

CHAPTER 5

OTHER BUSINESS REGULATIONS AND LICENSING

SECTION 5.01. DEFINITIONS.

As used in this Chapter, the following words and terms shall have the meanings stated:

Subd. 1. "Applicant" means any person making an application for a license under this Chapter.

Subd. 2. "Application" means a form with blanks or spaces thereon to be filled in and completed by the applicant as his request for a license. The form will be furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 3. "Bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

Subd. 4. "Business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated or both licensed and regulated by the terms and conditions of this Chapter.

Subd. 5. "License" means a document issued by the City to an applicant permitting him to carry on and transact a business.

Subd. 6. "Licensee" means an applicant who, pursuant to his application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

Subd. 7. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

Subd. 8. "Sale," "Sell" and "Sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

SECTION 5.02. APPLICATIONS.

Subd. 1. All applications shall be made at the office of the City Clerk upon forms that have been formulated by the City for such purposes.

Subd. 2. All initial applications shall be accompanied by a payment of a fee to be set by Council resolution to cover the cost of investigation as herein provided.

Subd. 3. All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

- A. Applicant's name, date of birth and citizenship.
- B. Applicant's present address and length of time he has lived at that address.
- C. Applicant's occupation and length of time so engaged.
- D. Applicant's addresses and occupations for the three (3) years last preceding the date of application.
- E. Names and addresses of applicant's employers, if any, for the three (3) years last preceding the date of application.

- F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense.
- G. Type of license and location of premises for which application is made.
- H. At least four character references if applicant has not resided in the City for two (2) years last preceding the date of application.
- I. Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

Subd. 4. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license or, if already issued, shall render any license or permit issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter or any part hereof.

Subd. 5. The City Clerk shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Clerk may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

Subd. 6. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

SECTION 5.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

Subd. 1. Granting. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this Chapter.

Subd. 2. Issuing. If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year provided that for licenses where the fee is less than \$100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the premises therein described.

Subd. 3. Transfer. No license shall be transferable between persons or locations.

Subd. 4. Termination. Licenses shall terminate only by expiration or revocation.

Source: City Code
Effective Date: 9-17-82

Subd. 5. Refusal, Revocation and Suspension. The Council may, for any reasonable cause, refuse to grant any application, revoke or suspend any license. No license shall be granted to a person of questionable moral character or business reputation. Before the revocation or suspension of any license, the Council shall give notice to the licensee

and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

Source: Ordinance No. 21-94

Effective Date: 6-30-94

Subd. 6. Duplicate License. Duplicates of all original licenses may be issued by the City Clerk without action by the Council.

SECTION 5.04. FIXING LICENSE FEES.

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

SECTION 5.05. CARRYING OR POSTING.

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

SECTION 5.06. PENALTY FOR PROPERTY OWNER.

It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used without a license for any business for which a license is required by this Chapter.

SECTION 5.07. RESPONSIBILITY OF LICENSEE.

The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.

SECTION 5.08. CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

SECTION 5.09. RENEWAL OF LICENSES.

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

SECTION 5.10. LICENSE DENIAL AND FIXING RATES - HEARING.

Subd. 1. Right to Deny. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination provided, however, that before making such determination the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

Subd. 2. Rates. Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service; and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

Subd. 3. Hearing. Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

SECTION 5.11. INSURANCE REQUIREMENTS.

Whenever insurance is required by a Section of this Chapter, after approval by the Council but before the license shall be issued, the applicant shall file with the City Clerk a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be canceled or terminated without thirty (30) days' written notice served upon the City Clerk. Cancellation or termination of such coverage shall be grounds for license revocation.

Source: City Code
Effective Date: 9-17-82

SECTION 5.12. EXCEPTION.

Nothing contained in this Chapter shall require a business to obtain a license from the City where such requirement is prohibited by law.

Source: Ordinance No. 20-92
Effective Date: 6-26-92

(Sections 5.13 through 5.29, inclusive, reserved for future expansion.)

SECTION 5.30. Repealed.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.31. Repealed.

Source: Ordinance No. 6-95
Effective Date: 3-24-95

SECTION 5.32. Repealed.

Source: Ordinance No. 6-95
Effective Date: 3-24-95

SECTION 5.33. BUILDING CONTRACTOR.

Subd. 1. Definition. For the purpose of this Section, a "building contractor" is a person who constructs, erects, alters, reconstructs, repairs or extends a multi-family dwelling or an office or commercial building.

Subd. 2. Registration Required. It is unlawful for any person to engage in the business of a building contractor without registering, as a building contractor, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.34. SCAVENGERS.

Subd. 1. Definition. The term "scavenger" means any person removing and disposing of the contents of any privy, privy box, vault, sink, cesspool, or septic tank.

Subd. 2. License Required. It is unlawful for any person to engage in the business of a scavenger without a license therefor from the City.

Source: City Code
Effective Date: 9-17-82

Subd. 3. Insurance Required. Proof of liability insurance with limits of bodily injury/property damage combined single limit of \$500,000.00 shall be provided.

Source: Ordinance No. 48-97

Effective Date: 10-17-97

Subd. 4. Rules and Regulations.

- A. Approved Sites. No discharge of waste from septic tanks or other similar facilities, whether by a person or a local government unit, shall be made unless such discharge is made at a site previously approved by the Chief Administrator of the Metropolitan Waste Control Commission.
- B. Permit Required. Before rendering services as a scavenger to any premises in the City, the scavenger shall obtain a permit in writing from the City Clerk, which shall contain the name of the owner or occupant and the address of the premises. The fee for each such permit shall be as stated in a fee schedule adopted by the City. In case of an emergency, the scavenger may render services at any premises without a permit provided verbal notification is given in advance to the City Clerk if the emergency occurs within regular business hours and provided a permit is obtained on the next business day.
- C. Location of Equipment. No scavenger shall place, store, keep or maintain any wagons, vehicles, receptacles, vessels or utensils used in connection with his business in any place in the City without first securing the written consent of all owners of property located within a radius of two hundred (200) feet of such place; and, in addition, he shall comply with all applicable statutes, regulations, and provisions of the City Code.
- D. Scavenging Equipment. All substances removed from any privy, privy box, cesspool, septic tank or other vault used as part of a sanitary sewer system shall be conveyed to the place of disposal in tanks or other receptacles constructed of a metal or other non-porous material provided with at least two (2) manholes on the top thereof and an outlet at the bottom adequately capped to prevent any leakage.
- E. Overnight Storage. No receptacle, tank or vehicle containing any substance such as described in the preceding Subparagraph may be stored overnight in any place in the City.
- F. Spilling. No substance hauled by a scavenger shall be allowed to spill, splash, leak or become deposited on any public street or alley or on the surface of the ground.
- G. Owner Responsibility. No person shall employ any other than a scavenger licensed hereunder for the purpose of cleaning any privy vault, cesspool or septic tank situated on property within the City owned, rented, operated or managed by such person.

Source: City Code

Effective Date: 9-17-82

SECTION 5.35. TOBACCO.

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that substantial scientific evidence exists that the use of tobacco-related products causes cancer, heart disease and various other medical disorders. It is further the finding of the City Council that the present legislative scheme of prohibiting sales of tobacco-related products to persons under eighteen (18) years of age has proven ineffective in preventing such persons from using tobacco-related products. The City Council has concluded that minors have ready access to self-service merchandising, including vending machines, which sell tobacco-related products and that the prohibition of the sale or dispensing of tobacco-related products through self-service merchandising, including vending machines, will thereby promote the health, safety and welfare of the residents of the City, particularly those residents under eighteen (18) years of age. The City Council has further concluded that the prohibition of the sale of tobacco-related products by persons under eighteen (18) years of age will promote the health, safety, and welfare of the residents of the City.

Source: Ordinance No. 21-94
Effective Date: 7-1-94

Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:

- A. "Movable place of business" means a business whose physical location is not permanent or is capable of being moved or changed.
- B. "Self-service merchandising" means a method of displaying tobacco-related products so that they are accessible to the public without the intervention of an employee.

Source: Ordinance No. 4-95
Effective Date: 3-24-95

C. Repealed.

- D. "Tobacco-related products" means 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, including, but not limited to, cigarettes, cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco-related 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. Tobacco –related products includes electronic cigarettes defined as any electronic-smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device, including but not limited to electronic cigarettes, electronic cigars, electronic pipes or any other similar device.

Source: Ordinance No. 24-2014
Effective Date: 12-11-2014

Source: Ordinance No. 10-2014
Effective Date: 3-13-2014

Source: Ordinance No. 54-97
Effective Date: 10-31-97

- E. "Vending machine" means any mechanical, electric or electronic, self-service device which, upon inserting money, tokens or any other form of payment, dispenses tobacco products and including vending machines equipped with manual, electric or electronic locking devices.

Source: Ordinance No. 4-95
Effective Date: 3-24-95

Subd. 3. License Required.

- A. No persons shall keep for retail sale, sell at retail or otherwise dispose of any tobacco-related product at any place in the City without first obtaining a license therefor from the City. No license shall be issued for the sale of tobacco-related products at a movable place of business.
- B. Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

Source: Ordinance No. 21-94
Effective Date: 7-1-94

Subd. 4. License Fees and Issuance. Fees for a license for the sale of tobacco-related products shall be fixed and a license may be issued in accordance with the provisions of this Chapter.

Source: Ordinance No. 54-97
Effective Date: 10-31-97

Subd. 5. Prohibited Acts.

A. No person shall sell, offer for sale, give away, furnish, or deliver any tobacco-related product to any person under eighteen (18) years of age.

Source: Ordinance No. 21-94
Effective Date: 7-1-94

B. A licensee may sell tobacco-related products only in a direct face-to-face exchange between the licensee and the consumer. No person shall sell or dispense any tobacco-related product through the use of vending machines or self-service merchandising.

Source: Ordinance No. 54-97
Effective Date: 10-31-97

C. No person under eighteen (18) years of age shall sell tobacco-related products.

Source: Ordinance No. 21-94
Effective Date: 7-1-94

D. Smoking for the purposes of sampling tobacco-related products is prohibited. It shall be unlawful for any person to light, inhale, or exhale tobacco-related products within the indoor area of any establishment licensed under this Section, or for any person to allow the same.

Source: Ordinance No. 24-2014
Effective Date: 12-11-2014

Subd. 6. Administrative Penalties, Revocation or Suspension of License.

A. If a licensee or employee of a licensee sells tobacco, as defined in Minnesota Statutes, Section 609.685, Subdivision 1, to a person under the age of 18 years, or violates any other provision of Minnesota Statutes, Chapter 461, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of \$250 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven (7) days.

B. An individual who sells tobacco, as defined in Minnesota Statutes, Section 609.685, Subdivision 1, to a person under the age of eighteen (18) years must be charged an administrative penalty of \$50.

C. No suspension or penalty may be imposed until the licensee or individual sought to be charged pursuant to A. or B. of this subdivision has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the City Manager or his designee. A decision that a violation has occurred must be in writing.

D. In addition to the penalties described in A. hereof, upon finding that a licensee, granted pursuant to this Section has failed to comply with any applicable statute, regulation or ordinance relating to the sale or use of tobacco-related products, or has failed to pay the amount of any penalty imposed pursuant to A. of this Subd. within ten (10) days after notice in writing of the decision to impose a penalty, the Council may either revoke the license or suspend the license.

Subd. 7. Penalties.

- A. In addition to the penalties provided in Subd. 6 hereof, the penalty provisions prescribed in Section 5.99 of this Code shall apply to violations of this Section.

