

CHAPTER XI

BUSINESS AND TRADE REGULATIONS

SECTION 1100 – PEDDLERS, SOLICITORS, TRANSIENT AND MOBILE MERCHANTS

1100.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. "Peddler" means a person, who goes from house to house, place to place or street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers; the term does not include vendors of milk, bakery products, groceries or ice who distribute their products to regular customers on established routes.

Subd. 3. "Solicitor" means a person, who goes from house to house, place to place, or street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not advance payments on such orders are collected. The term includes any person who, for that person, or for another, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery.

Subd. 4. "Transient and Mobile Merchant" means a person, whether as owner, agent, consignee, or employee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops, or any street, vacant lot, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise; the term does not include a person who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only.

Subd. 5. "Mobile Merchant" shall meet the terms of subd. 4 except that business is conducted from vehicle, truck or similar and does not involve door-to-door sales. (Added, Ord. No. 77, Third Series)

1100.03. License required. It is unlawful to engage in the business of peddler, solicitor or transient merchant in the city without first obtaining a license therefor as provided by this section.

1100.05. Exemptions. This section does not include sales of personal property at wholesale to dealers in such articles, the sale of papers, to the acts of merchants or their employees in delivering goods in the regular course of business, or to the sale of the products of the farm or garden occupied or cultivated by a farmer. This section does not prohibit a sale required by statute or by order of any court, or prevent the conduct of a bona fide auction sale pursuant to law.

1100.07. Application. Applications for a license under this section must be filed with the city administrator on a sworn application in writing on a form to be furnished by the city administrator. The application must contain the following information:

- a) name and current state issued driver's license or identification card of applicant;
- b) complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- c) a brief description of the nature of the business and the goods to be sold;
- d) the name and address of the employer, principal or supplier of the applicant, together with credentials therefrom establishing the exact relationship;
- e) the length of time for which the right to do business is desired;
- f) the source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, the location of such goods or products at the time of the application, and the proposed method of delivery;
- g) a statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor; and
- h) the names of other municipalities, not to exceed three, where applicant carried on similar business immediately preceding date of application and the addresses from which such business was conducted in those municipalities. (Amended, Ord. No. 77, Third Series)

1100.09. Bond required. The applicant for a transient merchant license who is not required to obtain a license under the provisions of Minnesota Statutes, chapter 329, must provide a bond to the city in the amount of \$1,000 conditioned that applicant will in all things conform to the laws relating to transient merchants and on full compliance with all material oral or written statements and representations made by seller, applicant's agents, representatives, or auctioneers with reference to merchandise sold or offered for sale and on faithful performance under all warranties made with reference thereto. The form of bond must be approved by the city attorney.

1100.11. License fee. At the time of filing the application, the license fees must be paid to the city administrator.

1100.13. Religious and charitable organizations; exemption. An organization, society, association or corporation desiring to solicit or to have solicited in its name, money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations upon the streets, in office or business buildings, by house-to-house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose is exempt from the provisions of subsection 1100.07 provided there is filed a sworn application in writing on a form to be furnished by the city administrator which contains the following information:

- a) organization's name and specific cause for which exemption is sought;
- b) names and addresses of the officers and directors of the organization;
- c) period during which solicitation is to be carried on; and
- d) whether or not any commission, fee, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the administrator will issue a license without fee to the organization, association or corporation. The organization, association or corporation must furnish all of its members, agents or representatives conducting solicitation credentials in writing stating the name of the organization, name of agent and purpose of solicitation.

1100.15. Investigation and issuance. The application must be referred to the city law enforcement agency who must immediately institute an investigation of the applicant's business and moral character and promptly return the application to the administrator with a recommendation. The application will then be presented to the city council.

1100.17. The license. The license must contain the signature of the issuing officer and show the name, address and photograph of the licensee, the kinds of goods to be sold thereunder, the date of issuance and the length of time, not to exceed one year from the date of issuance that the license will be in effect, as well as the permit number, license plate number, and other identifying description of any vehicle used in such licensed business. Licenses are non-transferable. The administrator must keep a permanent record of all licenses issued.

