating gambling activities with the City. In the event that the City's actual expense is less than the local gambling tax paid by an organization, the City shall adjust the succeeding quarterly gambling tax payment for such organization or refund the difference to the organization, at the City's option.

#### **708.050 Lawful Gambling Fund.**

- (A) Payment Required. All organizations having a premises permit to conduct lawful gambling within the City of Shoreview shall contribute ten percent (10%) of the net profits derived by the organization from lawful gambling activities conducted with the City of Shoreview to a special fund to be administered by the Shoreview City Council for lawful purposes.

- (B) Collection. The lawful gambling fund payment shall be submitted to the City Manager in quarterly installments for the periods ending March 31, June 30, September 30, and December 31. The lawful gambling fund payment, together with a copy of the organization's Minnesota State Tax Payment Records containing sufficient data to enable the City to verify the manner in which the organization calculated the lawful gambling fund payment, shall be submitted to the City Manager on or before the 20<sup>th</sup> day of the month following the end of the quarter.

**708.060 Trade Area and Restrictions.** An organization, licensed to conduct lawful gambling within the City of Shoreview, shall expend all of its net profit on lawful purposes conducted or located within the trade area.

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**708.070 Prize Restrictions.**

- (A) Bingo. Except for a cover-all game, the maximum cash and/or merchandise prize for a single bingo game shall not exceed \$50.00. The maximum cash and/or merchandise prize for a cover-all game shall not exceed \$100.00. The total of all cash and/or merchandise prizes awarded at a bingo occasion shall not exceed \$1,500.00. Merchandise prizes must be valued at their fair market value.
  
- (B) Paddlewheels and Tipboards. The maximum cash and/or merchandise prize awarded for a single spin of a paddlewheel or a single tipboard shall not exceed \$50.00. The total of all cash and/or merchandise prizes awarded in a single day for the operation of paddlewheels and/or tipboards shall not exceed \$500.00.
  
- (C) Raffles. The total of all cash and/or merchandise prizes awarded in any calendar year by an organization for a raffle shall not exceed \$30,000.00. Merchandise prizes must be valued at their fair market value.
  
- (D) Pull-tabs. Prize and bet limitations for pull-tabs may not exceed the amounts contained in the regulations adopted by the Minnesota Charitable Gambling Control Board.

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## 709 Peddlers

**709.010 Definition.** As used in this Chapter, the following terms shall mean:

- (A) "Peddler" shall mean an individual traveling from place to place within the City, by whatever means of transportation, for the purpose of selling, offering for sale or taking orders for the sale of goods or services, of whatever kind, for present or future delivery including any person who utilizes or occupies any permanent or temporary building, structure or portions thereof, within the City, for the purpose of sales, exhibiting samples or taking orders for future delivery.
- (B) "Solicitor" shall mean an individual traveling from place to place within the City, by whatever means of transportation, for the purpose of approaching another in their home to make a request for a donation of money or services.

**709.020 Permit Exemptions.** The permit provisions of this Chapter shall not apply to the following individuals but such individuals shall register with the City Manager as hereinafter provided:

- (A) Sales made to dealer or permanent merchants by commercial travelers selling in the usual course of business;
- (B) Sheriffs, constables, bona fide assignees, receivers or trustees in bankruptcy or other public officers selling goods, wares and merchandise according to law;
- (C) Bona fide residents of the State selling fruits, vegetables, dressed meats, fowl or other farm products which were produced on land within the State under the ownership or control of the vendor provided that such sales occur only in areas permitted by the City's Development Regulations and only if such sales can be conducted without creating traffic hazards;
- (D) Sales made by bona fide non-profit organizations registered within the State of Minnesota, or solicitations made by individuals or organizations.

**709.030 Registration Required.** Any peddler or solicitor who is exempt from the permit requirements shall register with the City

Manager. Registration shall be made on forms provided by the City Manager and no registration fee shall be required. Upon completion of the registration form, the City Manager shall issue a Certificate of Registration to the applicant. Certificates of Registration shall be non-transferable.

**709.040 Permit Required.** It shall be unlawful for any person to engage in business as a peddler/solicitor without first obtaining a permit from the City Manager.

(A) Application. Applications shall be verified and shall be submitted on forms provided by the City Manager which shall include the following:

- (1) The name of the applicant;
- (2) The permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The place where the goods proposed to be sold are manufactured, stored, and the manner in which such goods shall be delivered to the customer;
- (6) A statement as to whether the applicant has been charged with a misdemeanor, gross misdemeanor, or felony violation of a municipal ordinance, state statute, or federal law; the nature of the offense; the date of the offense; and the status of the proceeding;
- (7) A description of any vehicle which applicant will use while engaged in the business of a peddler within the City;
- (8) When application is filed, the applicant shall provide photographic proof of an application in the form of a Minnesota Driver's License or other photo identification acceptable to the City Manager.
- (9) Such other relevant information as may be required by the City Manager.

(B) Procedure. Upon receipt of the completed application form, the receipt of the permit fee, and a completed background check of the applicant, the City Manager shall act on the approval or denial of the permit within five (5) business days and shall notify the applicant of such decision. If the

application is approved, a permit shall be issued. The application may be denied for the following reasons:

- (1) The failure of the applicant to truthfully provide any of the information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
  - (2) The conviction of the applicant within the past five (5) years from the date of application, for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which a permit is being sought in an honest and legal manner or that will not adversely affect the health, safety and welfare of the residents of the City. Such violations shall include but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
  - (3) The revocation within the past five (5) years of any permit or license issued to the applicant for the purpose of conducting business as a peddler.
  - (4) The applicant is determined to have a bad business reputation, evidence of a bad business reputation shall include but not be limited to the existence of more than two (2) complaints against the applicant with the Better Business Bureau, the Attorney General's Office or other similar business consumer rights office or agency, within the preceding twelve (12) months, or five (5) such complaints against the applicant within the preceding five (5) years.
- (C) Permit Fee. A fee, in an amount to be determined from time to time by City Council resolution, shall be paid when the application is submitted.
- (D) Record. The City Manager shall keep records of all permits issued under this Chapter.
- (E) Display. Every peddler shall display the City-issued permit upon the request of any person.

- (F) Duration. Every permit issued under the provisions of this Chapter shall be valid for the period of time stated therein but in no event shall any such permit be issued for a period of time in excess of sixty (60) days.
- (G) Revocation. Any permit issued under this section may be revoked at the discretion of the City Manager for violation of any of the following:
- (1) Fraud, misrepresentation or incorrect statements on the application form.
  - (2) Fraud, misrepresentation or false statement made during the course of the permitted activity.
  - (3) Conviction of any offense for which granting a permit could have been denied.
  - (4) Violation of any provision of this Chapter.

**709.050 Prohibited Activities.** No peddler shall conduct business in any of the following manners:

- (A) Entrance to Premises Restricted. It shall be unlawful for any peddler or solicitor to enter upon any private premises when such premises are posted with a sign stated "No Peddlers Allowed" or "No Solicitation Allowed" or other words to such effect.
- (B) Refusing to Leave. It shall be unlawful for any peddler or solicitor to enter upon premises owned, leased or rented by another and refuse to leave such premises after having been notified by such owner or occupant to leave.
- (C) Misrepresentation. It shall be unlawful for any peddler or solicitor to make false or fraudulent statements concerning the quality of the goods or services which are being offered for sale.
- (D) Hours of Operation. It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting within the City between the hours of 9:00 p.m. and 9:00 a.m. the following morning, or at any time on Sundays, except by

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specific appointment with or invitation from the prospective customer.

- (E) Use of Audio Devices. It shall be unlawful for any peddler or solicitor to call attention to their activity by means of blowing a horn or whistle, by ringing any bell, by crying out, or by making any other noise in an unreasonable manner.
- (F) Obstructing Traffic. It shall be unlawful for any peddler or solicitor to obstruct the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- (G) Safety Hazard. It shall be unlawful for any peddler or solicitor to conduct business in such a way as to create a threat to the health, safety and welfare of any individual or general public.
- (H) Proof of Permit. It shall be unlawful for any peddler or solicitor to fail to provide proof of permit or registration and identification when requested; or to use the permit or registration of another person.
- (I) False Statements. It shall be unlawful for any peddler or solicitor to make false or misleading statements about the product or services being sold, including untrue statements of endorsement. No peddler or solicitor shall claim to have the endorsement of any City solely based on the City having issued a permit or Certificate of Registration to that person.
- (J) Harassment. It shall be unlawful for any peddler or solicitor to remain on property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

**709.055 Candidates for Public Office**. Candidates for public office are exempt from the provisions of this Chapter.

**709.060 Severability**. If any part or provision of this Chapter or the application thereof to any person, entity, or circumstances shall be adjudged unconstitutional or invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part of the provision or application which is directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of

the remainder of this Chapter or the application thereof to the other persons, entities or circumstances.