Source: Ordinance No. 54-97
Effective Date: 10-31-97

- B. It shall be a petty misdemeanor for anyone under eighteen (18) years of age to use, purchase, attempt to purchase, or possess tobacco-related products.

Subd. 8. Exception. A person under eighteen (18) years of age who purchases or attempts to purchase tobacco-related products while under the direct supervision of a responsible adult for training, education, research or enforcement purposes shall not be subject to the penalties imposed by Subd. 7 of this Code.

Source: Ordinance No. 21-94
Effective Date: 7-1-94

Subd. 9. Defense. It is an affirmative defense to the charge of selling tobacco-related products to a person under the age of eighteen (18) years in violation of this Section that the licensee or individual making the sale relied in good faith upon proof of age by (1) a valid driver license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; (2) a valid military identification card issued by the United States Department of Defense; or (3) in the case of a foreign national, from a nation other than Canada, by a valid passport.

Source: Ordinance No. 54-97
Effective Date: 10-31-97

SECTION 5.36. LICENSING OF COLLECTORS OF SOLID, RECYCLABLE AND/OR YARD WASTE.

Source: Ordinance No. 1-2012
Effective Date: 01-26-2012

Previous: Ordinance No. 12-2007
Previous: Ordinance No. 30-2004

Subd. 1. Purpose and Findings. The Council of the City of Eden Prairie finds that the present practice of disposing of solid waste in land disposal facilities commonly referred to as landfills is unacceptable because such disposal is detrimental both in the short-range and long-range to the environment in that it causes pollution and contamination of underground and surface waters, the air and natural flora and fauna, it is harmful to the health and safety of persons and property because of the generation of noxious and dangerous odors and gases, including methane gas, the contamination of waters and air, and the blowing of airborne particles and contaminants causes social and/or economic harm to persons and property who reside, or which is, in proximity to landfills and should be done only in the absence of reasonably available alternatives.

In an effort to ameliorate and eliminate so far as possible the social, economic and physical harm caused by the disposal of solid waste in landfills, the Council of the City hereby adopts the following provisions relating to the collection of solid waste, recyclable waste and yard waste separated at its source.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the following meanings:

- A. Aluminum Recyclables – Aluminum recyclables means disposable containers fabricated primarily of aluminum, commonly used for beverages.
- B. Association – Association means all organizations of residential dwelling owners formed for the purpose of joint management of property or services.

- C. Can Recyclables – Can recyclables means disposable containers fabricated primarily of metal or tin.
- D. Collection – Collection means the aggregation of Solid Waste or Recyclable Wastes from the place at which it is generated and includes all activities up to the time when the material is delivered to the final disposal site.
- E. Commercial Establishment - Any premises where commercial or industrial enterprise of any kind is carried on and shall include restaurants, clubs, churches, and schools where food is prepared or served.
- F. Corrugated Cardboard – Corrugated cardboard means heavy paper or cardboard material with double wall construction and corrugated separation between walls for use in packing or boxing materials.
- G. Curbside Recycling Service – Curbside Recycling Service includes single and multiple family dwellings where each housing unit sets out their own refuse and recycling container for collection at the curb.
- H. Disposal Facility - Disposal facility means a waste facility permitted by the Minnesota Pollution Control Agency ("MPCA") that is designed or operated for the purpose of disposing of solid waste.
- I. Glass Recyclables – Glass recyclables means jars, bottles, and containers which are primarily used for packing and bottling of food and beverages.
- J. Geographic Service Area - Geographic service area means that area incorporated within the boundaries of the City.
- K. Licensee - Licensee means a person licensed to collect and transport solid, recyclable and/or yard waste or roll off containers as provided in this Section.
- L. Multiple Family Dwelling – Multiple Family Dwelling means attached dwelling units and accessory structures containing two (2) or more dwelling units.
- M. Paper Recyclables, Paper recyclables means newsprint, advertising supplements, office paper, magazines, catalogs, mixed paper, aseptic containers, gable-topped containers and uncoated paper products such as cereal, cracker, pasta, cake mix, shoe, gift, electronics and toothpaste boxes.
- N. Plastic Recyclables – Plastic recyclables means plastic containers and lids from containers that are labeled #1 (Polyethylene Terephthalate, PET, or PETE), #2 (High Density Polyethylene or HDPE), #3 (Vinyl Polyvinyl Chloride or PVC), #4 (Low Density Polyethylene or LDPE), or #5 (Polypropylene or PP), excluding bottles that previously contained hazardous materials or motor oil.
- O. Recyclable Waste - Recyclable waste means those components of solid waste consisting of aluminum recyclables, can recyclables, corrugated cardboard, glass recyclables, paper recyclables, plastic recyclables, organics, and other materials required to be recycled in compliance with City Ordinances, County Ordinances and Regulations, and State Statutes and Rules, each of which has been separated by a customer into a container or containers which have been designated for recyclable or organic waste.
- P. Recycling – Recycling means the process of collecting Recyclable Waste for reusing these materials to prevent waste of potentially useful materials either in new products;, in their original form, or in a manufacturing processes that does not cause destruction of them in a manner that precludes further use.
- Q. Residential Customer - Residential customer means a person or persons who is or are customers of a Licensee and reside in a Single Family Dwelling or Multiple Family Dwelling which is used for residential purposes by one or more people, not including hotels, motels, rest homes, hospitals, or nursing homes.

- R. Roll Off Containers – Roll off containers means detachable receptacles, containers, dumpsters, bins or boxes designed for collection of construction, demolition, renovation, scrap, recycling, liquid, solid waste or yard waste materials or debris.
- S. Single Family Dwelling – Single family, detached dwelling and accessory structures designed for or containing one dwelling unit.
- T. Solid Waste - Solid waste means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from residential, industrial, commercial, mining, agricultural operations, and community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended; dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by The Atomic Energy Act of 1954, as amended.
- U. Yard Waste - Yard waste means solid waste generated from landscaping and lawn care activities such as mowing, trimming, gardening or raking consisting of grass clippings, twigs, tree and brush clippings, straw, pine needles, tree branches, soft vegetative garden waste and leaves.

Subd. 3. License Required. It is unlawful for any person to collect solid, recyclable and/or yard waste from any person, or transport the same, without a license therefore from the City.

Subd. 4. Exception. Nothing in this Section shall prevent a person from collecting or transporting solid, recyclable and/or yard waste from the person's own residence or place of business provided the collection and transportation of the solid, recyclable and/or yard waste is conducted in accordance with Minnesota Rules Chapter 7035.0800. All solid, recyclable and/or yard waste shall be dumped or unloaded only at a disposal facility licensed by the Minnesota Pollution Control Agency.

Subd. 5. The following are conditions applicable to each Licensee for a license for the collection of solid, recyclable and/or yard waste:

- A. Each Licensee is authorized to collect solid, recyclable, organic and/or yard waste within the geographical service area. The Council has by resolution divided the geographical service area into districts and established the days on which residential solid waste and recyclable collection may occur within each district. The districts so established and the days on which collection may occur within each district may from time to time be amended by the Council by resolution. No Licensee or any other person shall collect solid, recyclable and/or yard waste from residential customers on any day other than the day specified for collection in the district except to collect roll-off containers, missed pickups, a special pickup or when a holiday falls on a district collection day.
- B. Each Licensee shall use vehicles or roll off containers for the collection and transportation of solid, recyclable and/or yard waste in good operating condition, of such design and so equipped so as to prevent loss in transit of liquid or solid cargo. The vehicles shall be kept clean and free from offensive odors and shall not be stopped or parked longer than reasonably necessary to collect solid, recyclable and/or yard waste.
- C. No Licensee shall operate a vehicle on any city street which exceeds eight (8) tons per axle weight.
- D. No Licensee shall operate in a residential district after 8:30 o'clock P.M. or before 7:00 o'clock A.M. of any day, and shall not operate in a residential district on Sunday.

- E. Each Licensee shall exhibit evidence of the license in a prominent position on each vehicle used in the collection or transportation of solid, recyclable and/or yard waste.
- F. Each Licensee shall be solely responsible for the provision, at its expense, of all personnel and equipment necessary to collect and transport all solid, recyclable and/or yard waste for which a license is granted by the City for delivery and disposal in accordance with the City Code and such regulations as the City may from time to time establish.
- G. Each Licensee shall take all precautions necessary to protect the public against injury and shall defend, indemnify and save the City harmless from and against all liabilities, losses, damages and claims of damages (including all reasonable costs, attorneys' fees, and other expenses incident thereto) suffered or incurred by the City that may arise by reason of any act or omission on the part of the Licensee, its agents, or independent contractors, while engaged in the collection and transportation of solid, recyclable and/or yard waste. Each Licensee shall also defend, indemnify and save the City harmless from and against any and all claims, liens and claims for labor performed or material furnished incident to the said collection and transportation by Licensee including claims for material or services furnished or subcontracted for by it. Each Licensee shall also defend, indemnify, and save the City harmless from and against all liabilities, losses, damages, costs and expenses (including attorneys' fees and expenses of City), causes of action, suits, claims, demands and judgments of any nature arising from violation of any representation, agreement, warranty, covenant or condition made by Licensee or imposed upon Licensee by Section 5.36 of the City Code.
- H. Each Licensee shall obtain and furnish to City evidence of all insurance required under this subdivision, covering all vehicles to be used and all operations to be performed by Licensee in collecting and transporting solid, recyclable and/or yard waste. Each policy of insurance required under this subdivision shall name the City as an additional insured.
 - 1. Existence of the insurance required herein shall be established by furnishing certificates of insurance issued by insurers duly licensed to do business within the State of Minnesota in force on the date of commencement of the license period, and continuing for a policy period of at least one (1) year and providing the following coverages:
 - a. Public liability insurance, including general liability, automobile liability, completed operations liability, and loading and unloading liability in the following amounts.
 - b. Bodily injury liability in the amount of at least \$100,000 for injury or death of any one person in any one occurrence.
 - c. Bodily injury liability in the amount of at least \$300,000 for injuries or death arising out of any one occurrence.
 - d. Property damage liability in the amount of at least \$50,000 for any one occurrence.
 - 2. Such general liability and automobile liability insurance policy or policies shall provide contractual liability insurance, specifically referring to and covering the obligation of Licensee to defend, indemnify and save harmless the City, its officials, agents and employees from alleged claims or causes of action for bodily injury or property damage as provided in Section 5.36 hereof.
 - 3. Said general liability and automobile liability policy or policies shall contain an endorsement as follows:

The policy to which this endorsement is attached is intended to comply with and furnish the coverages required by Section 5.36 of the City Code of the City of Eden Prairie. If anything in any other

attachment, endorsement or rider conflicts with the provisions of said Section 5.36, then the provisions of said Section 5.36 shall prevail.

Any deductible amount provided for in any part of the policy will be paid by the insurer upon establishment of legal liability of any insured, and the insurer shall be entitled to reimbursement from the insured for such deductible amount.

4. Said policies of insurance shall be furnished by a Licensee to City for examination and approval prior to the effectiveness of any license issued to a Licensee together with a certificate or certificates executed by an authorized representative of the insurer, certifying to the insurance coverage herein required, and stipulating that the policy will not be canceled nor any material change effected without first giving thirty (30) days written notice to City. After examination and approval of said policies by City, they may be returned to the Licensee, but the certificates of insurance shall be retained by City. Upon request by City, Licensee shall promptly furnish to City for examination at any time all contracts of insurance required herein. Each Licensee shall, on each anniversary date of the license, furnish City with evidence satisfactory to the City of the insurance required hereunder.
- I. Each Licensee shall at all times operate its business of collecting, transporting and disposing of solid, recyclable and/or yard waste in compliance with all local, state, and federal laws. Each Licensee shall obtain and maintain all licenses, permits, or other authority required by each county in which it operates, the Minnesota Pollution Control Agency and any other governmental agency having jurisdiction over its activities.
- J. Each Licensee shall impose charges for the collection of solid waste that increase with the volume or weight of the solid waste collected.