1100.19. Loud noises and speaking devices. A person licensed under this section may not shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

1100.21. Use of streets. A person licensed under this section does not have an exclusive right to any location in the public streets, nor is permitted a stationary location thereon. A person licensed under this section may not operate in a congested area where such operation might impede or inconvenience the public use of streets.

1100.23. Private property. Issuance of a license under this section does not permit the license holder to conduct the licensed activity on private property without the permission of the owner or the owner's authorized agent.

1100.25. Records. The city law enforcement agency must report to the city administrator all convictions for violation of this section. The city administrator must maintain a record for each license issued and record the reports of violation therein.

1100.27. Fees. The fees for licenses issued pursuant to this section are set by appendix I.

1100.29. Residence prohibition. It is unlawful for a solicitor or peddler to enter or attempt to gain entrance to a residential premise that displays a sign at least 3-3/4 inch in length and width containing the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point.

SECTION 1105 - TOBACCO

1105.01. License required. It is unlawful to directly or indirectly or by means of any device keep for retail sale, sell at retail, or otherwise dispose of tobacco at any place in the city without a license.

1105.03. Definition. As used in this section, the term "tobacco" means and includes tobacco in any form, including, but not limited to cigarettes, 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, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, including bagged, canned or packaged product, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

1105.05. Application. Subdivision 1. Contents. Application for a license required by the provisions of this section must be made to the city administrator on a form supplied by the city. Such application must state:

- a) the full name and address of the applicant;
- b) the location of the building and the part intended to be used by the applicant under such license;
- c) the kind of business conducted at such location; and

- d) such other information as will be required by the application form.

Subd. 2. City council review. Upon the filing of an application with the administrator, it will be presented to the city council for its consideration. If granted by the council, a license will be issued by the administrator upon payment of the required fee.

1105.07. License fee; term; transfer. The fee for every license required by the provisions of this section will be set by resolution of the city council. The license is effective from January 1 to December 31st of each year. Payment of the license fee is due on or before the close of business on January 1st of each year. Licenses issued under the provisions of this section will not be transferable from one person to another.

1105.09. Display of license. Every license issued under the provisions of this section will be kept conspicuously posted about the place for which the license is issued and will be exhibited to any authorized person upon request.

1105.11. Restrictions. Subdivision 1. General restrictions. No license will be issued under this section except to a person of good moral character. No license will be issued to an applicant for the sale of tobacco at any place other than applicant's established place of business. A separate license will be issued for the sale of tobacco at each fixed place of business, and no license may be issued for a movable place of business. No person may sell or give away tobacco to any person below the age of 18 years. No person shall keep for sale, sell, or dispose of any tobacco containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine and other substances found naturally in tobacco or lawfully added as part of the manufacturing process.

Subd. 2. Possession by minors. No person under the age of 18 years may purchase, possess, or consume tobacco.

1105.13. Penalties. Subdivision 1. Licensees. If a person licensed under this section or an employee of a person licensed under this section violates any provision of this section, the licensee will be charged an administrative penalty of \$75.00. If a person licensed under this section or an employee of a person licensed under this section violates any provision of this section twice at the same location within 24 months of the initial violation, the licensee will be charged an administrative penalty of \$200.00. If a person licensed under this section or an employee of a person licensed under this section violates any provision of this section three times at the same location within 24 months of the initial violation, the licensee will be charged an administrative penalty of \$250.00, and the licensee's license will be suspended for seven days. No penalty under this section 1105.13, subdivision 1 will take effect until the licensee has received notice, served personally or by mail, of the alleged violation, and has had an opportunity for a hearing before the city council. A decision by the city council that a violation of this section has occurred will be in writing. Judicial appeal may be as provided for by state law.