**709.070 Misdemeanor.** Any violation of this Chapter shall be a misdemeanor. Each day on which such violation continues shall constitute a separate offense.

## **710 Transit Bench License**

**710.010 Purpose.** The purpose of this section is to regulate the placing and maintenance of transit benches in public rights of ways in order to control location, appearance, proliferation and traffic safety. The City Council has determined that it is more efficient to issue one license which covers all transit bench locations in the City.

**710.020 License Required.** It is unlawful for a person to place a transit bench in the City of Shoreview without first having been issued a license by the City Council. A license issued under this Section shall expire three years after the date it is approved by the City Council. Applications for the transit bench license must be submitted no later than June 1 of the year it is to expire. Applications submitted after that date shall not be accepted.

**710.030 Permitted Locations.** Transit benches may only be placed in public rights-of-way at the locations designated on the Shoreview Transit Bench Location Map (a copy of which will be available in the City Manager's Office). The City Council, from time to time, may revise designated locations based on public transportation route changes. In determining acceptable locations, the City Council shall not consider transit bench locations that are: 1) on public or private sidewalks, 2) in an alley, 3) at any location more than 50 feet or less than 20 feet from the corner of two improved streets, or 4) detrimental to public safety, including pedestrian and vehicle traffic.

**710.040 License Fee.** The initial license fee shall be \$3,000. Thereafter, the license fee shall be as designated, from time to time, by City Council resolution.

**710.050 License and Application.** Application for licenses shall be made to the City Manager. The application shall contain the following:

(A) A scale drawing showing the size and location of the transit bench relative to all other objects on the property including the layout of applicable adjacent roadways, intersections, traffic signage, sidewalks, trails, utility poles, fences and other objects in the vicinity;

(B) Name, address, and phone number of applicant;

- (C) Detailed plans and specifications of each proposed bench including the general nature of the advertising matter, if any, to be posted thereon and total surface area intended as signage not to exceed 12 square feet using the front, or seating side surface of the bench back.
- (D) Current general liability Certificate of Insurance from an insurance company, rates "A" by A.M. Best Company and authorized to do business in the State of Minnesota, naming the city as additional insured in the minimum amount of \$600,000 for any and all claims arising out of the use or existence of the transit bench, and approved by the City Attorney. The certificate shall provide for automatic notification of the City with a minimum 30 days advance notice in the event of cancellation;
- (E) A cash deposit or other form of security as approved by the City Attorney, in an amount as determined by the City Engineer to be sufficient to remove the transit benches upon license expiration or revocation by the City;
- (F) An executed hold harmless agreement from the licensee, protecting the City from any and all claims arising out of the use and existence of the transit bench;
- (G) Written permission from the road authority as defined in Minnesota State Statutes Section 160.02, if the City of Shoreview is not the road authority for right-of-way adjacent to the transit bench location;
- (H) Such other information the City Manager may require.

**710.060 City Council Review.** The City Manager shall forward all completed license applications to the City Council for review. Only one license shall be issued for all locations illustrated on the Shoreview Transit Bench Location Map. The City Council shall approve by three affirmative votes the issuance of a license.

**710.070 Revocation of License.** The City Council may revoke a license for failure to comply with the conditions of the license by three (3) affirmative votes.

**710.080 Installation and Maintenance.** The licensee shall install benches in accordance with the following criteria:

- (A) Location. Transit benches shall be installed parallel with the curb, sidewalk or trail, and setback at least 3 feet.
- (B) Size. Size limitations on Transit Benches are as follows:
- (1) Height – 42 inches maximum;
  - (2) Width – 30 inches maximum; and
  - (3) Length – seven feet maximum.
- (C) Construction. A transit bench shall be installed and maintained on a durable level surface including, but not limited to, concrete, bomanite or decorative brick. The durable surface shall extend six inches on either end of the bench and one and one-half feet in front. The transit bench shall be of sufficient weight or shall be secured in a manner to minimize the potential of accidental tipping or vandalism. No transit bench shall be fastened, secured, or anchored to City property.
- (D) Materials. A transit bench shall be constructed of durable materials including, but not limited to concrete, wood, plastic, or combination thereof, with colors limited to whites, earthtones of subdued greens, grays, browns, reddish-browns, and golds.
- (E) License Display. Each transit bench shall display the license number in a conspicuous place.
- (F) Conditions. It is the responsibility of the licensee to maintain each bench in a safe condition and to keep benches neat, clean and in usable condition. The licensee shall keep the transit bench and bench base free of ice and snow and accessible at all times.
- (G) Advertising Matter. Advertising matter may be displayed only on the front (roadway side) surface of the backrest of transit bench and shall not exceed 12 square feet in surface area. Advertisements for liquor or beer, tobacco, political advertisements, obscene, immoral or illegal matter is prohibited on all transit bench signs. No advertising matter on any transit bench may display the words “Stop”, “Look”, “Drive

In”, “Danger” or any other word, phrase or symbol, reflective material, or illumination device, which might interfere with, mislead or distract traffic.

**710.090 Removal of Transit Bench**

(A) Removal by Licensee. Licensee shall remove transit benches within ten (10) days of license expiration or revocation.

(B) Removal by City Manager. If the licensee fails to remove the transit benches as required above, the City Manager may remove the transit benches after (10) days mailed notice to the licensee. The City may reimburse itself for the cost of the removal from the security provided by the licensee at the time of application.

**711 Massage Therapy Establishments and Massage Therapists**

**711.010 Purpose.** The purpose and intent of this Ordinance is to regulate Massage Therapy Establishments and Massage Therapists in order to protect and promote the public health, safety and welfare by:

- (A) providing standards for education and training of Massage Therapists.
- (B) providing a clean, sanitary, healthy and safe environment in which Massage Therapists can operate.
- (C) requiring insurance coverage.
- (D) recognizing massage therapy as a legitimate business occupation.

**711.020 Definitions.** As used herein the following terms shall mean:

- (A) "Massage Therapy" shall mean any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, creme, lotion, ointment or other similar preparations.
- (B) "Massage Therapist" shall mean any person who offers the service of massage therapy as part of a commercial transaction.
- (C) "Massage Therapy Establishment" shall mean any place wherein massage therapy is conducted by a Massage Therapist.
- (D) "Chair Massage" is a massage provided to a fully-clothed individual, and limited to the neck, shoulders, arms, and back.

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**711.030 Prohibitions.** Except as hereinafter provided, no person, party, firm or corporation shall:

- (A) Act in the capacity of a Massage Therapist without first obtaining a license as hereinafter provided.
- (B) Operate a Massage Therapist Establishment without first obtaining a license as hereinafter provided.
- (C) Submit an application for a Massage Therapist or Massage Therapy Establishment License which contains false, inaccurate or misleading information.
- (D) Act in the capacity of a Massage Therapist or operate a Massage Therapy Establishment contrary to the provisions of this Chapter.
- (E) Perform massage therapy outside of a licensed massage therapy establishment.

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**711.040 Exemptions.** The following people are exempt from compliance with the provisions of this Chapter:

- (A) Persons duly licensed in the State of Minnesota to practice medicine, surgery, osteopathy, chiropractic and physical therapy, podiatry and nursing; and individuals performing massage therapy under the direction of such persons, provided that they are rendering massage therapy within their scope of employment;
- (B) Athletic directors and trainers certified by the National Athletic Trainers Association, provided that they are rendering massage therapy within their scope of employment and at their normal place of business;
- (C) Beauty culturists and barbers, who do not give, or hold themselves out to give, massage therapy as defined herein, other than as is customarily given in such places of business for the purposes of beautification.
- (D) A person or organization providing temporary massage services such as "chair massage" if the following requirements are met:
  - (1) the massage is provided in a place of business where the massage can easily be seen by any employee or visitor on the premises;

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- (2) the location does not hold a license to sell alcoholic beverages;
- (3) massages are offered at the location no more than ten days per calendar year;
- (4) each recipient of a massage remains in an upright position, either sitting or standing; and
- (5) each recipient of a massage remains in the normal, daytime attire worn when entering the business and does not remove any clothing except outerwear such as a coat or jacket.

**711.050 License Application and Fee.** An application for a Massage Therapist or Massage Therapy Establishment shall be submitted on forms provided by the City Manager which shall be fully, truthfully and accurately completed. The license fee, as determined from time to time by Council Resolution, shall be submitted with the application. Licenses shall expire December 31st of each year.