Subd. 6. In addition to the conditions imposed upon Licensees set forth in Subd. 5 hereof the following are conditions applicable to each Licensee for a license for the collection of solid, recyclable and/or yard waste from customers effective August 1, 1989. Each such Licensee shall:

- A. Collect or provide for the collection from each customer of the Licensee of recyclable waste no less frequently than on a bi-weekly basis and solid waste no less frequently than on a weekly basis on the same day or days that the Licensee collects other forms of solid waste from such customer as described in Subd. 5(A).
- B. Not deliver to, dump, or dispose of recyclable waste which has been placed in a container designated for recyclable waste on or in a disposal facility.
- C. Provide for and collect yard waste from each residential customer of the Licensee at least as frequently and on such day or days as it shall collect other forms of solid waste from such residential customer between May and October.
- D. A Licensee shall not deliver to, dump or dispose of yard waste on or in a Disposal Facility.
- E. Make available for sale and sell at a reasonable cost to the Licensee's customers, containers for recyclable waste approved by the City.
- F. The Licensee shall provide to the City a quarterly written report that includes the following information.
 1. The amount, by weight or volume, of each of the following materials collected during the preceding month from all residential customers of the Licensee in the City:
 - a. Aluminum Recyclables
 - b. Can Recyclables
 - c. Corrugated Cardboard

- d. Glass Recyclables
 - e. Paper Recyclables
 - f. Plastic Recyclables
 - g. All other recyclable waste
 - h. Yard Waste
 - i. Organic Waste
 - j. All other Solid Waste
2. Number of Single Family Households with curbside recycling service.
 3. Number of Multiple Family Households or Customers with curbside recycling service.
 4. Number of Multiple Family Households without curbside recycling service.
 5. Number of Commercial Establishments with recycling service.
- G. Retain all documents evidencing the amount of the materials collected and/or received by the Licensee from the facility or facilities at which the materials have been disposed for a period of at least five (5) years. These documents shall be available for inspection by representatives of the City at all reasonable times within the County of Hennepin or a contiguous county.
- H. Not impose a greater charge for the collection of solid waste upon customers who recycle than upon customers who do not recycle solid waste or any part thereof.
- I. Collect or provide for the collection of recyclable waste from each commercial or business customer on request. The recycling container must be accommodated within an existing or expanded enclosure for solid waste.
- J. Collect or provide for the collection of at a minimum the following materials from all Residential Customers and Commercial Establishments who recycle:
1. Aluminum Recyclables
 2. Can Recyclables
 3. Corrugated Cardboard
 4. Glass Recyclables
 5. Paper Recyclables
 6. Plastic Recyclables
- K. Collect or provide for the collection of all recyclable materials from residential customers with Curbside Recycling Services using one of the following systems:
1. Single Sort System – All recyclable materials are collected in one container, or
 2. Dual Sort System – All Paper Recyclables are collected separately
- L. Provide one educational piece of literature or one educational flyer in a format approved by Hennepin County to each Single Family and Multiple Family Household who has Curbside Recycling Service. The educational literature or flyer must include at a minimum the materials that are collected for Curbside Recycling.

Subd. 7. Exceptions. City Code Section 5.36 is applicable to Roll Off Licensees except as follows: 5.36, Subd. 6(C) and 6(E). City Code Section 5.36 Subd. 6(A) is applicable to Roll Off Licensees unless the Roll Off Container is used for collection of construction, demolition or renovation materials.

Subd. 8. Obstructions. Pursuant to City Code Section 6.06, roll-off containers shall not be placed within the street or other public property.

Subd. 9. Penalty. Failure to perform, meet or comply with any condition or obligation imposed upon a Licensee by the City Code shall constitute a sufficient ground to withhold issuance, suspend, or revoke the license of a Licensee.

Subd. 10. Relationship of the Parties. The City shall have no responsibility or obligation whatsoever with respect to the collecting, transporting or disposal of solid, recyclable and/or yard waste, or payment for such services to any person, and nothing in this Section shall be deemed to constitute a Licensee a partner, joint venturer, agent or representative of the City or to create the relationship of employer-employee.

SECTION 5.37. PEDDLERS.

Source: Ordinance No. 01-2015

Effective Date: 2-26-2015

Subd. 1. Purpose. This Section is not intended to interfere with the legitimate business activities of peddlers, solicitors, and transient merchants as the same are defined herein, whether same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out all illegitimate or confidence operators and to regulate and control all those who, in person, would use their unique presence on property within the City of Eden Prairie, or their unique proximity to its residents, for purposes of harassment, nuisance, theft, or other unlawful activities.

Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:

- A. "Chief of Police" means the Chief of Police pursuant to City Code Section 2.30, Subd. 3 and/or the Chief of Police's designee.
- B. "City Clerk" means the City Clerk appointed by the City Manager pursuant to City Code Section 2.30, Subd. 1 F and/or the City Clerk's designee.
- C. "City Manager" means the City Manager appointed by the City Council pursuant to City Code Section 2.30, Subd. 1, and/or the City Manager's designee.
- D. "Non-Commercial Door-to-Door Advocate" means any person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this Section, the term non-commercial door-to-door advocate shall include door-to-door canvassing, pamphleteering intended for non-commercial purposes, and seeking donations for which no product or service is given in return.
- E. "Peddler" means any person, whether a resident of the City of Eden Prairie or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales where payment is received immediately for future delivery to purchasers.
- F. "Permit Activities" means all activities requiring a permit pursuant to this Section.
- G. "Person" means a Person as defined in City Code Section 1.02, Subd. 5.
- H. "Solicitor" means any person, whether a resident of the City of Eden Prairie or not, who goes from house to house, from place to place, or from street to street with the intention of taking orders or scheduling future visits for taking orders for services or goods for future delivery and payment.

- I. "Transient merchant" includes any person, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the City of Eden Prairie or not, 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, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided however that such definition does not include any person, firm or corporation who sells such goods, wares, or merchandise from within the confines of a lawfully established and operating permanent retail sales operation.

Subd. 3. Permit Required. It is unlawful for any peddler, solicitor, or transient merchant to engage in permit activities within the City of Eden Prairie without first obtaining a permit therefor in compliance with the provisions of this Section. Each peddler, solicitor, or transient merchant engaged in permit activities, whether independently or on behalf of another, must have a separate permit.

Subd. 4. Exemptions.

- A. The permit requirement in Subd. 3 and the General Permit Provisions in Subd. 7 of this Section do not apply to the following: (i) the acts of persons selling personal property at wholesale to dealers in such articles, nor the delivery of newspapers, nor to the acts of merchants or their employees in delivering goods in the regular course of business, nor to the sale of farm or garden products by the person producing the same at the location where such products are produced, which production shall be proven by the vendor, nor; (ii) persons employed at a bakery, dairy or grocery making an uninvited initiatory visit in an effort to establish regular route service for future delivery of perishables.
- B. The permit requirement in Subd. 3 and the General Permit Provisions in Subd. 7 of this Section do not apply to non-commercial door-to-door advocates. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.
- C. The permit requirement in Subd. 3 and the General Permit Provisions in Subd. 7 of this Section do not apply to peddlers or solicitors who are 17 years of age or younger, who are engaged in permit activities on behalf of a public school or private school, philanthropic organization, or community organization, which private school, philanthropic organization or community organization or its parent organization is on file with the Minnesota Secretary of State as a Minnesota domestic or a foreign business organization or has filed an assumed name, where the proceeds of the sales are mainly devoted to the benefit of the children engaged in the permit activities.
- D. Nothing contained in this Section prohibits any sale required by statute or by order of any court, or prevents any person conducting a bona fide auction sale pursuant to law.

Subd. 5. Application and Fee.

- A. Applicants for a peddler, solicitor, or transient merchant permit under this Section shall file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk.
- B. At the time of filing an application for a peddler, solicitor, or transient merchant permit, a fee shall be paid to the City Clerk to cover the cost of administering the permit and investigation of the facts stated therein. The fee shall be as set forth in the City fee schedule and may be amended from time to time. No fees are required of individuals taking orders for the shipment of goods through interstate commerce.

Subd. 6. Investigation and Issuance.

- A. Upon receipt of each peddler, solicitor or transient merchant application, it shall be referred to the Chief of Police who shall institute such investigation of the applicant's business and moral character as s/he deems necessary including, but not limited to, a criminal history and wanted persons check with the Bureau of Criminal Apprehension for the protection of the public good, and shall endorse the application in the manner prescribed in this Section within a reasonable period of time.
- B. If, as a result of such investigation, the business and moral character of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his/her approval and return the application to the City Clerk, who shall issue the permit to the applicant. Such permit shall contain the information and be in the form required by the City.
- C. If, as a result of such investigation, the applicant's business or moral character are found to be unsatisfactory, the Chief of Police shall endorse on such application his/her disapproval and his/her reasons for the same, and return the application to the City Clerk, who shall notify the applicant that his/her application is denied and that no permit will be issued. Any applicant's business or moral character may be found to be unsatisfactory for reasons including, but not solely limited to:
1. Fraud, misrepresentation or incorrect statement contained in the application for permit.
 2. The failure of an applicant to fully complete or to sign the permit application.
 3. The failure of an applicant to pay the required fee at the time of application.
 4. A conviction or adjudication within five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the permit is being sought in a legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
 5. The revocation, within the past five (5) years, of any license or permit issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
 6. The denial, within the last year, of any license or permit application for the purpose of conducting business as a peddler, solicitor, or transient merchant.
 7. When an applicant has a bad business reputation, evidence of which shall include, but is not limited to, the existence of more than three (3) substantiated complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or another state's regulatory office or department (such as another state's attorney general's office), or other business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) substantiated complaints filed with the city or another city, town, or other political subdivision against an applicant within the preceding five (5) years.
 8. Failure to follow all Federal, State and Local regulations, including failure to be registered, licensed or permitted if such registration, license or permit is required by any Federal, State or Local regulation.
- D. Any permit holder aggrieved by the denial of a permit may appeal to the City Manager. Such appeal shall be taken by filing with the City Clerk within ten (10) days after the denial of a permit, a written statement requesting a hearing before the City Manager and setting forth fully the grounds for the appeal. A hearing

shall be held within fifteen (15) days of receipt of the request. Notice of the hearing shall be given by the City Clerk in writing, setting forth the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

Subd. 7. General Permit Provisions.

- A. Each person engaged in permit activities must be permitted as provided herein and may not be accompanied by a person who is not permitted while engaging in such activities. No permit may be transferred between persons or businesses.
- B. Each person engaged in permit activities must carry the City issued permit on his or her person and must display the permit between the waist and the neck on the front of his or her outer garment while engaged in permit activities.
- C. All permits shall expire on December 31 in the year the permit is issued.
- D. The permit issued by the City is the property of the City and must be returned to the City within seven (7) days of its expiration.
- E. Each person engaged in permit activities must provide a sales slip, receipt, or other documentation to any person to whom they make a sale, or from whom they take an order or receive funds. The sales slip, receipt, or documentation must include the name of the person engaged in permit activities, his or her affiliated organization, the organization's address and phone number, and a description of the transaction.