Subd. 2. Individuals. Any person who sells tobacco to a person under the age of 18 years will be charged an administrative penalty of \$50.00. This penalty may be in addition to the penalty charged under section 1105.13, subdivision 1. No penalty under this section 1105.13, subdivision 2 will take effect until the person against whom the penalty will be charged has received notice, served personally or by mail, of the alleged violation, and has had an opportunity for a hearing before the city council. A decision by the city council that a violation of this section has occurred will be in writing. Judicial appeal may be as provided for by state law.

Subd. 3. Defenses. It will be an affirmative defense to a charge of selling tobacco to a person under the age of 18 years in violation of this section that the licensee or individual making the sale relied in good faith upon proof of age as described in Minnesota Statutes, section 340A.503, subdivision 6.

Subd. 4. Minors. Any person under the age of 18 years who purchases, possesses, or consumes tobacco will be [new language to be inserted after public hearing].

Subd. 5. Revocation. In addition to any other penalty imposed under this section, any license issued under this section may be revoked by the city council for a violation of any provision of this section if the licensee has been given a reasonable notice and an opportunity to be heard.

SECTION 1110 – SHOWS

1110.01. Rules. Subdivision 1. License required. It is unlawful to present a public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license from the city.

Subd. 2. Exceptions. A license is not required for:

- a) performances presented in the local schools and colleges, under the sponsorship of such schools and colleges, and primarily for the students thereof only;
- b) performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only;
- c) A performance or event in, or sponsored by, bona fide local church and incorporated non-profit organizations.

SECTION 1115 – GARBAGE AND REFUSE COLLECTORS

(Amended, Ord. No. 25, Third Series)

1115.01. Definitions. The following terms, as used in this section, have the meanings given them:

- a) “Garbage” means all putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes, as well as mixed municipal solid waste as defined by Minnesota Statutes, section 115A.03, subdivision 21. (Amended, Ord. No. 25, Third Series)
- b) “Other refuse” means ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrescible wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

1115.03. General rule. Subdivision 1. License required; required collection. It is unlawful to haul garbage or other refuse for hire without a license from the city, or to haul garbage or other refuse from one’s own residence or business property other than as herein provided. No person or business shall permit refuse to be picked up from such person’s or business’s premises by an unlicensed collector. Except as provided herein, every residential household and business within the city must have garbage or other refuse collection service. (Amended, Ord. No. 25, Third Series)

Subd. 2. Exception. Nothing in this subsection prevents persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed: (i) garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top, (ii) other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo, and (iii) garbage and other refuse is dumped or unloaded only at the designated sanitary landfill.

1115.05. Licensee requirements. Subdivision 1. Collector licenses will be granted only upon the condition that the licensee have water-tight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or unloaded only at the designated sanitary landfill. (Amended, Ord. No. 25, Third Series)

Subd. 2. Before a collector’s license will be issued, the applicant must file with the city administrator evidence that applicant has provided public liability insurance on all vehicles used by the applicant in the licensed business. The minimum limits of coverage of such insurance shall be:

- a) Each person injured, at least \$1,000,000.00;
- b) Each accident, at least \$1,000,000.00;
- c) Property damage, at least \$300,000.00;
- d) Workers’ compensation with statutory limits on all employees.

Any insurance policy required under this section shall remain in full force and effect at all times that the collector is licensed by the city. All policies shall contain a provision requiring the city to be notified at least 30 days prior to the expiration or cancellation of any insurance policy. Failure to carry the required insurance shall be grounds for termination of the collector license. (Amended, Ord. No. 25, Third Series)

Subd. 3. The council, in the interest of maintaining healthful and sanitary conditions in the city, may specify and assign certain areas to all licensees, and to limit the number of licenses issued. The term of a collector license shall be up to five years from the date of issuance, unless terminated earlier. (Amended, Ord. 25, Third Series)