**711.060 Law Enforcement Review.** Upon receipt, the City Manager shall forward copies of all applications to the City's law enforcement agency. The City's law enforcement agency shall report, in writing, to the City Manager, as to any police record of the applicant which may reflect upon moral character or responsibility.

**711.070 Requirements for Massage Therapist's License.** A Massage Therapist shall:

Be eighteen (18) years of age or older, verified by a birth certificate or driver's license.

Have received a Comprehensive Certificate of Massage from a school recognized by the Minnesota Higher Education Board with a minimum of 500 class credit hours and is a member in good standing of the Minnesota Therapeutic Massage Network or the American Massage Therapy Association or other organizations possessing the same or similar standards and having an enforcement code of ethics.

**711.080 Massage Therapy Establishment Restrictions.** A Massage Therapy Establishment shall comply with the following regulations:

- (A) The premises shall comply with applicable Zoning, Fire, Health and Building Codes.
- (B) The premises and equipment shall be clean, sanitary and well maintained.
- (C) The holding of a license hereunder does not negate the requirement to hold other licenses or permits which may be applicable.
- (D) No gambling shall be permitted on the licensed premises.
- (E) No alcoholic beverages shall be allowed on or permitted to be brought onto the licensed premises.
- (F) No person who is visibly under the influence of alcoholic beverages or drugs shall be allowed on the licensed premises.
- (G) No person shall be permitted to engage in disorderly conduct on the licensed premises and the licensee shall obey any reasonable order of the City's law enforcement agency to terminate or prevent such disorderly conduct.
- (H) Licensees shall comply with City, County, State or Federal laws, rules and regulations which are applicable to the licensed premises.
- (I) The licensed premises shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
- (J) There shall be a waiting room for patrons which is separate from any area wherein massage therapy is performed.
- (K) Licensee shall permit inspections during regular business hours by the City's law enforcement agency, building inspector, or appropriate fire or health officials to determine compliance with the city regulations or other appropriate state or county regulations.

- 711.090 Display of Permits.** The license of the Massage Therapy Establishment and of every Massage Therapist employed thereby, shall be displayed in an open and conspicuous place on the premises and shown to law enforcement officers upon request.
- 711.100 Changed Conditions.** All licensees must notify the City Manager, in writing, as soon as practicable, but in no event later than ten (10) days, of each and every material change in circumstances with respect to material and information contained in or a part of the license application.
- 711.110 Insurance.** Massage Therapist Licensees must have and maintain in full force and effect, during the license period, a policy of liability and malpractice insurance issued by an insurance company licensed to do business in the state of Minnesota covering death, personal injury and property damage in the minimum amount of Three Hundred Thousand (\$300,000) Dollars per person and per occurrence.

## **712 Adult Entertainment**

### **712.010 Findings and Recitals.**

(A) On March 16, 1998, the City Council enacted an interim ordinance (Ordinance No. 679) creating a moratorium on the establishment of adult uses within the City and directing the City Staff to conduct a study to determine how best to regulate such uses. The scope of the study was to include, but not be limited to, the following:

- (1) The particular zoning districts in which adult establishments should be allowed as either permitted or conditional uses;
- (2) The density and concentration of adult uses; and,
- (3) The effect of adult uses on other uses in the surrounding area.

Upon completion of the study, the matter was to be considered by the Planning Commission for its review and recommendation to the City Council.

The study has been completed and the Planning Commission has reviewed the study and has passed its recommendation to the City Council for review. The City Council has also reviewed the staff's study and duly considered the recommendation of the Planning Commission.

(B) The staff's study contained copies of certain reports specifically including a report which was prepared by the State Attorney General entitled "Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses", dated June 6, 1989 (the "Report"). The Report considered evidence from studies conducted in Minneapolis, St. Paul, and many other cities throughout the country relating to sexually oriented businesses. The City Staff, Planning Commission, and City Council have reviewed the Report.

(C) The Report, based upon the above referenced studies and the testimony and evidence it concluded, among other things, ". . . that sexually oriented businesses are associated with high crime rates and depression of property values. . . ." Prior to the

issuance of the Report, the State Attorney General's Working Group also heard testimony that "... the character of a neighborhood can dramatically change when there is a concentration of sexually oriented businesses adjacent to residential property." The Report found and concluded that:

- (1) Adult uses have an impact on the neighborhoods surrounding them, which is distinct from the impact caused by other commercial uses;
- (2) Residential neighborhoods located within close proximity to adult theaters, bookstores and other adult uses experience increase crime rates (sex-related crimes in particular), lowered property values, increased transiency, and decreased stability of ownership;
- (3) The adverse impacts which adult uses have on surrounding areas diminish as the distance from the adult uses increases;
- (4) Studies of other cities have shown that among the crimes which tend to increase either within or in the near vicinity of adult uses are rapes, prostitution, child molestation, indecent exposure and other lewd and lascivious behavior;
- (5) The City of Phoenix, Arizona study confirmed that the sex crime rate was on the average 500 percent higher in areas with sexually oriented businesses;
- (6) Many members of the public perceive areas within which adult uses are located as less desirable than other areas which do not have such uses;
- (7) Studies of other cities have shown that the values of both commercial and residential properties either are diminished or fail to appreciate at the rate of other comparable properties when located in proximity to adult uses; and
- (8) The Indianapolis, Indiana study established that professional real estate appraisers believe that an adult bookstore would have a negative effect on the value of both residential and commercial properties within a one to three block area of the store.

- (D) The Shoreview City Council finds the characteristics of Shoreview are substantially similar to those of the cities cited by the Report when considering the affects of adult uses.
- (E) The Shoreview City Council finds, based upon the Report and the studies cited therein, that adult uses may have adverse secondary effects upon certain pre-existing land uses within the City, and that the public health, safety, and general welfare will be promoted if the City adopts regulations regarding adult uses.
- (F) The Shoreview City Council finds that the adverse secondary effects tend to diminish if adult uses in the City are regulated by locational and licensing requirements.
- (G) It is not the intent of the City to prohibit adult uses from having a reasonable opportunity to locate within the City.
- (H) The City's current zoning ordinance does not address such adult uses, which have been found by other municipalities to cause similar adverse secondary effects. Specifically, the City Council is concerned that the City's zoning ordinance may be inadequate in its scope and in its restrictions to accomplish the purpose for which it was intended.
- (I) In addition to the proper zoning classification of such uses, there are a number of significant planning and land use issues pertaining to the regulation of such uses, including the following:
- (1) The particular zoning districts in which such uses should be allowed as either permitted or conditional uses.
  - (2) The concentration and density of such uses in the City and its neighborhoods.
  - (3) The effect of such uses on other uses in the surrounding area.

**712.020 Definitions.** For the purposes of this ordinance, the following terms shall be defined as set forth below:

- (A) Adult Establishment. Adult Establishment means:

- (1) Adult Patronage. Any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business;
- (2) Receipts; Floor Area; Types of Merchandise. Any business that (i) derives 25% or more of its gross receipts during any calendar month from, or (ii) devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
- (3) Adult Usage. Any business that engages in any Adult Use.

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(B) Adult Uses, Generally. "Adult Uses" are premises, enterprises, or establishments, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas which are capable of being seen, heard, or smelled by members of the public. Adult Uses include but are not limited to the following:

- (1) Adult Body Painting Studio. An establishment or business which provides the service of applying 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."
- (2) Adult Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter (specifically included, but not limited to, greeting cards), pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally but only to 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.

- (3) Adult Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- (4) Adult Companionship Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in 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.
- (5) Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- (6) Adult Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

- (7) Adult Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage by reason of age 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.
- (8) Adult Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, or which provides the services of massage, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- (9) Adult Motion Picture Theater. A building or portion of a building used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age, or if such material is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.
- (10) Adult Modeling Studio. A modeling studio which restricts minors by reason of age, or 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, or 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.
- (11) Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated, still or motion picture machines, projectors or other image-producing devices (including, but not limited to images from CD-ROM and/or the Internet) are maintained to show images to five or few persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

- (12) Adult Novelty Business. An establishment or business engaged in the sale of novelty items which:
- (a) Restricts minors by reason of their age; or
  - (b) Has as its principal activity the sale of devices and other products which:
    - 1. Stimulate human genitals or devices which are designed to create sexual stimulation or excitement; or,
    - 2. Are otherwise designed to stimulate or arouse sexual excitement in any manner whatsoever, specifically including, but not limited to, items such as inflatable dolls or similar devices; or,
    - 3. Is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- (13) Adult Sauna. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of pleasure, 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.
- (14) Adult Steam Room/Bathhouse Facility. A building or portion of building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- (C) Specified Anatomical Areas. "Specified Anatomical Areas" are defined as follows:
- (1) Female. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female

breast(s) below a point immediately above the top of the areola; and,

(2) Male. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(D) Specified Sexual Activities. "Specified Sexual Activities" are defined as follows:

(1) General Sexually Oriented Acts. Actual or simulated:

(a) Sexual intercourse;

(b) Oral copulation;

(c) Anal intercourse;

(d) Oral-anal copulation;

(e) Bestiality;

(f) Direct physical stimulation of unclothed genitals or the female breast;

(g) Flagellation or torture in the context of a sexual relationship;

(h) The use of excretory functions in the context of a sexual relationship; or,

(i) Any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

(2) Genitalia. Any clear depiction of human genitals in the state of sexual stimulation, arousal or tumescence.