Subd. 8. Restrictions. No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, any person acting on his or her behalf, or other person engaged in similar activities shall, while engaged in such activities:

- A. 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 property 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.
- B. Enter in or upon the property of another or attempt to enter in or upon the property of another if a placard or sign has been posted excluding peddlers and solicitors. The printed placard or sign must bear the notice: "Peddlers and Solicitors Prohibited". Such placard shall be at least 3-3/4 inches long and 3-3/4 inches wide and the printing thereon shall not be smaller than 48-point type. No person other than the person occupying such property shall remove, injure or deface such placard or sign.
- C. Enter in or upon the property of another or attempt to enter in or upon the property of another before 9:00 a.m. or after 7:00 p.m. local time year-round
- D. Obstruct the free flow of traffic, either vehicular or pedestrian in any public right of way.
- E. Make false or misleading statements about the activities or the products or services being sold.
- F. State or imply that the City, by issuance of a permit, has endorsed his/her activities or products.
- G. Operate in a manner a reasonable person would find harassing, intimidating, abusive or threatening.

- H. Operate in a manner a reasonable person would find offensive, obscene, or abusive, push open a door not opened by an occupant, place any portion of the person's body through an opened doorway without the invitation of an occupant, or physically attempt to stop an occupant from closing a door.
- I. Enter onto the property of another through any side or rear yard or attempt to make contact with a person at any point other than the main point of entrance of the building or property being approached.
- J. Remain on the property of another after instructed to leave.
- K. Act in a manner that threatens the health, safety, or welfare of any person or the general public.
- L. Conduct permit activities in any city park without prior written authorization from the City Manager.

Subd. 9. Revocation of Permit.

- A. Permits issued under the provisions of this Section may be revoked after notice and a hearing conducted by the City Manager, for any of the following causes: violation of this Section; violation of federal, state, or local law rule or regulation relating to peddlers, solicitors, or transient merchants; or any action identified in Subd. 6 C.
- B. The Chief of Police may recommend revocation of a permit to the City Manager. Notice of the hearing for revocation of a permit shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

Subd. 10. Appeal. The decision of the City Manager following a hearing as provided for in this Section can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

Subd. 11. Emergency. If, in the discretion of the City Manager, imminent harm to the health or safety of the public may occur because of the actions of any person permitted under this Section, the City Manager may immediately suspend the person's permit and in such event shall provide notice to the person of the right to a post-suspension hearing pursuant to the procedures in Subd. 9.

Subd. 12. Severability. If any provision of this Section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Subd. 13. Penalty.

- A. Failure to perform, meet or comply with any condition or obligation imposed upon a permit holder by the City Code shall constitute a sufficient ground to withhold issuance, suspend, or revoke the permit.
- B. A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of Section is guilty of a misdemeanor.

Source: Ordinance No. 45-92
Effective Date: 1-1-93

SECTION 5.38. Repealed.

Source: Ordinance No. 6-95
Effective Date: 3-24-95

SECTION 5.39. Repealed.

Source: Ordinance No. 34-90
Effective Date: 10-5-90

SECTION 5.40. GAMBLING.

Subd. 1. Purpose. The purpose of this section is to regulate and control the conduct of certain gambling activities pursuant to the provisions of the Minnesota Statutes, 1990, Sections 349.11 - .22 inclusive.

Subd. 2. Definitions. For the purposes of this section the terms used herein shall have the meanings defined or as used in Minnesota Statutes, 1990, Sections 349.11 - .22 inclusive.

Subd. 3. Prohibition. There shall be no gambling in the City except in accordance with the provisions of this section and the provisions of Minnesota Statutes, 1990, Sections 349.11 - .22, inclusive, and rules adopted pursuant thereto.

Source: Ordinance No. 44-89
Effective Date: 12-21-89

Subd. 4. Exceptions. The provisions of this section shall not apply to the limited gambling activities described in Minnesota Statutes, 1990, Section 349.166 provided there is compliance with all conditions imposed by that section and the rules and regulations of the Board relating thereto.

Source: Ordinance No. 1-92
Effective Date: 1-31-92

Subd. 5. Approval by Council. All forms of lawful gambling authorized by Minnesota Statutes, 1990, Sections 349.11 - .22 may be approved by the Council subject to the provisions of this section of the Code and law.

Source: Ordinance No. 44-89
Effective Date: 12-21-89

Subd. 6. Application. An Organization or person seeking to obtain a premises or bingo hall license from the Board shall file in the Office of the City Clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as filed with the Board. The application and accompanying exhibits and documents shall be filed in the Office of the City Clerk not later than three (3) days after they have been filed with the Board. Upon filing the application with the City, applicant shall pay to the City an amount determined by resolution of the Council as and for an investigation fee.

Subd. 7. Conditions. A premises permit or bingo hall license shall be disapproved if the issuing thereof would result in a violation of any of the following conditions:

Source: Ordinance No. 1-92
Effective Date: 1-31-92

A. Lawful gambling shall be limited to four (4) premises within the City, plus one (1) premise for each 10,000 persons residing therein in excess of 40,000. Each premise must be owned by an Organization, except those at which lawful gambling is conducted by an Organization which was licensed by the Board to conduct, and conducted, lawful gambling in the City on June 30, 1994, provided however, such Organization is limited to conducting lawful gambling in a single premise at any time.

Source: Ordinance No. 24-94
Effective Date: 7-21-94

B. No more than one (1) Organization may lease or own (through joint or other multiple ownership arrangement) a premise for the purpose of conducting lawful gambling thereon except those premises at which lawful gambling could occur pursuant to a license or permit issued by the Board prior to November 1, 1989.

Subd. 9. Expenditures for Lawful Purposes.

- A. Each Organization licensed to conduct lawful gambling within the City pursuant to Minnesota Statutes, 1990, Section 349.213 must contribute ten percent (10%) of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City without cost to the fund for disbursement by the City of such receipts for lawful purposes.

Source: Ordinance No. 44-89
Effective Date: 12-21-89

- B. Each Organization licensed to conduct lawful gambling within the City pursuant to Minnesota Statutes, 1990, Section 349.16 must expend thirty percent (30%) of its expenditures for lawful purposes on lawful purposes conducted or located within the City's trade area. The thirty percent (30%) of its expenditures shall be in addition to the ten percent (10%) of its net profits contributed to the City pursuant to Subd. 9. A. hereof. The City's trade area is hereby defined to be the geographical limits of the City and the geographical limits of each City contiguous to the City to-wit: the cities of Bloomington, Edina, Minnetonka, Chanhassen, Shakopee, and Savage, Minnesota.

Source: Ordinance No. 35-90
Effective Date: 10-12-90

Subd. 10. Records and Reports.

- A. Organizations licensed by the Board shall file with the City's Finance Director one (1) copy of all records and reports required to be filed with the Board pursuant to Minnesota Statutes, 1990, Sections 349.11 - .22 and rules and regulations adopted pursuant thereto. Such records and reports shall be filed on or before the day they are required to be filed with the Board.
- B. Every gambling occasion in the City conducted by an Organization shall be open to inspection by the City's police officers and other employees.
- C. The City's police officers and employees may inspect at any reasonable time without notice or search warrant all records of a licensed Organization including gambling accounts and other bank records required by the Board to be maintained and preserved.

Source: Ordinance No. 44-89
Effective Date: 12-21-89

SECTION 5.41. GASFITTER.

Subd. 1. License and Registration Required. It is unlawful for any person to install, alter or repair any gas piping for illuminating or fuel gas or install, alter, repair or service any gas burning devices connected thereto in or for any building or structure in the City ("gasfitter") without (a) holding either a master's certificate of competency issued by the Minneapolis Board of Examiners of Plumbers, a certificate of competency issued by the City of Eden Prairie, or a gasfitter's license issued by any of the following cities: Minneapolis, St. Paul, Bloomington, Duluth, St. Cloud, or Rochester and (b) registration, as a gasfitter, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.42. WATER SOFTENER AND WATER FILTERING EQUIPMENT INSTALLERS.

Subd. 1. Registration Required. It is unlawful for any person not a duly licensed plumber to engage in the business of installing water softeners and water filtering equipment ("installer") without registering, as an installer, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.43. HEATING AND VENTILATION CONTRACTOR.

Subd. 1. Registration Required. It is unlawful for any person other than an owner for personal use and occupancy to install, alter, reconstruct or repair any heating, ventilating, comfort cooling or refrigeration equipment (“installer”) without registering, as an installer, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.44. INDIVIDUAL SEWAGE SYSTEM INSTALLERS.

Subd. 1. Registration Required. It is unlawful for any person to install or construct sewage disposal systems (“installer”) without registering, as an installer, in a register provided by the City.

Source: Ordinance No. 46-99
Effective Date: 12-30-99

SECTION 5.45. REPEALED.

Source: Ordinance 13-2004
Effective Date: 5-6-2004

SECTION 5.46 THERAPEUTIC MASSAGE ENTERPRISES AND THERAPISTS REGULATION.

Source: Ordinance 16-2015
Effective Date: 11-26-15

Source: Ordinance 4-2013
Effective Date: 1-17-2013

Subd. 1. Findings of the Council. The Council makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

- A. Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.
- B. Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
- C. License qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
- D. Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
- E. Massage businesses which employ persons with no specialized and standardized training can tax City law-enforcement services, because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
- F. The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.

Subd. 2. Definitions. As used in this Section, unless otherwise stated in specific sections, the following words and terms shall have the meanings stated:

- A. Applicant - any person making an application for a license under this Section.
- B. Application - a form to be completed by the applicant as his or her request for a license, furnished by the City and required as a prerequisite to the consideration of the issuance of a license.
- C. Accredited Institution - an educational institution holding accredited status from the North Central Association of Colleges and Schools (NCA) or another regional accrediting agency approved by the United States Department of Education or licensed by the Minnesota Office of Higher Education.
- D. Accredited Program - a professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA), or a comparable national or regional organization that evaluates program compliance with quality and competency standards through a process of periodic review and self-study.
- E. Clean - the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.
- F. Good repair - free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.
- G. Immediate Family Member – spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great grandparent, brother, sister, half-brother, half-sister, stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin (that is, a child of an aunt or uncle).
- H. License fee" - the money paid to the City upon approval of an application and prior to issuance of a license to transact and carry on the business stated therein.
- I. Massage - any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of 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, cream, lotion, ointment, or other similar preparations provided these acts are not committed with sexual intent.
- J. Massage Therapist - an individual who practices or administers massage to the public.
- K. Operate - to own, manage, or conduct, or to have control, charge, or custody over.
- L. Person(s) - any individual, firm, association, partnership, corporation, limited liability company, joint venture, or combination of individuals.
- M. Therapeutic Massage Enterprise - a person who operates a business which employs or hires therapeutic massage therapists licensed in accordance with this Section to provide massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public.
- N. Within the City - includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the City, serves as a point of assignment of employees who respond to requests for services from within the City.

Subd. 3. License Required.

- A. Therapeutic Massage Enterprise License. It shall be unlawful for any person to operate, engage in, or carry on, within the City, massage services for the public for consideration without first having obtained a license from the City pursuant to this Section.
- B. Massage Therapist License. It shall be unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the City without first having obtained a license from the City pursuant to this Section.