Subd. 4. The applicant must file with the city administrator a schedule of proposed rates to be charged during the licensed period for which the application is made. The rates must be approved by the council before granting a license. The city shall approve annually the rates for refuse collection proposed by the collector. A licensee may petition the council for review of such rates during the licensed period, and the council may likewise consider such petition and make new rates effective at any time. Any requested increase in rates shall be submitted to the council in writing, at least 90 days prior to the proposed implementation date for any rate increase. A request for rate increase by the collector shall include all information necessary to support the proposed adjustment, as well as any other information requested by the city including comparative rates in surrounding communities. Prior to voting on any proposed rate increase, the city council may hold a public hearing, preceded by 10 days' published notice. A licensee may not charge rates in excess of the rates approved by the council. The pricing system to be used by a licensed collector shall be based upon the volume of the garbage or other refuse collected. (Amended, Ord. No. 25, Third Series)

1115.07. License fee. The annual fee for a collector license shall be set by council resolution and shall not be prorated. Subsequent annual payments of the license fee shall be paid by the first working day of each year. Failure to pay the license fee shall be grounds for termination of the license. In determining the amount of the license fee, the council shall include all costs incurred by the city to administer the license and to enforce city code provisions relating to refuse collection. (Added, Ord. No. 25, Third Series)

1115.09. Customer complaints. The licensee shall meet with city staff at least quarterly to address any customer complaints regarding the licensee's performance of refuse collection, hauling or disposing. (Added, Ord. No. 25, Third Series)

1115.11. Assignability of license. A collector license issued by the city may not be assigned or transferred in whole or in part by the licensee unless the city council gives its approval prior to any proposed assignment or transfer. Any attempt to assign or transfer the license in whole or in part without prior approval of the council shall be grounds for termination of the license. (Added, Ord. No. 25, Third Series)

1115.13. Revocation. A collector license may be terminated by the city upon occurrence of any of the following:

- a) The licensee fails to comply with the provisions of this section, or is in violation of city or county ordinances, state or federal laws or regulations;
- b) The city determines that the licensee's performance of refuse collection, hauling or disposal is unsatisfactory;
- c) Any proposed increase in rates for collection is determined unsatisfactory by the city. (Added, Ord. No. 25, Third Series)

SECTION 1120 – JUNK DEALERS

1120.01. Junk dealers. Subdivision 1. Definition. The term “junk” as used in this section means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags and wood.

Subd. 2. License required. It is unlawful to deal in junk without having a license therefor from the city.

Subd. 3. Restriction. A license will not be granted to a person for operation upon premises contrary to any zoning provision of the city code, or other law.

Subd. 4. Rate schedule. The applicant must file with the city administrator a schedule of proposed rates to be charged during the licensed period for which the application is made. The rates must be approved by the council before granting a license. A licensee may petition the council for review of such rates during the licensed period, and the council may likewise consider such petition and make new rates effective at any time. A licensee may not charge rates in excess of the rates approved by the council.

SECTION 1125 – PUBLIC DANCES
(Added, Ord. 10, Third Series)

1125.01. Definition. The term “public dance” shall be taken to apply to any place in which dancing may be or is carried on, other than a private residence; and the term “public dance” shall be taken to apply to every dance held in a public dancing place, whether an admission fee is charged or not.

1125.03. License required. No person shall conduct a public dance in the city unless a license shall have been procured therefor from the city administrator.

1125.05. Fee. The license fee shall be established by city council resolution.

1125.07. Application. Any person or persons desiring a permit to hold or conduct a public dance in the city shall make application therefor on blanks furnished by the city administrator. The applications shall set forth the name and address of the person, persons, committee, or organization that is to conduct the dance; time and place where such dance is to be held; and the area of the dance floor. The application shall also show affirmatively that all the applicants are of good moral character and reputation in the communities in which they live, and that none of the applicants has been convicted of a felony, gross misdemeanor, or of violating any ordinance or law regulating dances any place in the United States. The city administrator shall issue the license if in the city administrator’s opinion the public health or safety will not suffer therefrom. In case the license be issued, the same shall be posted in a public place in the dance hall described therein during the time the dance is being given, and the persons named in the license shall be responsible under the law for the manner in which such dance is to be held and conducted.