(3) Certain Uses and Activities. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation.

(4) Touching. Fondling or touching of nude human genitals, public region, buttocks, or female breast.

- (5) Nature of Clothing, or Lack Thereof. 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 person.
- (6) Animals. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being.
- (7) Irrigation. Human excretion, urination, menstruation, vaginal irrigation.
- (8) Minor. An individual under eighteen (18) years of age.

### **712.030 Regulation.**

- (A) Location Restrictions. The restrictions set forth below shall apply to the location of Adult Establishments.
  - (1) No Adult Establishment shall be operated or maintained except within the C2 commercial zoning district pursuant to a Conditional Use Permit.
  - (2) No Adult Establishment shall be operated or maintained within 1000 feet of any residential district, public or private school with students under the age of 18, child day care center, or religious place of worship, or within 500 feet of another adult establishment. Distance shall be measured from the closest point of the lot lines of subject uses.
- (B) Sign Requirements. In addition to the requirements of sign regulations of the Development Ordinance (and as subsequently amended), all businesses regulated under this chapter shall comply with the following sign requirements:
  - (1) All signs shall be wall signs.
  - (2) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or in any area where they can be viewed from a public street or sidewalk in front of the building.

- (3) Window areas shall not be covered or made opaque in any way.
- (4) No sign shall be placed in any window.
- (5) A one square foot sign shall be placed on the door of the establishment to state hours of operation and admittance is limited to adults only.
- (6) Sign content shall be limited to text only. Text is limited to the name of the business and its address.
- (7) Where any provisions of this section conflict with Sign Ordinance, the provision that is more stringent shall be applied.

(C) Physical Layout of Business. Any Adult Establishment having available for customers, patrons or members, a booth, room or cubicle for the private viewing of any Specified Anatomical Areas or Specified Sexual Activities must comply with the following requirements:

- (1) Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the Adult Establishment and shall be unobstructed by any door, lock or other control type devices.
- (2) Every booth, room or cubicle shall meet the following construction requirements:
  - (a) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
  - (b) Have at least one side totally open to a public lighted aisle so there is an unobstructed view at all times of anyone occupying the area.
  - (c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured and easily cleanable.

(d) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.

(e) The lighting level of each booth, room or cubicle when not in use shall be a minimum of 10 foot candles at all times, as measured from the floor.

(3) Only one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(D) License Required.

(1) From and after the effective date of this ordinance no Adult Establishment shall be operated or maintained in the City of Shoreview without first obtaining a license to operate issued by the City.

(2) A license may be issued for only one Adult Establishment located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one Adult Establishment shall have a separate license for each such business.

(3) No license or interest in a license may be transferred to any person, partnership, corporation, or other entity.

(4) Only one licensed adult establishment may be operated:

(a) Within a single building; or,

(b) Upon a single tax parcel.

(5) No liquor license shall be issued for an adult establishment.

(E) Application for License.

(1) Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk.

(2) The application for a license shall be upon a form provided by the City.

- (3) An applicant shall furnish the following information:
- (a) Names, addresses and dates of birth of applicant and spouse if any.
  - (b) Written proof that the applicant is at least eighteen years of age.
  - (c) Address of the Adult Establishment to be operated by the applicant.
  - (d) The name of the City, County and State, if any, where the applicant previously operated an Adult Establishment.
  - (e) Whether the applicant has ever been convicted of a felony involving sexual conduct, the use or distribution of controlled substances or the use or distribution of a dangerous weapon. If the answer to the last is yes, state the jurisdiction in which the offense or offenses occurred. The applicant may attach any explanation he or she deems appropriate.
  - (f) If the applicant is a corporation (partnership/LLC/trust or other business entity which is not a natural person), the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.
- (4) Within sixty days of receiving a completed application for a license, the City Clerk shall submit the application to the City Council for approval or denial.
- (5) Failure or refusal of the applicant to give any information relative to the investigation of the application shall constitute grounds for denial of the license.
- (F) Standards for Issuing Licenses.

- (1) To receive a license to operate an Adult Establishment, an applicant must meet the following standards:
  - (a) The applicant must be eighteen years of age or older.
  - (b) The applicant or his or her spouse has not been denied a similar license by any other city, county or state within the preceding twelve months or has not had such a license revoked or suspended within the preceding twelve months.
  - (c) All current real estate taxes have been paid on the licensed premises.
  - (d) The licensed premises meets all the provisions of this Chapter as well as all building and fire codes.
  - (e) The applicant or spouse has not been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by Minnesota laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the applicant.
  - (f) All license and investigation fees required by this Chapter have been paid.
- (2) For the purposes of this section the term "applicant" shall include an individual, all persons having a financial interest in a partnership or joint venture, and, in the case of a corporation (partnership/LLC/trust or other business entity which is not a natural person), all officers, directors and stockholders required to be named in the application.
- (3) All police, fire and building code investigations shall be completed within twenty-one days after the date the completed application is filed with the City Clerk. Upon a showing of good cause and reasonable diligence on the part of an investigator, the City Council may extend the investigation period for a reasonable time. Any investigation not completed within the allotted time period shall be deemed to be waived.

(G) License Fees.

- (1) The annual license fee to operate an Adult Establishment shall be determined by the City Council by resolution.
- (2) In addition to the annual license fee, an investigation fee in an amount determined by the City Council by resolution shall be paid at the time of the initial license application.
- (3) All appropriate fees shall be submitted along with the application for a new or renewal license.
- (4) If an application is denied, the license fee, but not the investigation fee, shall be refunded to the applicant.

(H) Display of License. The license shall be displayed in a conspicuous public place in the Adult Establishment.

(I) Renewal of License.

- (1) Every license issued pursuant to this chapter shall expire at 12:00 midnight on December 31st of each year unless sooner revoked by the City Council, and must be renewed before operation is allowed in the following year.
- (2) Applications for renewal must be submitted with the annual license fee to the City Clerk not later than sixty days before the license expires.
- (3) Renewal of a license may be issued by the City Clerk unless the Clerk finds cause for not renewing the license in which case the Clerk shall submit the renewal application to the City Council prior to the expiration of the license.
- (4) No license for which application for renewal has been timely made shall be deemed to expire until the City Council has rendered its decision not to renew a license. No application for renewal of a license may be denied by the City Council until after the applicant has received ten days' written notice of a public hearing before the Council. The applicant may appear with or without counsel at that public meeting and may present such evidence and witnesses, as he or she deems appropriate.

(J) Revocation of License.

- (1) The City Council shall revoke a license for any of the following reasons:
  - (a) Discovery that false or misleading information or data was given on any initial or renewal application or material facts was omitted from any such application.
  - (b) The operator or an employee of the operator violates any provisions of this chapter or any rule or regulation adopted by the Council pursuant to this Chapter, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee the penalty shall not exceed a suspension of thirty days if the Council finds that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (c) The operator becomes ineligible to obtain a license.
  - (d) Any cost or fee required to be paid by this ordinance is not paid.
  - (e) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the Adult Establishment.
- (2) The Council, before revoking or suspending any license, shall give the operator ten days written notice of the charges against him or her, and an opportunity for a public hearing before the Council at which time the operator may appear with or without counsel and may present such evidence and witnesses as he or she deems appropriate.
- (3) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (4) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued

shall be used as an Adult Establishment for six months from the date of revocation of the license.

(K) Responsibilities of Operator.

- (1) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (2) Any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (3) No employee of an Adult Establishment shall allow any minor to loiter around or to frequent the Adult Establishment or to allow any minor to view Specified Anatomical Areas or Specified Sexual Activity at the Adult Establishment.
- (4) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (5) The operator shall maintain at least ten-foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than 1 foot candle of illumination in said aisles as measured from the floor.
- (6) All business transactions shall occur within the licensed building.

- (7) No employee shall have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by Minnesota laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the employee.
- (8) No minor may be employed by or work at an Adult Establishment.