Subd. 4. License Applications

- A. Application. All applications for licenses issued under this Section shall be made on forms supplied by the City. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.
- B. False Statements. It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application shall, upon discovery of such falsehood, be grounds for denial or, if already issued, for revocation of the license.
- C. License, Application and Investigation Fees. Upon submission of the application, applicants for therapeutic massage enterprise and massage therapist licenses shall pay a fee to the City which shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. All license application and investigation fees provided for in this Section shall be fixed and determined by the Council. Such fees, may, from time to time, be amended by the Council. Upon approval of an application, whether initial or renewal, the license fee shall be paid prior to issuance of the license.
- D. Investigation. The City is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Section, including but not limited to ordering a criminal history check pursuant to City Code Section 2.33.
- E. Consideration and Issuance. After the information on the application has been verified by the City pursuant to subsection D above, an initial application for a license under this Section shall be presented to the City Council for issuance or denial. The City Council may deny a license on the same grounds as a license may be suspended or revoked as set forth in Subdivision 9 of this Section. A denial of an application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the application. Upon approval of an application and payment of the license fee, the City shall issue and mail a license certificate to the applicant at the address noted in the application.
- F. Term of License. Licenses issued under this Section shall expire on December 31 of each year.
- G. Renewal of License. Applications for renewal of all licenses issued under this Section shall be made at least sixty (60) days prior to the date of expiration of the license and shall contain such information as is required by the City. After the information on the renewal application has been verified by the City pursuant to subsection D above, a renewal application for a license under this Section shall be presented to the Chief of Police for issuance or denial. The Chief of Police may deny renewal of a license on the same grounds as a license may be suspended or revoked as set forth in Subdivision 9 of this Section. A denial of a renewal application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the renewal application. A licensee may appeal a non-renewal by submitting a hearing request to the Chief of Police within ten (10) days of

the date of the City's notice of non-renewal. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee's right to a hearing shall be deemed waived. If a hearing is requested, the hearing shall be held in accordance with the procedures set forth in Subdivision 9 (B) (2) and 9 (B) (3) of this Section. Upon approval of a renewal application, the City shall issue and deliver a license certificate to the applicant at the address noted in the renewal application.

Subd 5. Application Requirements

- A. Filing. An application for a therapeutic massage enterprise or massage therapist license under this Section must be filed with the Police Department.
- B. Insurance Requirements.
 - 1. Each applicant for a therapeutic massage enterprise license shall file with the City a public liability insurance policy or certificate of insurance from a company authorized to do business in the State of Minnesota, insuring the applicant against any and all loss arising out of the use, operation, or maintenance of the therapeutic massage enterprise. The policy of insurance shall be in limits of not less than \$1,000,000.00.
 - 2. Each applicant for a massage therapist license shall file with the City a current certificate of insurance providing coverage of one million dollars (\$1,000,000) for personal liability in the practice of massage.
 - 3. Failure to keep in full force and effect the insurance required by this Section is grounds for revocation of the license.
- C. Lease/Property Deed Requirements. Each applicant for a therapeutic massage enterprise license shall file with the City a copy of the lease or property deed for the location at which the business will operate.
- D. Manager or Agent. If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application shall include the name of the person who will serve as the manager or agent of the licensed premises. Such manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation and other attributes would meet the standards established in Subd. 6(A) of this Section. A licensee shall notify the City in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.
- E. Change of Information. A licensee must promptly notify the City of a change in the information or facts required to be furnished on the application for a license, even after the license has been issued

Subd. 6. Standards.

- A. Therapeutic Massage Enterprise License.
 - 1. No therapeutic massage enterprise license shall be issued to a person who:
 - a. Is not eighteen (18) years of age or older at the time the application is submitted to the City;
 - b. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and

responsibilities of a licensee as prescribed by Minnesota Statutes, Section 364.03, subdivision 3;

- c. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
- d. Is not of good moral character or repute;
- e. Is not the real party in interest of the enterprise;
- f. Has knowingly misrepresented or falsified information on the license application;
- g. Does not meet the definition of therapeutic massage enterprise in Subdivision 2 of this Section;
- h. Has had an interest in, or has persons investing in, the business, building, premises, fixtures, furniture or equipment that had an interest in, as an individual or as part of a firm, association, partnership, corporation, limited liability company, or joint venture, a massage-related license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the City;
- i. Is the Immediate Family Member of a person whose massage-related license has been suspended or revoked in the past five (5) years;
- j. Has been denied a therapeutic massage enterprise license by the City within one (1) year of the date of the license application;
- k. Does not provide all information required by the application or such other information as the Issuing Authority or City Council may require; or
- l. Does not have one (1) or more massage therapists employed by or affiliated with the therapeutic massage enterprise who is licensed by the City at the time the therapeutic massage license is issued.

2. No therapeutic massage enterprise shall be licensed if:

- a. Such enterprise is located on property on which taxes, assessments, or other financial claims to the State, County, School District, or City are due and delinquent. In the event a suit has been commenced by a person having an interest in the property under Minnesota Statutes, Sections 278.01 - 278.13, questioning the amount or validity of taxes, the Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due.
- b. The location of such enterprise is not in conformance with the land use regulations of the City Code unless such enterprise is a legal, nonconforming use.

B. Massage Therapist License.

1. No massage therapist license shall be issued to a person who:

- a. Is not eighteen (18) years of age or older at the time the application is submitted to the City;

- b. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minnesota Statutes, Section 364.03, subdivision 3;
- c. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
- d. Is not of good moral character or repute;
- e. Has knowingly misrepresented or falsified information on the license application;
- f. Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the City or a Salon licensed by the State pursuant to Minnesota State Statute 155A.29;
- g. Does not provide to the City proof of current insurance coverage of one million dollars (\$1,000,000) for personal liability in the practice of massage;
- h. Does not provide to the City proof that he or she has completed six hundred (600) hours of certified therapeutic massage training from a bona fide school that has been approved by the City, or has at least two (2) years of full-time experience working as a massage therapist at a licensed therapeutic massage enterprise or other licensed business approved by the City;
- i. Does not meet the definition of Massage Therapist in Subdivision 2 of this Section;
- j. Had an interest in, individually or as part of a firm, association, partnership, corporation, limited liability company, or joint venture, or has a massage-related license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the City;
- k. Is the Immediate Family Member of a person whose massage-related license has been suspended or revoked in the past five (5) years;
- l. Has been denied a massage therapist license by the City within one (1) year of the date of the license application; or
- m. Does not provide all information required by the license application or such other information as the Issuing Authority or City Council may require.

Subd. 7. Exemptions.

- A. Neither a therapeutic massage enterprise license nor a massage therapist license is required for the following persons and places:
 - 1. Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.
 - 2. A person hired or employed by, and exclusively provides treatment on the premises of, a medical professional licensed under MN state statute chapter 147 or 148 or a dental professional licensed under

MN State statute chapter 150A. A massage therapist operating under this exemption is not limited to providing treatment of patients of the medical or dental professional.

3. Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments, and provided the massage by beauty culturists is limited to the head, hand, neck and feet, and the massage by barbers is limited to the head and neck.
 4. Athletic trainers, certified by the National Association of Athletic Trainers (NAAT), when working with an amateur, semiprofessional or professional athlete or athletic team.
 5. Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services at the location of the accredited institution and provided the students are identified to the public as students of massage therapy. Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution shall have at least one hundred fifty (150) hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution and shall be identified to the public as a student of massage therapy.
 6. Persons providing "chair massage" are not required to obtain a therapeutic massage enterprise license / massage therapist license if the following requirements are met:
 - a. The massage is provided in a place of business where the massage can easily be seen by any employee or visitor on the premises;
 - b. The location does not hold a license to sell alcoholic beverages;
 - c. Each recipient of a massage remains in an upright position, either sitting or standing; and
 - d. 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.
- B. A therapeutic massage enterprise license is not required for the following places:
1. Places licensed by the State of Minnesota as a "Salon" pursuant to Minnesota State Statute 155A.29.
 2. Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for the hospitalization or care of persons.

Subd 8. General Provisions Regarding Licenses.

- A. Posting. A therapeutic massage enterprise license issued shall be posted in a conspicuous place on the premises for which it is used. A person licensed as a massage therapist shall have readily available a current license issued by the City at all times therapeutic massage services are rendered.
- B. Premises Licensed. A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the City within 15 days of such change. A massage therapist license shall entitle the licensed therapist to perform on-site massage at a business, public gathering, private home, or other site not on the therapeutic massage enterprise premises, excluding hotel or motel guest rooms.
- C. Employment of Unlicensed Massage Therapists Prohibited. No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this Section,

unless the person is specifically exempted from obtaining a therapist license pursuant to Subdivision 7 of this Section.

- D. **Affiliation With Enterprise Required.** A massage therapist shall be employed by, affiliated with, or own a therapeutic massage enterprise licensed by the City or a Salon licensed by the State pursuant to Minnesota State Statute 155A.29, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in Subdivision 7 of this Section.
- E. **Hours of Operation.** No customers or patrons may be allowed to enter the licensed premises after 10:00 p.m. and before 7:00 a.m. daily. No customers or patrons may be allowed to remain on the licensed premises after 10:00p.m. and before 7:00a.m. daily. No massage therapist shall perform massage services after 10:00 p.m. and before 7:00 a.m. daily.
- F. **Premises Subject to Inspection.** During any hours in which any person is present on the licensed premises, the premises licensed under this Section shall be open to inspection by any duly authorized representative of the City to determine whether or not this Section and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection and without a search warrant. Upon demand by a health, building or license inspector or police officer, a person engaged in providing services in a premises licensed under this Section shall identify himself/herself giving his/her true legal name and his/her correct address.
- G. **Conduct on Licensed Premises.** Except as herein provided, every licensee under this Section shall comply with the following:
 - 1. **Coverage of Genitals During Massage.** The licensee shall require that the person who is receiving the massage shall at all times have his or her genitals covered with non-transparent material or clothing.
 - 2. **Therapist Clothing Requirements.** Any massage therapist performing massage shall at all times have his or her breasts, buttocks, anus, and genitals covered with a non-transparent material or clothing.
 - 3. **Effect of License Suspension or Revocation.** No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the City.
 - 4. **Massage of Certain Body Parts Prohibited.** At no time shall the massage therapist intentionally massage or offer to massage the breast, anus, penis, scrotum, mons veneris, vulva, or vaginal area of a person or commit any other act with sexual intent.
- H. **Condition and Maintenance of Premises.**
 - 1. **Cleanliness.** Floors, walls, other structures, and equipment in massage rooms, restrooms and bathrooms used in connection with the massage business shall be kept clean and in a state of good repair and sanitary at all times. Linens and other materials shall be stored at least six (6) inches off the floor in areas protected from contamination. Sanitary towels, wash cloths, cleaning agents and toilet tissue shall be made available for each customer.
 - 2. **Restrooms.** Restrooms used in connection with the therapeutic massage enterprise shall be provided with mechanical ventilation with two (2) cfm per square foot of floor area, a minimum of twenty (20) foot candles of illumination, a hand-washing sink equipped with hot and cold running water under pressure, single-use paper towels or other approved drying device and a soap dispenser.
 - 3. **Storage.** Licensed premises shall have a janitor's closet for the storage of cleaning supplies. This closet shall have mechanical ventilation with two (2) cfm per square foot of floor area and a minimum of twenty (20) foot candles of illumination. The closet shall include a mop sink. For licensees

operating a therapeutic massage enterprise as a home occupation, in lieu of a janitor's closet, all cleaning supplies shall be stored separate away from the bathroom and massage room and away from other equipment and supplies used in conjunction with the business.