1125.09. Security protection required. It shall be a condition of any permit issued under this section that the applicant shall provide at the applicant’s own expense security of the immediate and surrounding area of the building or area in or upon which said dance is held by qualified personnel approved by the city council. The failure to provide such security shall constitute grounds for the immediate revocation of the license. (Amended, Ord. No. 25, Third Series)

SECTION 1130 - ADULT ESTABLISHMENTS

(Added, Ord. No. 11, Third Series)

1130.01. Findings and purpose: Studies conducted by the Minnesota Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. Based on these studies and findings, the city council concludes:

Subd. 1. Adult establishments have adverse secondary impacts of the types set forth above.

Subd. 2. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by geographic, licensing, and health requirements.

Subd. 3. It is not the intent of the city council to prohibit adult establishments from having a reasonable opportunity to locate in the city.

Subd. 4. Minnesota Statutes, section 462.357 and section 412.221 allow the city to adopt regulations to promote the public health, safety and general welfare.

Subd. 5. The public health, safety and general welfare will be promoted by the city adopting regulations governing adult establishments.

1130.03. Definitions: For purposes of this article, the following terms have the meanings given them:

Subd. 1. "Adult establishment" means:

- a) 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, except any business licensed under chapter XII of this code;
- b) any business that devotes 25 percent 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 or derives 25 percent or more of its revenues from items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, discussing, or relating to specified sexual activities or specified anatomical areas; or

- c) any business that engages in any adult use as defined in subdivision 2 of this subsection.

Subd. 2. An "adult use" is any of the following activities or businesses:

- a) "Adult body painting studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
- b) "Adult bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if: (1) the business 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 (2) 25 percent or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or 25 percent or more of the revenue of the business is derived from items, merchandise, 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.
- c) "Adult cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of specified sexual activities or specified anatomical areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
- d) "Adult companionship establishment" means a business or establishment that excludes minors by reason of age, and that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- e) "Adult conversation/rap parlor" means a business or establishment that excludes minors by reason of age, and that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- f) "Adult health/sport club" means a health/sport club that excludes minors by reason of age, and that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

- g) "Adult hotel or motel" means a hotel or motel that excludes minors by reason of age, and that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
- h) "Adult massage parlor/health club" means a massage parlor or health club that excludes minors by reason of age, and that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- i) "Adult mini-motion picture theater" means a business or establishment with a capacity of less than 50 persons that presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- j) "Adult modeling studio" means a business or establishment that provides figure models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
- k) "Adult motion picture arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- l) "Adult motion picture theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice excludes minors by reason of age or that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.
- m) "Adult novelty business" means an establishment or business that devotes 25 percent 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, or derives 25 percent or more of its revenues from, items, merchandise, or devices that either simulate specified sexual activities or specified anatomical areas or are designed for sexual stimulation.

- n) "Adult sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- o) "Adult steam room/bathhouse facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Subd. 3. "Nude or specified anatomical areas" means:

- a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
- b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Subd. 4. "Specified sexual activities" means:

- a) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zooerastia;
- b) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- d) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- e) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

- f) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- g) Human excretion, urination, menstruation, or vaginal or anal irrigation.

1130.05. Location. An adult establishment may only be located within an adult establishment overlay district created by the city's zoning ordinance.

1130.07. Hours of operation. An adult establishment may not be open to the public between the hours of 5:00 p.m. and 1:00 a.m.

1130.09. Additional conditions for adult cabarets. The following additional conditions apply to adult cabarets:

Subd. 1. An owner, operator, or manager of an adult cabaret may not allow any dancer or other live entertainer to display specified anatomical areas or to display or perform specified sexual activities on the premises of the adult cabaret;

Subd. 2. A dancer, live entertainer, performer, patron, or any other person may not display specified anatomical areas in an adult cabaret;

Subd. 3. The owner, operator, or manager of an adult cabaret must provide the following information to the city concerning any person who dances or performs live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth, and any aliases;

Subd. 4. A dancer, live entertainer, or performer may not be under 18 years old;

Subd. 5. Dancing or live entertainment must occur on a platform intended for that purpose and that is raised at least two feet from the level of the floor;

Subd. 6. A dancer or performer may not perform a dance or live entertainment closer than ten feet from any patron;

Subd. 7. A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;

Subd. 8. A patron may not pay or give any gratuity to any dancer or performer; and

Subd. 9. A dancer or performer may not solicit or accept any pay or gratuity from any patron.