The operator shall ensure and be responsible for the compliance of the establishment and its patrons with the provisions of this Chapter.

- (L) Exclusions. All public and private schools or churches located within the City of Shoreview are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.
- (M) No Minors. No person under the age of 18 shall be permitted to be present in an Adult Establishment.
- (N) Hours of Operation. The hours of operation for any business licensed under this Chapter shall be between 9:00 AM to midnight.
- (O) Penalties.
- (1) Any individual, partnership or corporation (partnership/LLC/trust or other business entity which is not a natural person) who is found to have violated the provisions of this Chapter shall be guilty of a misdemeanor and shall also be subject to revocation of any license.
  - (2) Each violation of this ordinance shall be considered a separate offense and any violation continuing more than one day shall be considered a separate offense.
- (P) Enforcement. Members of the law enforcement agency providing service to the City, the Fire Marshal, or designee, the Building Official or designee and the Zoning Administrator or designee, shall have authority to enter any Adult Establishment at all reasonable times to inspect the premises

for the purposes of enforcing this Chapter and all other applicable State laws, fire codes and building codes.

Rev. Date  
11/20/06  
Ord. #808

**712.035 Prohibited Uses.** An Adult Use which is also classified as “obscene” by Minn. Stat. Section 617.241, Subd.1A and/or as an “Adult Entertainment Establishment” by Minn. Stat. Section 617.242, Subd. 1 is prohibited in the City of Shoreview.

**712.040 Means of Enforcement.** The City may enforce any provision of this ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction. The ordinance may also be enforced by appropriate criminal prosecution.

**712.050 Separability.** Every section, provision or part of this ordinance is declared separable from every section, provision or part of this ordinance. If any section, provision, or part of this ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this ordinance.

### **713 Filling Stations**

**713.010 Definition.** A gasoline filling station includes any place, building, pump or device maintained or used for the main purpose of selling gasoline or other oils for use in motor vehicles of any kind.

**713.020 License Required.** No person shall operate a gasoline filling station in the City without obtaining a license to do so.

**713.030 Restrictions.** The City Council may impose any conditions or restrictions it considers necessary or advisable in the public interest in the resolution granting a license, including, but not limited to, conditions relating to the hours of operation, the lighting of the station and the installation and maintenance of shrubbery, fencing and grounds around the station. The City Council may also impose any such conditions or restrictions by resolution at any time after the issuance of a license. Failure to comply with such conditions or restrictions shall be a violation of this code.

**713.040 Maintenance and Inspection.** Every gasoline filling station shall be maintained and conducted in compliance with the provisions of this chapter and with the laws of the State of Minnesota. Every gasoline filling station shall be inspected at least once every year by the Fire Chief to see that the premises are maintained in compliance with state law and this code and to see that there is no dangerous accumulation of waste or other combustible material on the premises. The Fire Chief shall report to the City Council any violations or any dangerous conditions or situations which he may discover during such inspections. Premises used as gasoline stations must be kept clean, in good repair and free and clear of any trash, rubbish, or debris.

**713.050 Signs.**

(A) Pump Signs. It shall be unlawful for any person to offer to sell at retail and dispense or to sell at retail and dispense motor fuel into fuel supply tanks of motor vehicles unless there is continuously and publicly posted and displayed on each pump or other dispensing device the minimum octane rating and the retail price per gallon including all Federal and State tax on the motor fuel dispensed therefrom.

- (1) On the computer mechanism of the dispensing device, which shall state the minimum octane rating and the price per gallon including all Federal and State tax and the total price of the quantity delivered, or
  - (2) On a separate sign not less than seven inches in height and eight inches in width and not larger than twelve inches in height and width attached to the dispensing device, which shall state clearly and legibly in figures the minimum octane rating and in figures and fractions of uniform size and prominence the total price per gallon including the per gallon amount of all tax to be collected in connection with the sale.
- (B) Advertising Signs. Any signs or devices stating or relating to the minimum octane rating or to the retail price of motor fuel or designed and calculated to cause the public to believe that they state or relate to the minimum octane rating or the retail price of motor fuel posted or displayed on or about premises where motor fuel is sold at retail or on property adjacent thereto and within view of any public highway, road, or street, shall clearly and legibly state in figures the minimum octane rating and in figures and fractions of uniform size and prominence the total price per gallon, including the per gallon amount of all tax to be collected in connection with the sale. Nothing contained in this section shall be deemed to prohibit any separate signs or decals posted or displayed on or about premises where motor fuel is sold at retail relating to premiums, trading stamps or other promotional devices, or the per gallon amount of tax imposed upon the sale of motor fuel, provided any sign pertaining to price of merchandise other than motor fuel clearly and legibly states in letters of the same size as the figures and fractions stating such price and the name or designation of such merchandise.
- (C) Octane Rating. For the purposes of this section, octane rating shall be determined in the manner described in the American Society for Testing and Materials (ASTM) "Standard Specification for Gasoline," D439-71, or such other manner as prescribed by the Director of Consumer Services by regulations, adopted pursuant to the Administrative Procedures Act.

## **Section 714 Rental Licensing**

**714.010 Purpose and Scope.** It is the purpose of this Chapter to assure that rental housing in the City is decent, safe and sanitary and is operated and maintained in accordance with the City's regulations. The implementation of a rental-licensing program is a mechanism to ensure that rental housing will not become a nuisance to the neighborhood; will not foster blight and deterioration; and/or will not create a disincentive to reinvestment in the community. The operation of rental housing entails certain responsibilities. Owners of rental housing are responsible to take the reasonable necessary steps to ensure that the citizens who occupy rental housing units may pursue the quiet enjoyment of the normal activities of life in the surrounding area that are: safe, secure, and sanitary; free from crimes and criminal activity, noise, nuisances or annoyances; free from unreasonable fears about safety of persons and security of property; and suitable for raising children.

**714.020 Definitions.** For the purpose of this Chapter, the following terms shall be defined as set forth below.

- (A) Agent. A person designated in writing by the Owner as the Owner's representative.
- (B) Certificate of Compliance. A document issued by the City, stating that the dwelling unit has been inspected and is in compliance with applicable property maintenance codes and regulations.
- (C) City Manager. The City Manager or the City Manager's designated agent.
- (D) Dwelling. A building or one or more portions thereof occupied or intended to be occupied for residential purposes; but not including rooms in motels, hotels, nursing homes, boarding houses, tents and recreational vehicles.
- (E) Dwelling Unit. A residential accommodation located within a dwelling that includes permanently installed cooking and sanitation facilities, designed or intended for use as living quarters for a single family.

- (F) Dwelling Unit, General (“GDU”). A dwelling unit located in a building containing dwelling units that may be detached, attached side-by-side, stacked ceiling to floor and/or having a common entrance and do not have common ownership.
- (G) Dwelling Unit, Multi-Family (“MFD”). A community, complex or building containing eleven (11) or more dwelling units that may be attached side-by-side, stacked ceiling to floor and/or have a common entrance and have a common owner.
- (H) Occupant. A person who lives or sleeps in a dwelling unit;
- (I) Owner. A person who is the recorded or unrecorded owner of the dwelling unit.
- (J) Person. An individual, firm, corporation, association, partnership or any other legal entity.
- (K) Rent. To permit occupancy of a dwelling unit by a person other than the legal Owner thereof, pursuant to a written or unwritten agreement, whether or not a fee is required by the agreement.
- (L) Rental Dwelling. A dwelling unit that has been rented, but excluding accessory apartments and boarding rooms where the Owner of the dwelling unit is an occupant.

### **714.030 General Licensing Provisions.**

Rev. Date 2/10/10 Ord. #863
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- (A) License Required. No person shall rent a dwelling unit to another for occupancy unless the City has issued either a GDU or MFD rental license for the dwelling unit. The application for a dwelling unit rental license will be reviewed by the City Manager in accordance with the provisions of this Chapter and other applicable regulations of the municipal code.
- (B) License Application. The Owner of a dwelling unit may submit an application for a GDU or a MFD rental license on forms provided by the City Manager. A person who has been issued a GDU or a MFD rental license shall give notice, in writing, to the City Manager, within five (5) business days of any change in the information contained on the license application.

Rev. Date  
6/17/13  
Ord. #910

- (C) License Fees. Licensing fees shall be prescribed, from time to time, by Council Resolution, and maintained on file in the office of the City Manager. The required fees shall be submitted along with the application for a new or renewal license. Applications for a renewal license submitted after the license term expiration are subject to a penalty fee. Submitted applications for a renewal license that have a delinquent utility account for the dwelling are subject to a penalty fee.