4. Lockers. Either individual lockers or secured areas designated for storage shall be made available for use by employees and patrons for their personal items while on the premises.
 5. Hand Washing Required. A separate hand-sink shall be easily accessible and used by a massage therapist before administering massage on each patron and when hands are soiled.
 6. Linens. The furniture upon which the patron reclines while receiving a massage shall either be covered with clean linen or be washed after each use with a cleaning agent sufficient to prevent the spread of disease. Linens and towels shall be changed after each use and laundered by a commercial cleaning establishment or in approved laundry facilities on the premises. For licensees operating a therapeutic massage enterprise as a home occupation, linens and towels shall be washed separate from personal articles. Single-use linens shall be discarded after each use.
- I. Transfer. The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.
 - J. Home Occupation. Whenever a therapeutic massage enterprise is operated in a residential area as a home occupation, the person(s) conducting the business shall adhere to all aspects of City Code Chapter 11 relating to home occupations.
 - K. Proof of Local Residency Required. In the case of a therapeutic massage enterprise, the licensee, managing partner or manager of the licensed premises must show proof of residency acceptable to the Issuing Authority in one of the following Minnesota counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Rice, Scott, Washington or Wright. In the case of a massage therapist, the licensee must show proof of residency acceptable to the Issuing Authority in one of the following Minnesota counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Rice, Scott, Washington or Wright.
 - L. Posting Rates. A therapeutic massage enterprise must post its service rates in a prominent place in the entrance or lobby of the business.
 - M. Illegal Activities. A therapeutic massage enterprise licensee shall be strictly responsible for the conduct of the business, including conduct of any employee or agent of the licensee on the licensed.

Subd. 9. Revocation or Suspension.

- A. Suspension or Revocation. The City may suspend or revoke a license issued under this Section. The following are grounds for suspension or revocation of a license:
 1. Fraud, misrepresentation, or false statement contained in a license application or a renewal application;
 2. Fraud, misrepresentation, or false statement made in the course of carrying on the therapeutic massage enterprise;
 3. Failure to comply with city ordinances or state law;
 4. Conviction of the owner, manager, lessee, or an employee of the therapeutic massage enterprise of a violation of any ordinance or state statute, arising on the licensed premises;

5. Acts demonstrating or involving moral turpitude;
6. Conviction of the owner, manager, lessee or an employee of the therapeutic massage enterprise of prostitution or other offense involving moral turpitude;
7. Conducting the therapeutic massage enterprise in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community; or
8. Habitual drunkenness or intemperance or the use of drugs including, but not limited to the use of drugs defined in either federal or state laws, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine, or other sedatives, depressants, stimulants, tranquilizers or synthetic drugs on the licensed premises.

B. Notice and Appeal.

1. **Notice.** A revocation or suspension shall be preceded by written notice from the Chief of Police or his or her designee to the licensee and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the licensee of the licensee's right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee's right to a hearing shall be deemed waived. No suspension or revocation of a license under this Section shall take effect until (a) the licensee's time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the City Manager.
2. **Hearing.** If a hearing is requested, the Chief of Police or his or her designee shall provide written notice to the licensee of the date, time and place of the hearing. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) day and no more than thirty (30) days prior to the hearing. The hearing shall be held by an impartial hearing officer who shall be appointed by the Chief of Police or his or her designee. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his or her recommendation to the City Manager in writing. If the hearing officer's recommendation is suspension or revocation, he or she shall include in the written recommendation his or her findings and conclusions supporting the decision.
3. **Decision.** Within thirty (30) days of receipt of the hearing officer's written recommendation, the City Manager shall make a decision on whether the license shall be suspended or revoked. The City Manager shall inform the licensee in writing of the decision, including findings and conclusions supporting the decision, within ten (10) days. No appeal is allowed to the City Council under Section 2.80 of the City Code from a decision of the City Manager under this Section.

Subd. 10. Violation a Misdemeanor.

A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this Section is guilty of a misdemeanor.

(Sections 5.47 through 5.59, inclusive, reserved for future expansion.)

SECTION 5.60. KENNELS.

Subd. 1. The provisions of Minnesota Statutes, 1992, Sections 347.35 and 347.37, are hereby incorporated herein and adopted by reference.

Subd. 2.

- A. "Dog" means a canine of either male or female gender.
- B. "Cat" means a feline of either male or female gender.
- C. "Owner" means any person owning, keeping or harboring a dog or cat.
- D. "Private kennel" means a place where more than two (2) dogs or two (2) cats over six (6) months of age are kept by their owner for no commercial purpose provided that the total number of dogs and cats over six (6) months of age shall not exceed five (5) in any private kennel.
- E. "Commercial kennel" means a place where any number of dogs and/or cats of any age are kept, confined, or congregated for the purpose of selling, boarding, breeding, training, treating or grooming.

Subd. 3. License Required. No person shall own, harbor, keep or allow the keeping of more than two (2) dogs or more than two (2) cats over the age of six (6) months on his or her premises without first obtaining either a commercial or private kennel license.

Subd. 4. License Restrictions.

- A. An application for a kennel license shall be submitted to the City Clerk accompanied by the appropriate fee. The applicant must also submit an acknowledgment form signed by at least one (1) of the property owners of each parcel within two hundred (200) feet of the land where the kennel will be established. The form shall state that the applicant has notified the property owners of the application and that they may contact the City with any comments they might have.
- B. A kennel license may be issued after an inspection reveals that adequate safeguards are present to protect the surrounding neighborhood from nuisances and to insure compliance with this section. A license may not be issued if the kennel does not comply with the applicable State health and maintenance standards promulgated pursuant to Minnesota Statutes, 1992, Section 347.35
- C. A license shall be issued for a maximum of one (1) year and shall expire on December 31 of each year. A license may be revoked because of a violation of this section or any other relevant law, ordinance, or regulation.
- D. All licensed commercial kennels within the City are subject to inspections as provided in Minnesota Statutes, 1992, Section 347.37. A license violation not corrected within ten (10) days after notice will be grounds for revocation of the license.

Source: Ordinance 23-94
Effective Date: 7-22-94

(Sections 5.61 through 5.69, inclusive, reserved for future expansion.)

SECTION 5.70. COMMERCIAL STABLES.

Subd. 1. Definitions. As used in this Section, the following words shall have the meanings stated:

- A. "Agricultural building" means a structure designed and constructed to house equines, farm implements, hay, grain, or other horticultural products.
- B. "City Inspector" means any individual appointed by the City Manager to inspect commercial stables.
- C. "Commercial stable" means a place where five (5) or more equines are kept for remuneration or hire.
- D. "Commercial stable property" means all of the contiguous property upon which the commercial stable is operated.
- E. "Cruelty" means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, injury, or death to an equine.
- F. "Equine" means horses, ponies, mules, or donkeys.
- G. "Neglect" means failing to provide the minimum care required for the health and well-being of an equine.
- H. "Residential subdivision" means a subdivision as defined by City Code, Chapter 12, Section 12.03, Subdivision 17, which is residential in character.
- I. "Shelter" means an enclosure with at least three (3) sides and with a roof suitable for protecting equines from extremes in weather.

Subd. 2. License Required. It is unlawful for any person to operate or maintain a commercial stable within the City without a license therefor from the City. A license shall be obtained in the manner specified in Sections 5.02 through 5.10. Commercial stables in existence at the time of adoption of this Section shall be required to apply for and obtain a commercial stable license within two (2) years of the effective date of this Section.

Subd. 3. Regulations and Requirements for All Commercial Stables.

- A. A commercial stable shall be located and operated only where permitted by Chapter 11, Section 11.10, Subdivision 2(E) or where such commercial stable existed at the effective date of this Section.
- B. No commercial stable shall be operated upon a lot of less than ten (10) acres.
- C. Manure and other waste materials shall be removed and distributed so as to eliminate offensive odors, insect and rodent problems or any condition which otherwise operates as a public or private nuisance. The storage of manure and other waste materials must be located a minimum of one hundred (100) feet from any residential structure; or any lake, pond, river, stream or other body of water; or well; or property line.
- D. All areas designated for equine sheltering shall be located at least fifty (50) feet from the property line, but such areas shall be located a minimum of one hundred (100) feet from an existing residential subdivision. Any agricultural building or shelter which was being used in a commercial stable prior to the effective date of this Section is not required to comply with the requirements of this Subparagraph provided, however, that such agricultural building or shelter does not constitute a public nuisance.
- E. Fences shall be constructed and maintained so as to adequately and safely contain equines at all times.

- F. One agricultural building upon the commercial stable property shall be permitted to contain within such building no more than one (1) caretaker's unit.
- G. The ratio of equines to acres of land use for running, exercising, or feeding equines shall be no more than four (4) to one (1).
- H. All equines shall be provided shelter sufficient to protect against potentially injurious weather. All such shelters shall be structurally sound, provide sufficient ventilation, and be maintained in good repair.
- I. Equine stalls shall provide sufficient space for the equine to lie or roll with a minimum danger of injury to itself. Stalls shall be cleaned and kept dry to the extent that the animal is not required to lie or stand in fluids. Bedding shall be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding shall not pose a health hazard to the animal.
- J. Stalled equines shall be provided an adequate opportunity for at least one (1) hour of exercise daily unless exercise is restricted by a licensed veterinarian.
- K. No person shall neglect or cause cruelty to an equine.
- L. All equines shall be provided with adequate health care.
- M. All equines shall be provided with a sufficient quantity and quality of food to allow for normal growth and the maintenance of body weight.
- N. All equines shall be provided or given access to clean, potable water in sufficient quantity to satisfy the animal's health needs. Snow or ice shall not be considered a water source.

Subd. 4. Inspections. The Zoning Administrator or designee shall inspect every commercial stable no less than twice per year or as frequently as the City may deem necessary to ensure compliance with the terms of Subdivision 3 and any conditions of the license for such commercial stable. Any person who operates a commercial stable shall, upon request of the Zoning Administrator or designee, permit access to all parts of the commercial stable for the purpose of inspection. The Zoning Administrator or designee shall prepare a report of every inspection of a commercial stable. A copy of such report shall be mailed to the person operating the commercial stable and forwarded to the Council prior to the Council's review of a license application or renewal.

Source: Ordinance No. 34-83
Effective Date: 8-26-83

SECTION 5.71. PAWNBROKERS AND PRECIOUS METAL DEALERS.

Subd. 1. Purpose. The Council finds that pawnbrokers and precious metal dealers potentially provide an opportunity for the commission and concealment of crimes. Such businesses have the ability to receive and transfer stolen property easily and quickly. The Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers and precious metal dealers. The purpose of this section is to prevent pawnbroking and precious metal businesses from being used as facilities for commission of crimes and to ensure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety and general welfare of the citizens of the City.

Subd. 2. Definitions.

- A. "Goods" means goods as defined in Minnesota Statutes, Section 336.9-105(f).
- B. "Item containing precious metal" means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold, or platinum.

- C. "Minor" means any natural person under the age of 18 years.
- D. "Oversized items" means large items such as cars, boats, and other motorized vehicles and motorized equipment.
- E. A natural person, partnership, corporation, or other organization, which owns five percent (5%) or more of an applicant or licensee (and officers of such a corporation or other organization) shall be deemed a "parent." A natural person, partnership, corporation, or other organization (and officers of such a corporation or other organization) owning five percent (5%) or more of a parent shall also be deemed a "parent."
- F. (a) "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.
 (b) The following are exempt from the definition of "pawnbroker": any bank regulated by the State of Minnesota, the comptroller of the 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 union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the Department of Commerce of the State of Minnesota.
- G. "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.
- H. "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.
- I. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.
- J. "Pledged Goods" means 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.
- K. "Precious metal dealer" means any person engaging in the business of buying secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.
- L. "Precious metals" means silver, gold, or platinum.
- M. "Secondhand item" means tangible personal property, excluding motor vehicles, which has been previously used, rented, owned, or leased.