1130.11. License required. Subdivision 1. A person may not own or operate an adult establishment without having first secured a license as provided for in this section. Notwithstanding any other provision of this code to the contrary, the procedures set forth in this section establish the exclusive method for obtaining an adult establishment license.

Subd. 2. The application for an adult establishment license must be submitted on a form provided by the city and must include:

- a) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation;
- b) The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's;
- c) The address and legal description of the premises where the adult establishment is to be located;
- d) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or adult business by the applicant, operator, or manager, and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;
- e) The activities and types of business to be conducted;
- f) The hours of operation;
- g) The provisions made to restrict access by minors; and
- h) A building plan of the premises detailing all internal operations and activities.

Subd. 3. The license fee provisions for adult establishments are as follow:

- a) The annual license fee is set by council resolution.
- b) An application for a license must be submitted to the city administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.
- c) Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.
- d) No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the city council within 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:
 - (i) Destruction or damage of the licensed premises by fire or other catastrophe;
 - (ii) The licensee's illness, if such illness renders the licensee unable to continue operating the licensed adult establishment;
 - (iii) The licensee's death; or
 - (iv) A change in the legal status making it unlawful for the licensed business to continue.
- e) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the city council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the Goodhue county sheriff or the city administrator in writing and they will report it to the city council. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

Subd. 4. The investigative fee for an adult establishment license is established by council resolution.

Subd. 5. The procedures for granting an adult establishment license are as follow:

- a) The Goodhue county sheriff's department will conduct and complete an investigation within 30 days after the city administrator receives a complete application and all license and investigative fees.
- b) If the application is for a renewal, the applicant will be allowed to continue business until the city council has determined whether to renew or refuse to renew a license.
- c) If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, then the license will be issued by the city council within 30 days after the investigation is completed. If the city council fails to act within 30 days after the investigation is completed, the application will be deemed approved.
- d) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this section must obtain an annual license.

Subd. 6. A license will not be granted to or held by a person who:

- a) Is under 21 years of age;
- b) Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
- c) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments;
- d) Who is not the proprietor of the establishment for which the license is issued;
- e) Who is residing with a person who has been denied a license by the city or any other Minnesota municipal corporation to operate an adult establishment, or residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding 12 months; or

- f) Who has not paid the license and investigative fees required by this section.

Subd. 7. An adult establishment license will not be granted for:

- a) Any adult establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this article, or where a license hereunder has been revoked for cause, until one year has elapsed after the conviction or revocation;
- b) Any adult establishment that is not in full compliance with the city code and all provisions of state and federal law; or
- c) Any premises that are licensed under chapter XII of this code.

Subd. 8. A license is subject to the provisions of this section, and of any applicable chapters of the city code and all provisions of state and federal law.

Subd. 9. Licensed premises must have the license posted in a conspicuous place at all times.

Subd. 10. A minor may not be permitted on the licensed premises.

Subd. 11. Any designated inspection officer of the city has the right to enter, inspect, and search the premises of a licensee during business hours.

Subd. 12. The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.

Subd. 13. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

Subd. 14. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the city upon request.

Subd. 15. Suspensions, revocations, and nonrenewals of adult establishment licenses are governed by the following provisions:

- a) A violation of this article is a basis for the suspension or revocation of a license granted hereunder. In the event that the city council proposes to revoke or suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.
- b) If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action, then the suspension or revocation is stayed until the conclusion of such action.
- c) If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the city acted properly, the licensee may continue in business until the conclusion of the action.
- d) If the city council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the city acted properly. The applicant may not commence doing business unless the action is concluded in its favor.