Rev. Date:  
4/18/05  
Ord. #775

- (D) License Terms. All dwelling unit rental licenses shall expire on December 31<sup>st</sup> of each year except as otherwise provided herein or in cases of suspension or revocation.
- (E) Issuance of License. The City shall issue a dwelling unit rental license if the dwelling unit is in compliance with the provisions of this Chapter, and the real estate taxes and municipal utility bills for the dwelling unit have been paid. Real estate taxes will not be considered to be due and payable for the purposes of this Section while a proper and timely appeal of such taxes is pending and is diligently pursued to completion by the licensee.
- (F) Posting of License. MFD rental licenses shall be posted in a conspicuous public corridor or hallway or lobby of the building in which the dwelling unit is located if said area is present. The license shall be framed with a clear covering.
- (G) Renewal of License. A Licensee may continue to rent a dwelling unit after the expiration date of the GDU or MFD rental license provided that the Owner or its Agent has filed with the City Manager, on or before the expiration date, the appropriate renewal license application and license fee.
- (H) Transfer of License.
- (1) GDU Rental License. A GDU rental license shall not be transferable to another person or to another dwelling unit.
  - (2) MFD License. A MFD rental license is transferable for a fee, to any person who has acquired legal ownership of the building in which the dwelling unit is located. The

transfer shall be effective for the unexpired portion of the rental license period, provided that the transfer application is filed with the City Manager prior to the actual change of legal ownership and that the transferee is not disqualified from holding the license due to prior revocation or suspension of a license. Failure to submit the license transfer form and the transfer fee may result in termination of the rental license.

- (l) Resident Agent Required. Owners who do not reside within the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Washington Counties (the “Metro Area”) must appoint an agent who does reside within the Metropolitan area to be responsible for the maintenance of the dwelling unit, receipt of service of notice of violation, receipt of compliance order, institution or remedial action to effect such order, and acceptance of all service of process pursuant to law, the City Manager shall be notified in writing of any change in the identification of the agent within five (5) business days of such change.

**714.040 Conditions of License.** Dwelling unit rental licenses shall be issued subject to the following conditions:

- (A) Conformance to Laws. No dwelling unit rental license shall be issued or renewed unless the rental dwelling and its premises conform to all applicable ordinances of the City, including but not limited to Section 211, Property Maintenance, of the Municipal Code and Section 714.040(E), Conduct on Licensed Premises of this Chapter. The City Manager is authorized to conduct inspections of rental dwelling units to determine the compliance of the applicable provisions of the municipal code including, but not limited to, Chapter 211, Property Maintenance.
- (B) Building Security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.
  - (1) Main Entryways. Main entryways shall be equipped with a security device designed to prevent entry to the building from unauthorized individuals.

(2) Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob or a key and shall have a lock throw of not less than 1-inch. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturers specifications and maintained in good working order. All deadbolt locks required by this section shall be designed and installed in such a manner so as to be operable inside of the dwelling unit, rooming unit or housekeeping unit without the use of a key, tool, combination thereof or any other special knowledge or effort.

(3) Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking devices, without a tool, key or any special knowledge.

(a) Replacement of existing windows shall conform to the egress requirements of the Building Code.

(4) Basement Hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

(C) Inspections. No dwelling unit rental license shall be issued or renewed unless the Owner of the rental unit(s) agrees in the application to permit inspections of said unit. It shall be the responsibility of the operator or agent to inform tenants of the scheduled inspections. The license holder and/or designated resident agent shall be present for scheduled inspections. The City reserves the right to perform or require additional inspections if deemed necessary by the City or at the request of the tenant.

Rev. Date  
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- (1) Initial/Routine Inspections. Upon receipt of a complete application for a dwelling unit rental license, an inspection of the premises shall be conducted thereafter by the City Manager to ensure that the dwelling unit and premises is in substantial compliance with all applicable City regulations.
- a. Prior to conducting an inspection, the City Manager shall mail notification to the Owner or its Agent and provide reasonable notice of the scheduled inspection date.
  - b. Licensed units be inspected by the City Manager in accordance with the following:
    1. General Dwelling Unit: All units every two years.
    2. Multi-Family Dwelling Unit: One-third of all units annually.
- (2) Complaint Activated Inspection. Inspections may be scheduled based on complaints received by the City.
1. Written notification to inspect a property shall be mailed to the owner and/or its agent of the property stating the proposed date and time of the inspection. Such notification shall give a minimum of seven (7) days advance notice and the reason for said inspection. Notification shall be sent to the owner and/or its agent of the property via registered and certified mail.
  2. If the owner and/or agent of the property request a change in proposed date of inspection, request must be made within (72) in advance hours of proposed inspection date.
    - a. It shall be the responsibility of the owner and/or manager to notify the tenants of the property of the scheduled inspection.
    - b. Owner and/or its agent must be on site at the time of inspection for entry and security purposes.

Rev. Date 5/1/06 Ord. #797
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- (D) Access to Premises. Every occupant of a rental dwelling unit shall, upon reasonable notice, give the owner or agent and the City Manager or authorized representative access to any part of the dwelling unit or its associated properties at all reasonable times for the purpose of making inspections, repairs, or alterations as are necessary to effect compliance with the provisions of this code. If any owner, occupant, or other person in charge of the building refuses to permit free access and entry to the structure or premises under his control for inspection pursuant to this Ordinance, whereupon, the City Manager may seek a court order authorizing such inspection.
- (E) Tenant Register. The Owner or its Agent shall keep or cause to be kept, a current register of occupancy for each dwelling unit which shall be made available for viewing or copying by the City Manager as requested. Said register shall provide, at a minimum, the following information:
- (1) Address of dwelling unit;
  - (2) Number of Bedrooms in dwelling unit;
  - (3) Number of adults and children (under 18 years of age) currently occupying the dwelling unit.
- (F) Conduct on License Premises. Tenant leases for all licensed rental housing units shall contain language applicable to occupants of the licensed premises which prohibits the occupants from engaging in disorderly conduct. For purposes of this section, an occupant will be considered disorderly if the occupant violates:
- (1) Section 209.010 relating to noise.
  - (2) Minnesota Statute 152.01 et seq. relating to the possession of controlled substances.
  - (3) Minnesota Statutes 609.72 relating to disorderly conduct.
  - (4) Minnesota Statutes 340A.701, 340A.702 and 340A.703 relating to the sale of intoxicating liquor.

- (5) Minnesota Statutes 609.321, Subdivision 9, relating to prostitution or acts of prostitution.
  - (6) Shoreview Code Section 604 relating to weapons.
  - (7) Minnesota Statutes 609.66 et seq. relating to the unlawful use or possession of firearms.
  - (8) Minnesota Statute 609.2242 relating to assault.
  - (9) Minnesota Statute 260C, et seq. relating to contributing to the need for protection or services or delinquency of a minor.
  - (10) Minnesota Statute 609.75 through 609.76 relating to gambling.
- (G) Fire Safety. The Owner or its Agent is responsible to comply with the provisions of Section 212.030, Uniform Fire Code.
- (H) Crime Free/Drug Free Lease Addendum. All tenant leases signed following the enactment of this section, except for state-licensed residential facilities and subject to all preemptory state and federal laws, shall contain the following Crime Free Housing language or equivalent thereof in said lease or in the form of an addendum:
- (1) Resident, any members of the resident's household or a guest or other person under the resident's control shall not engage in illegal activity, including drug-related illegal activity, on or near the premises. "Drug-related illegal activity" means the illegal manufacture, sale, distribution, purchase, use or possession with the intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802) or possession of drug paraphernalia.
  - (2) Resident, any members of the resident's household or a guest or other person under the resident's control shall not engage in any act intended to facilitate illegal activity, including drug-related illegal activity, on or near the premises.

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- (3) Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate illegal activity, including drug-related illegal activity, regardless of whether the individual engaging in such activity is a member of the household;
- (4) Resident or members of the household shall not engage in the manufacture, sale, or distribution of illegal drugs at any locations, whether on or near the dwelling unit premises or otherwise.
- (5) Resident, any member of the resident's household or guest or other person under the resident's control shall not engage in acts of violence or threats of violence, including but not limited to the unlawful discharge of firearms, prostitution, criminal street gang activity, intimidation, or any other breach of the rental agreement that otherwise jeopardizes the health, safety and welfare of the landlord, his agents or tenants.
- (6) Violation of the above provisions shall be a material violation of the lease and good cause for immediate termination of tenancy.

**714.050 Compliance Order.** If the initial, routine or complaint activated inspection or tenant conduct incidents indicates that the Owner is not in compliance with the Rental Licensing Regulations, the City shall send a compliance order to the Owner.