Subd. 3. License Required. No person shall engage in the trade or business of pawnbroker or precious metal dealer within the City unless such person is currently licensed under this ordinance. Any pawn transaction made without benefit of a license is void. A separate license is required for each place of business. More than one license may be issued to a person upon compliance with this Section for each license.

Subd. 4. Exceptions to License Requirement.

- A. Precious metal dealers conducting the following transactions are not required to obtain a license under this Section.
1. Transactions at occasional "garage" or "yard" sales, or estate sales or farm auctions held at the decedent's residence, except that precious metal dealers must comply with the requirements of Minnesota Statutes, Sections 325F.734 to 325F.742, for these transactions.
 2. Transactions regulated by Minnesota Statutes, Section 80A.
 3. Transactions regulated by the Federal Commodity Futures Commission Act.
 4. Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.
 5. Transactions involving the purchase of photographic film, such a lithographic and x-ray film or silver residue or flake recovered in lithographic and x-ray film processing.
 6. Transactions involving coins, bullion, or ingots.
 7. Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item, except that a person who is a precious metal dealer by engaging in a transaction which is not exempted by this Section must comply with the requirements of Minnesota Statutes, Sections 325F.734 to 325F.742.
 8. Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes, Section 325F.733, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes, Section 325F.733.
 9. Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition, except for repair, and the items are resold at retail, and the buyer paid less than \$2,500 for secondhand items containing precious metals purchased within any period of twelve (12) consecutive months.

Subd. 5. Persons Ineligible.

- A. No license shall be issued or held by any person who:
1. Is a minor at the time the application is filed.
 2. Has been convicted of any crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of pawnbroker or precious metal dealer as prescribed by Minnesota Statutes, 1995, Section 364.03, Subdivision 3.
 3. A person who is not of good moral character or repute.
 4. Holds a liquor license under City Code.
 5. In the judgment of the Council, is not the real party in interest or beneficial owner of the business operated under the license, or

6. Has had a pawnbroker or precious metal dealer's license revoked anywhere within five (5) years of the license application, or
7. Is a corporation, partnership or other organization which has a parent who is or meets a condition set forth in subparagraphs 1. through 6. hereof.

Subd. 6. Places Ineligible.

- A. No license shall be issued or held for any place or any business ineligible for a license under City ordinance or State law.
- B. No license shall be issued or held for operation in any zoning district other than Regional Commercial or Regional Services Districts.
- C. No license shall be issued or held for a place or business which holds a liquor license.
- D. No license shall be granted or held for operation on any premises on which taxes, assessments or other financial claims of the City or other government agency are delinquent and unpaid, except if an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due unless such one (1) year period is extended through no fault of the licensee.
- E. No license shall be granted or held if the property on which the business is or is to be conducted is owned by a person who is ineligible for a license, except that a property owner who is a minor shall not make the premises ineligible under this subparagraph.
- F. No pawnshop shall be located within ten (10) driving miles of any gambling casino. No pawnshop, lawfully operating as of the date of the enactment of this Section, shall be required to relocate or close as a result of this subparagraph.

Subd. 7. License Application.

- A. In addition to any information which shall be required pursuant to any provision of Chapter 5 of the City Code every application for a license under this Section shall be made on a form supplied by the City, shall be verified and shall contain the following information:
 1. If applicant is a natural person:
 - a. The name, place and date of birth, street, residence, address and telephone number of the applicant.
 - b. Whether the applicant is a citizen of the United States or a resident alien.
 - c. The name of the business under which the proposed licensee will operate.
 - d. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse.
 - e. Street addresses at which applicant has lived during the preceding ten (10) years.
 - f. Whether the applicant has ever been in military service. If so, the applicant shall, upon request, exhibit all discharges.

- g. Kind, name and location of every business, occupation or employment applicant (and spouse, if any), has been engaged in during the preceding ten (10) years.
 - h. Names and addresses of applicant's (and spouse's, if any) employers and partners, if any, for the preceding ten (10) years.
 - i. Whether applicant (or spouse, if any) has ever been convicted of a violation of any state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.
 - j. Whether the applicant (or spouse, if any) has ever been engaged in operating a pawnshop or precious metal dealership or other business of a similar nature as an owner or employee. If so, applicant shall furnish information as to the time, place and length of time.
 - k. Whether the applicant is the owner and operator of the business and if not, who is.
 - l. Whether the applicant has ever used or been known by a name other than applicant's true name, and if so, the name, or names, dates and places where used.
 - m. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture, or stock in trade, and proof of the source of the money.
 - n. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by State or City employees in case of emergency.
 - o. Whether the applicant holds a current pawnbroker or precious metal dealer license from any other governmental unit and whether the applicant is licensed under Minnesota Statutes, Section 471.924 or 325F.731 to 325F.744.
 - p. Whether the applicant has ever been denied a pawnbroker or precious metal dealer license from any other governmental unit.
 - q. The location of the business premises.
 - r. The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, location of buildings, street access and parking facilities.
 - s. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
2. If applicant is a partnership:
- a. The name and address of each partner.
 - b. The name and address of the managing partner, or partners, shall be designated.
 - c. The interest of each partner in the partnership.
 - d. If the partnership is required to file a certificate as to trade name under the provisions of

Minnesota Statute, Chapter 333, a copy of the certificate certified by the Clerk of District Court shall be attached to the application.

- e. The information required of an applicant who is a natural person specified in subparagraphs 1. c., g., and i. through s.
3. If applicant is a corporation or other organization:
- a. Name, and if incorporated, the state of incorporation.
 - b. A true copy of the certificate of incorporation, articles of incorporation or association agreements.
 - c. The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, and all information about said person as is required of an applicant who is a natural person specified in subparagraphs a. through s.
 - d. The names and addresses of all persons who own five percent (5%) or more of, or who control the corporation or other organization (or who are officers of such corporation or other organization).
 - e. The information required of an applicant who is a natural person specified in subparagraphs 1. c., g., and i. through s.
4. In addition to the information required of an applicant, an application shall contain the following information relating to the parents of an applicant:
- a. If the parent is a natural person, the information required of an applicant who is a natural person pursuant to Subd. 7, subparagraph 1.
 - b. If the parent is a partnership, the information required of an applicant which is a partnership pursuant to Subd. 7, subparagraph 2.
 - c. If the parent is a corporation or other organization the information required of an applicant which is a corporation or other organization pursuant to Subd. 7, subparagraph 3.
5. Other information which the City deems appropriate.
- B. No person shall make a false statement or material omission in a license application or investigation. Any false statement or material omission shall be grounds for denial, suspension, or revocation of a license.
- C. Each licensee shall have the continuing duty to properly notify the Chief of Police of the City of any change in the information or facts required to be furnished on the application for a license. This duty shall continue throughout the period of the license. Failure to comply with this Section shall constitute cause for revocation or suspension of the license.

Subd. 8. Fees.

- A. Every applicant for a license shall pay to the City an investigation fee. The fee shall be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the Council believes that the public interest so warrants, it may require a similar investigation at the time of renewal of any license. If an investigation is ordered by the City Council at the time of license renewal, the applicant shall pay an investigation fee, except that the fee shall be the smaller of the stated dollar amount or the actual cost of the

investigation. Except for an adjustment of the fee in the case of an investigation relating to a license renewal, there shall be no refund of the investigation fee for any person after an investigation has begun.

- B. Each license shall expire on December 31st of the year in which it is issued. Fees for licenses issued during the license year shall be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month shall be counted as a whole month which shall have elapsed.
- C. No refund of any fee shall be made except as authorized by ordinance.

Subd. 9. Bond Required.

- A. At the time of filing an application for a license, the applicant shall file a bond in the amount of \$5,000 with the City Clerk. The bond, with a duly licensed surety company as surety thereon, must be approved as to form by the city attorney. The bond must be conditioned that the licensee shall observe the ordinances of the City, in relation to the business of pawnbroker and precious metal dealer, and that the licensee will account for and deliver to any person legally entitled thereto any property which may have come into the possession of the licensee as pawnbroker or precious metal dealer or in lieu thereof such licensee shall pay the person or persons the reasonable value thereof.

Subd. 10. Granting of Licenses.

- A. No license shall be issued until the Police Department has conducted an investigation of the information set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate with this investigation.
- B. No license shall be issued until the Council has held a public hearing in accordance with the following:
 - 1. Notice of the hearing shall be made in the same manner as that specified in City Code Section 11.78, Subd. 4 for an amendment affecting district boundaries.
 - 2. No hearing shall be required for a renewal of license, but the Council may, at its option, hold a hearing.
- C. After investigation and hearing, the Council shall, at its discretion, grant or deny the application. A license may not be granted,
 - 1. to a person who,
 - a. is ineligible to receive a license,
 - b. has made a false statement or material omission in a license application or in response to an investigation,
 - c. fails to respond to an investigation, or
 - d. has violated any provision of City Code Section 5.71, or
 - 2. for any ineligible place.

Final approval of a license shall not be granted until the Council has given at least preliminary approval to any necessary land use request. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired.

- D. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application to the Council in the same manner as an application for a new license. The transfer of 25% or more of the ownership interests, or a controlling interest, whichever is less, of a licensee or a parent shall be deemed a transfer of the license. Transfer of a license without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval shall be a separate violation of this ordinance.
- E. In the case of the death of a licensee who is a natural person, the personal representative of the licensee may continue operation of the business for not more than ninety (90) days after the licensee's death.

Subd. 11. Conditions of License.

- A. Generally. Every license is subject to the conditions in the following paragraphs, all other provisions of this Section 5.71, and of any other applicable provisions of the City Code or State law.
- B. Maintenance of Peace. Every licensee is responsible for the conduct of its place of business and the conditions of order in it. The act of any employee of the licensee shall be deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.
- C. Display of License. Every license must be posted in a conspicuous place in the premises for which it is used.
- D. Record Keeping. At the time of a receipt of property, a licensee shall immediately record, in English, in an indelible ink, in a book or journal, which has page numbers that are pre-printed the following information:
 - 1. An accurate description of the property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark.
 - 2. The date and time the item of property was received by the licensee.
 - 3. The name, address, residence telephone number, date of birth, and reasonably accurate physical description, including height, sex and race, of the person from whom the property was received.
 - 4. The amount of money loaned upon or paid for the property.
 - 5. The identification number from one of the following forms of identification of the person from whom the property was received:
 - a. a valid Minnesota photo driver's license;
 - b. a Minnesota photo Identification Card;
 - c. a photo identification card issued by the state (or province of Canada) of residency of the person from whom the property was received, and one other valid form of identification.
 - 6. The amount paid or advanced.
 - 7. The maturity date of a pawn transaction and the amount due.

8. The monthly and annual interest rates, including all pawn fees and charges.
- E. Photographic Record. A pawnbroker or precious metal dealer must obtain a photograph of each person selling or pawning any property. The pawnbroker or precious metal dealer shall notify the person being photographed prior to taking his or her picture. The photograph shall be at least two inches in length by two inches in width and shall be immediately developed and referenced with the information regarding the person and the property sold or pawned. The major portion of the photograph shall include a front facial pose. The photograph shall be retained by the pawnbroker or precious metal dealer for thirty (30) days.
- F. Inspection of Records. The licensee shall make available the information required in paragraphs D. and E. above at all reasonable times for inspection by the City's Police Department. The information required in subsection D. shall be retained by the pawnbroker or precious metal dealer for at least three (3) years.
- G. Receipts. The licensee shall provide a receipt to the seller or pledger of any item of property received, which shall be numbered to correspond to the entry in the licensee's records and shall include:
 1. The name, address, and phone number of the licensee.
 2. The date on which the item was received by the licensee.
 3. A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold, and whether it was pawned or sold.
 4. The signature of the licensee or agent.
 5. If the property can be redeemed,
 - a. The last regular business day by which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the property on that date.
 - b. The annual rate of interest charged on pawned items received.
 6. The name and address of the seller or pledgor.
- H. Reports to Police. For the types of items listed below, the licensee must submit to the City's Police Department on a daily basis a list of the specific items purchased or received that day. The list must be on forms approved by the City and must contain all of the information described in paragraph D.
 1. Any item with a serial number, identification number, or "Operation Identification" number;
 2. Cameras;
 3. Electronic, audio, video or radar detection equipment;
 4. Precious jewelry, gems and metals;
 5. Artist-signed or artist-attributed works of art;
 6. Firearms, for which a dealer's license to deal in, is required by the laws of the State of Minnesota or the United States of America.