- (A) Content of Order. The Compliance Order shall:
  - (1) Be in writing.
  - (2) Describe the location and nature of the violations of this code.
  - (3) Establish a reasonable time period for the correction of such violation.
  - (4) Be served upon the Owner or its Agent and/or the occupant, as the case may require. Such notice shall be deemed to be properly served if a copy thereof is:
    - (a) Personally served on Owner or its Agent;

- (b) Sent by registered or certified mail to Owner's or its Agent's last known address, or
  - (c) Upon failure to affect notice through (a) or (b) above, notice may be posted at the main entrance to the dwelling unit.
- (B) Tenant Conduct Violations. If the compliance order specifies tenant conduct violations, the following additional regulations shall apply:
- (1) Upon determination by the City Manager that a dwelling unit on the licensed premises was used in a disorderly manner, as described in Section 714.040(E) of this ordinance, the City Manager shall give written notice via certified mail to the Owner or its Agent of the violation as provided in Section 714.050(A)(4) and direct the owner/licensee to take steps to prevent further violations. This shall include a written report submitted by the licensee outlining the actions taken, and proposed to be taken, by the Owner or its Agent to prevent further disorderly use of the premises. This written report must be submitted to the City Manager within five days of receipt of the notice of disorderly use and must detail all actions taken by the licensee in response to all notices of disorderly use of the premises.
  - (2) An action to deny, revoke, suspend, or not renew a license under this section may be initiated by the City Manager who must give to the Owner or its Agent written notice of a hearing before the City Council to consider such denial, revocation, suspension or non-renewal per Section 714.030(C) of this ordinance.

**714.060** **License Suspension or Revocation**. A dwelling unit rental license is subject to suspension or revocation by the City Council for the reasons specified herein. Prior to suspension or revocation, the Owner or its Agent shall be notified in writing at least five (5) days prior to the City Council's consideration of such action. In the event that a dwelling unit rental license is suspended or revoked by the City Council, it shall be unlawful for the Owner or its Agent to thereafter permit any new occupancies for vacant, or thereafter vacated dwelling units, until the dwelling unit rental license has

been reinstated. Upon decision to suspend, revoke, deny or not renew a license, no new application for the same facility will be accepted for a period specified in the Council's written decision, not exceeding one-year. Issuance of a new dwelling unit rental license after suspension or revocation shall be made in the manner provided for obtaining an initial license, except that the license fee shall be equal to one hundred fifty (150) percent of the original license fee. A dwelling unit rental license may be suspended or revoked for any of the following reasons:

- (A) Failure of Owner or its Agent to operate or maintain the dwelling unit in compliance with the provisions of the City's regulations, including the failure to correct deficiencies noted in a compliance order, within the time specified in the notice.
- (B) The license was procured by misrepresentation of material facts, by fraud, by deceit or by bad faith.
- (C) The Owner or its Agent made oral or written misrepresentations of material facts in or accompanying the application.
- (D) Failure to pay any license, penalty, reinspection or reinstatement fee required by City Council Resolution.
- (E) The Owner or its Agent has failed to comply with any condition set forth in any other permits granted by the City.
- (F) The activities of the Owner or its Agent create or have created a serious danger to the public health, safety or welfare.
- (G) The Owner or its Agent manage and operate the unit in a manner that permits conditions that injure, annoy, or endanger the safety, health, morals, comfort and repose of any member of the public.
- (H) A determination that the licensed premises have been used in a disorderly manner as described in Subdivision 714.040(E) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly conduct, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this subdivision.

- (l) Failure of the Owner or its Agent to allow access and entry to the structure or premises under his control for inspection pursuant to this Ordinance.

**714.070 Conduct Pending Eviction.** No adverse license action shall be imposed where the instance or disorderly use of a licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the Owner or its Agent to a tenant to vacate the premises, where the disorderly use was related to conduct by the tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the Owner or its Agent. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time it appears that the Owner or its Agent has taken appropriate measures which will prevent further instances of disorderly use.

**714.080 Reinspection Fee.** There is no fee for an initial inspection to determine the existence of a housing maintenance code violation, nor any fee for the first reinspection to determine compliance with an order to correct a code violation. A fee shall be charged for all subsequent reinspections when the violation is not corrected by the time specified in the written notice. The fee shall be established by resolution from time to time of the City Council.

**714.090 Posted to Prevent Occupancy.** Whenever any dwelling or dwelling unit has not obtained the required license, or has been denied a license or has had its dwelling unit rental license suspended or revoked or is deemed unfit for human habitation, it shall be posted with a placard by the City Manager to prevent further occupancy.

**714.100 Failure to Obtain License.** If it is determined that a rental dwelling unit is being operated without a valid license, the City reserves the right to conduct an immediate inspection with proper notice in accordance with 714.040(B) of this Section. It shall be unlawful for an owner, designated agent or operator, after notice, to continue operation of a rental dwelling unit without submitting an application for a license under this Chapter, along with the necessary license fee. Once an application has been made, it shall be unlawful for the owner, or his /her duly authorized agent, to

permit any new occupancies of vacant, or thereafter vacated rental units until such time as the license is issued.

**714.110 Liability.** Neither the City nor its employees or agents shall be deemed liable for damages to a third person or property by reason of this Chapter.

## 715 Pawnbrokers

**715.010 Purpose and Scope.** For the purpose of promoting the public health, safety, morals and welfare, the Shoreview City Council has adopted regulations relating to pawn transactions.

- (A) The Shoreview City Council finds that pawnbroker's services can provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly. Therefore, consumer protection regulations are warranted for pawn transactions.
- (B) The purpose of this chapter is to prevent pawn transactions from being used to facilitate the commission of crimes; to assure that pawnbrokers comply with basic consumer protection standards; and to help the City's law enforcement agency better regulate pawn transactions, decrease and stabilize costs associated with the regulation of the pawn transactions, and increase the identification of criminal activities associated with pawn transactions by timely collection and sharing of pawn transaction information. This chapter also implements and establishes the required use of the Automated Pawn System (APS).

**715.020 Definitions.** For purposes of this chapter, the terms defined in this section shall have the meanings ascribed to them.

- (A) Interchange File Specification Format. The most current version of the City of Minneapolis Automated Pawn System interchange file specification format.
- (B) Pawnbroker. Except as hereinafter provided, the term "Pawnbroker" means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. The following are exempt from the definition of "Pawnbroker": any bank regulated by the State of Minnesota, the comptroller of currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System, or any other federal or state authority and their affiliates; any bank

or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations; any state or federally chartered credit unions; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the Department of Commerce.

- (C) Pawnshop. "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.
- (D) Pawn Transaction. "Pawn Transaction" means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.
- (E) Person. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.
- (F) Pledged Goods. "Pledged Goods" mean tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

**715.030 License Required.** No person may conduct, operate or engage in pawn transactions without first obtaining a license. A separate license is required for each pawnshop.

**715.035 Completed Application.** A completed application for a pawnbroker license shall include the following:

- (A) Application Form. The applicant shall complete an application form as provided by the City Manager. If applicant is a natural person, the application form must be signed and sworn to by the person; if applicant is a corporation, the application must be signed and sworn into by an agent of the corporation authorized to sign; and, if the applicant is a partnership, the application must signed by a partner.

- (B) License Fee. A license fee, as approved by the Shoreview City Council Resolution, shall be submitted with the application and is non-refundable.
- (C) Investigation Fee. An investigation fee, as approved by the Shoreview City Council Resolution, shall be submitted with the application and is non-refundable.
- (D) Bond. A bond with corporate surety, cash, or a United States government bond in the amount of \$10,000.00 shall be submitted with the application. The bond must be conditioned on the licensee obeying the laws and ordinances governing the licensed business and paying all fees, taxes, penalties and other charges associated with the business. The bond must provide that it is forfeited to the City upon a violation of law or ordinance.

**715.040 Investigation**. Prior to submittal of the initial or the renewal pawnbroker license application to the Shoreview City Council for review, the City's law enforcement agency shall conduct a preliminary background and financial investigation of the applicant. Any person having a beneficial interest in the pawnbroker license must be investigated. The City's law enforcement agency must verify the facts stated in the application and must report all convictions of state, federal or municipal regulations involving the applicant, interested persons or the licensed premises, while under the applicant's proprietorship.

**715.041 New Manager**. When a licensee places a manager in charge of a business, or if the named manager in charge of a licensed business changes, the licensee must complete and submit the appropriate application on forms as provided by the City Manager within fourteen (14) days. The application must include all appropriate information as required.

**715.045 Persons Ineligible for License**. A pawnbroker license will not be issued to:

- (A) A person not a citizen of the United States or a resident alien;
- (B) A person under 18 years of age;

- (C) A person who, within five years of the license application date, has been convicted of receiving stolen property, sale of stolen property or a controlled substance, burglary, robbery, damage or trespass to property, felony theft, larceny, fraud, or any law or ordinance regulating the business of pawnbroker.
- (D) A person who, within five years of the license application date, had a pawnbroker license revoked; or
- (E) A person whom, the City Council determines is not of good moral character and repute.

**715.050 Places Ineligible for License.** A pawnbroker license will not be issued or renewed for a pawnshop:

- (A) If taxes, assessments or other financial claims of the City of Shoreview, or the County of Ramsey or the State of Minnesota on the pawnshop or on the property on which the pawnshop is located are delinquent and unpaid;
- (B) If applicant's present license was issued conditioned upon the applicant making specified improvements to the pawnshop or the property of the licensed premises which improvements have not been completed; or
- (C) If the pawnshop is located within 1000 feet of any residential district, public or private school with students under the age of 18, child day care center or religious place of worship; or is within 500 feet of another pawn shop. Distances shall be measured from the closest point of the lot lines of the subject uses.

**715.055 License Restrictions.** The pawnshop shall comply with the following regulations:

- (A) The pawnshop shall be closed between the hours of 10:00 p.m. and 6:00 a.m.
- (B) The pawnshop shall comply with all applicable zoning, fire, health and building codes.

- (C) No pawnshop shall be operated or maintained except within the C2, General Commercial, Zoning District pursuant to a conditional use permit.
- (D) A license issued authorizes the licensee to conduct pawn transactions only at the location designated in the license.
- (E) No off-site storage of pledged items is permitted.
- (F) Pawnbrokers shall pay billable transaction fees.

**715.060 City Council Review.** Within sixty (60) days of receipt of a completed application for a pawnbroker license and the investigation report from the City's law enforcement agency, the City Clerk shall submit the application to the City Council for review at a public hearing. City Council may extend the review period if additional information is required. At the conclusion of the hearing, the City Council must approve the application and issue the license; deny the application; or approve the application and issue the license subject to conditions.

**715.065 Expiration of License.** All licenses issued under this chapter shall expire as of midnight on December 31<sup>st</sup> of the year issued.

**715.070 License Renewal.** An application for renewal of an existing license shall be made to the City Clerk at least 30, but no more than 60, days prior to the expiration date of the license. Applications for renewal shall be submitted to the City Council in the same manner as for a new license.

**715.080 Restrictions on License Transfer.** A pawnbroker's license shall be issued to the applicant only and is not transferable to another person or place.

**715.090 Records.** A pawnbroker, at the time of receipt of an item, must immediately record in English, in ink or other indelible medium a pawn ticket in a book or other hard copy, the following information:

- (A) A completely accurate description of the item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;

- (B) A color photograph or color video recording of:
  - i. Each customer involved in a billable transaction.
  - ii. Each item pawned or sold that does not have a unique serial or identification number permanently affixed or engraved.
  - iii. Individuals and items photographed or video taped must be accurately depicted and be available in digital format.
- (C) the purchase price;
- (D) date, time and place of receipt;
- (E) name, address, residence telephone number, and date of birth of the person from whom the item was received;
- (F) a description of the person from whom the item was received including approximate height, sex and race;
- (G) the identification number from any of the forms of identification of the seller:
  - i. valid picture driver's license; or
  - ii. a state issued photo identification card.
- (H) the books as well as the goods received must be open for inspection by the appropriate law enforcement agency during normal business hours. Records required by this subsection must be stored and maintained by the licensee for a period of at least three years.
- (I) the maturity date of the pawn transaction and the amount due, and the monthly and annual interest rates including all pawn fees and charges.

**715.100 Records Retention.**

- (A) The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.
- (B) The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a

complete and accurate record of pawn transactions. The pawnbroker shall provide the records in a computerized format that complies with the interchange file specification format.

**715.110 Daily Reports.** For the following items, regardless of resale price, pawnbroker must provide records in a format approved by the appropriate law enforcement agency, and send daily electronically to the appropriate law enforcement agency, a legible description, including photographs or video tape of the goods received during the preceding day, together with the time received and a description of the person from whom the goods were received:

- (A) items with a serial number identification, or "operation identification" symbol;
- (B) cameras;
- (C) electronic audio or video equipment;
- (D) precious jewelry or gems, and precious metals;
- (E) artist-signed or artist-attributed works of art;
- (F) items not included in the above, except furniture and kitchen or laundry appliances.

**715.120 Stolen Goods.** A licensed pawnbroker must report immediately to the City's law enforcement agency any article pledged or received, or sought to be pledged or received, if the licensee has reason to believe that the article was stolen or lost.

**715.130 Holding.** An item received by a pawnbroker, for which a report to the City's law enforcement agency is required, may not be sold or otherwise transferred for a period of sixty (60) days after the date of such report to the City's law enforcement agency. Pawned goods will be subject to a sixty (60) day redemption period provided that a person may redeem an item pawned seventy-two (72) hours after the item was received on deposit, excluding Sundays and legal holidays.

**715.140 Redemption Period.** A person who pledges an item shall have at least sixty (60) days to redeem the item before it may be sold.

**715.150 Receipt.** A pawnbroker must provide a receipt to the seller or consignor of any items which includes:

(A) the address and phone number of the business;

(B) the date;

(C) a description of the item purchased; and

(D) the purchaser's signature.

**715.160 Billable Transaction Fee.** The billable transaction fee shall be established by City Council Resolution. The billable transaction fee shall reflect the City's cost of processing transactions and other related regulatory expenses through the Automated Pawn System.

**715.170 Law Enforcement Agency.** If the City's law enforcement agency notifies a pawnbroker not to sell an item, the item may not be sold or removed from the pawnshop until authorized to be released by the City's law enforcement agency.

**715.180 Weapons.** A licensed pawnbroker may not receive as a pledge any legal or weapons or firearms.

**715.190 Inspections.** The City's law enforcement agency or any properly designated employee of the City, County or the State of Minnesota may enter, inspect and search the pawnshop during business hours, without a warrant.

**715.200 County License.** Pawnbrokers dealing in precious metals and gems must be licensed by Ramsey County.

**715.210 Prohibited Acts.**

(A) A minor may not sell or consign, or attempt to sell or consign, goods with a pawnbroker. A pawnbroker may not receive pledged goods from a minor.

(B) A pawnbroker may not receive any goods from a person of unsound mind or from an intoxicated person.

- (C) A pawnbroker may not receive pledged goods unless the seller presents identification in the form of a driver's license or other pictured identification.
- (D) A pawnbroker may not receive pledged goods that possess an inaccurate, altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
- (E) A pawnbroker shall not lend money on a pledge at a rate of interest above that allowed by law.
- (F) A pawnbroker shall not knowingly possess stolen goods.
- (G) A pawnbroker shall not engage in any transaction involving a motor vehicle as defined in Minnesota Statutes, Section 168.011.
- (H) No person shall pledge property not their own; nor shall any person pledge the property of another, whether with permission or without; nor shall any person pledge any property in which another has a security interest.
- (I) No gambling shall be permitted on the licensed premises.

**715.220 License Denial, Suspension, or Revocation.** A pawnbroker's license may be denied, suspended, or revoked by the City Council after a public hearing where the licensee is granted the opportunity to be heard, for one or more of the following reasons:

- (A) the operation of a pawnshop is in conflict with any provision of the City Code;
- (B) the operation of the pawnshop is in conflict with any health, building, building maintenance, zoning, or any other provision of this Chapter or other applicable law;
- (C) the licensee has failed to comply any of the provisions of this Chapter or any statute, rule or ordinance pertaining to pawn transactions;
- (D) the licensee has committed fraud, misrepresentation or bribery in securing the pawnbroker's license;

(E) the licensee has committed fraud, misrepresentation or made false statements in the course of a pawn transaction; and

(F) the licensee has been convicted of a violation of any state or federal law relating to theft, damage, or trespass to property, or the sale of a controlled substance or stolen goods.

**715.225 Notice to Law Enforcement Agency.** The City shall notify its law enforcement agency when a license application has been denied; or when a license has expired or been surrendered, suspended, or revoked.

**715.230 Penalties.** Violation of the provisions of this Chapter is a misdemeanor.

**715.240 Adoption of Pawnbroker Regulation Act.** The provisions of the Pawnbroker Regulation Act, codified as Minn. Stat. §325J are hereby adopted and incorporated herein and made a part of this Chapter as completely as if set out in full. Where there is a conflict between the provisions of this Chapter and the provisions of Minnesota Statutes 325J, the more restrictive provisions shall control.