7. Any item not included in (1) - (6) above which the pawnbroker or precious metal dealer intends to sell for more than \$200, except for furniture and kitchen or laundry appliances.
- I. Stolen or Lost Property. A pawnbroker or precious metal dealer must report to City police any item pledged or received, or sought to be pledged or received, if the pawnbroker or precious metal dealer has reason to believe that the article was stolen or lost.
- J. Police Restrictions on Sale or Redemption. Whenever the City's Police Department notifies the licensee not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the City's Police Department.
- K. Holding Period. Any item received by the pawnbroker or precious metal dealer for which a report to the City police is required shall not be sold or otherwise transferred, or in the case of precious metal, melted down or dismantled, for thirty (30) days after the date of such report to the police. However, a person may redeem a pawned item seventy-two (72) hours after the item was received by the pawnbroker or precious metal dealer, excluding Sundays and legal holidays.
- L. Inspection of Items.
 1. Inspection by City. The pawnbroker or precious metal dealer shall, at all times during the term of the license, allow the City's Police Department to enter the premises where the pawnbroker or precious metals dealer business is located and any other premises where items purchased or received as part of the business are stored, for the purpose of inspecting such premises and the property therein to locate items suspected or alleged to have been stolen or otherwise improperly disposed of.
 2. Inspection by Claimants. Additionally, all the items coming into possession of the licensee shall at all times be open to inspection and right of examination of any person claiming to have been the owner thereof or claiming to have any interest therein, when such person is accompanied by a City police officer.
- M. Payment by Check. Payment by the licensee for any articles deposited, left, purchased, pledged or pawned, shall be made only by check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.
- N. Gambling. No licensee may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens or any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under Minnesota Statutes, Sections 349.11 -349.61, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes, Sections 349A.01 - 349A.15.
- O. Oversized Items. All items must be stored within the licensed premises building, except the City may permit the licensee to designate one (1) locked and secured warehouse building within the City within which the licensee may store oversized items. No item may be stored in the designated warehouse building that is not reported in the journal pursuant to subparagraph D above. The licensee shall permit immediate inspection of the warehouse at any time during business hours by the City's Police Department. Oversized items may not be stored in parking lots or other outside areas. All provisions in this subparagraph regarding recordkeeping and reporting shall apply to oversized items.
- P. Off-Site Sales/Storage. All items accepted by a licensee at a licensed location in the City shall be for pledge or sale through a licensed location in the City. No licensee under this Section shall sell any items which are transferred from a non-licensed facility or a licensed facility outside the City.

Q. Restrictions on Weapons.

1. A pawnbroker or precious metal dealer may not receive as a pledge, accept for consignment or sale, or otherwise deal in any firearm for which a dealer's license to deal in, is required by the laws of the State of Minnesota or the United States of America unless the pawnbroker or precious metal dealer holds such a firearms dealer's license.
2. A pawnbroker or precious metal dealer may not receive as a pledge or otherwise, or accept for consignment or sale, a firearm which a person is prohibited from possessing or transferring pursuant to the laws of the State of Minnesota or the United States of America.

Subd. 12. Printed Pawn Tickets.

A. The following shall be printed on all pawn tickets:

1. "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than sixty (60) days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods,
2. The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item,
3. This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record," and
4. A blank line for the pledgor's signature.

B. The pledgor or seller in a pawn transaction shall sign a pawn ticket and receive an exact copy of the pawn ticket.

Subd. 13. Suspensions and Revocations of License.

A. Delinquent Taxes. The Council may suspend or revoke a license issued under this Section for operation on any premises on which real estate taxes, assessments or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one (1) year after becoming due unless such one (1) year period is extended through no fault of the licensee.

B. Violations.

1. The Council may suspend for up to sixty (60) days or revoke any license upon a finding that the licensee or an agent or employee of the licensee has failed to comply with any State or Federal law or provisions of the City Code or ordinances. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 14.57 to 14.69, with the exception of the suspension provided for in paragraph 2. below.
2. Any conviction by the licensee for theft, burglary, robbery, receiving stolen property or any other crime or violation involving stolen property shall result in the immediate suspension pending a hearing

on revocation of any license issued hereunder.

- C. No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor.
- D. The Police Chief of the City shall be notified by the City of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this section.

Subd. 14. Effect of Nonredemption.

- A. A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least sixty (60) days of the date of the pawn transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.
- B. The pawnbroker's right, title, and interest in the pledged goods under paragraph A. is qualified only by the pledgor's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.
- C. A pawn transaction that involves holding only the title to the property is subject to Minnesota Statutes, 1995, Chapter 168A or 336.

Subd. 15. Permitted Charges.

- A. Notwithstanding any other statute, ordinance, rule, regulation, or section 325J.13, a pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20 if the property is not in the possession of the pawnbroker.
- B. The pawnshop charge allowed under paragraph A. shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.
- C. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.
- D. Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this Subdivision, shall be uncollectible and the pawn transaction shall be void.
- E. A schedule of charges permitted by this Subdivision shall be posted on the pawnshop premises in a place clearly visible to the general public.

Subd. 16. Records; Prohibitions. A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not:

- A. Make any false entry in the records of pawn transactions.
- B. Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions.
- C. Refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession

during the ordinary hours of business or other times acceptable to both parties.

- D. Fail to maintain a record of each pawn transaction for three (3) years.
- E. Accept a pledge or purchase property from a person under the age of eighteen (18) years.
- F. Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Subdivision, or providing for a maturity date less than one month after the date of the pawn transaction.
- G. Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in Minnesota Statutes, 1995, section 325J.09, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to section 325J.06, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency.
- H. Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction.
- I. Sell or otherwise charge for insurance in connection with a pawn transaction.
- J. Remove pledged goods from the pawnshop premises or other storage place approved by City at any time before unredeemed, pledged goods are sold pursuant to Minnesota Statutes, 1995, section 325J.06.

Subd. 17. Redemption; Risk of Loss. Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

Subd. 18. Motor Vehicle Title Pawn Transactions; Special Provisions.

- A. In addition to the other requirements of this section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:
 - 1. be licensed as a used motor vehicle dealer under Minnesota Statutes, 1995, section 168.27, and post such license on the pawnshop premises;
 - 2. verify that there are no liens or encumbrances against the motor vehicle with the Minnesota Department of Public Safety; and
 - 3. verify that the pledgor has automobile insurance on the motor vehicle as required by law.
- B. A pawnbroker may not sell a motor vehicle covered by a pawn transaction until ninety (90) days after recovery of the motor vehicle.

Subd. 19. Penalty. Except as otherwise provided in State law, any person violating any provision of this ordinance shall be subject to the penalties established in Section 5.99 of the City Code. Any fine or sentence imposed shall not affect the right of the City to suspend or revoke a license as the Council deems appropriate.

Source: Ordinance No. 56-97
Effective Date: 12-12-97

SECTION 5.72 LICENSING OF RENTAL HOUSING.

Subd. 1. Purpose. It is the purpose of this ordinance to protect the public health, safety and welfare of citizens of the City who have as their place of abode a living unit furnished to them for the payment of a rental charge to another by adopting licensing regulations for all rental dwellings in the city.

Subd. 2. Definitions.

- A. “Administrative Authority” means the Fire Chief, Building Official, or their designee.
- B. “Rental Dwelling” means any rental dwelling with one or more living units. “Rental dwelling” does not include hotels, motels, hospitals and homes for aged.
- C. “Operate” means to charge a rental charge or other form of compensation for the use of a unit in a rental dwelling.

Subd. 3. License Required. No person, firm, partnership, corporation or other legal entity shall operate a rental dwelling in the City without first having obtained a license. The license is issued each year and is valid until the date of expiration.

Subd. 4. Application for Licenses. Applications for licenses shall be made in writing on forms provided by the City and accompanied by the fee amounts as established by the City Council. Such application shall be submitted at least sixty (60) days prior to the expiration date of the license, and shall specify the following:

- A. Name and address of the owner of the rental dwelling.
- B. Name and address of any operator or agent actively managing said rental dwelling.
- C. Name and address of all partners if the registrant is a partnership.
- D. Name and address of all officers of the corporation if the registrant is a corporation.
- E. Name and address of the vendee if the rental dwelling is owned or being sold on a contract for deed.
- F. Legal address of the rental dwelling.
- G. Number and kind of units within the rental dwelling classified as dwelling units, tenement units, or rooming units or other.
- H. Name and address of on site operating manager if any.

Subd. 5. Application, Execution. The application shall be subscribed and sworn to be the applicant before an officer duly qualified to take oaths and shall be made by the owner if such owner is a natural person; if the owner is a corporation by an officer thereof; if a partnership by one of the partners; and if an unincorporated association, by the manager or managing officer thereof.

Subd. 6. License Renewal. Notwithstanding the application signature requirements of Subdivision 5, renewals of the license as required annually by this code may be made by filling out the required renewal form furnished by the Administrative Authority to the owner, operator or agent of a rental dwelling and mailing said form together with the required registration fee to the Administrative Authority.

Subd. 7. License Fees. Such license fees shall be in the amount set by the City Council from time to time.

Subd. 8. Posting. Every registrant of a rental dwelling shall post the annual license issued by the Administrative Authority. The annual license shall be conspicuously posted (in a frame with a glass covering) by the registrant, in a public corridor, hallway or lobby of the rental dwelling for which they are issued.

Subd. 9. Maintenance Standards. Every rental dwelling shall maintain the standards in the City Code, Chapter 9, Section 9.11 in addition to any other requirement of the ordinance of the City or special permits issued by the City, or the laws of the State of Minnesota.

Subd. 10. Revocation or Suspension.

- A. Every license or permit issued under this ordinance is subject to the right, which is hereby expressly reserved, to suspend or revoke the same should the license holder or their agents, employees, representatives or lessees directly or indirectly operate or maintain rental dwellings contrary to the provisions of this Article or any other City Code provision, or any permit issued by the City or the laws of the State of Minnesota.
- B. The license may be suspended or revoked by the City Council after a written notice is sent to the license holder specifying the ordinance or law violations with which they are charged. This notice shall also specify the date for hearing before the City Council, which shall not be less than 10 days from the date of the notice.
- C. At such hearing before the City Council, the license holder or their attorneys may submit and present witnesses on their behalf.
- D. After a hearing the City Council may suspend or revoke the license if they deem it necessary to protect the public health, safety or general welfare.

Subd. 11. Summary Action. When the condition of the rental dwelling of any license holder or their agent, representative, employee or lessee is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the Administrative Authority shall have the authority to summarily condemn or close off such area of the rental dwelling.

Any person aggrieved by a decision of the Administrative Authority to cease business or revoke or suspend the license or permit shall be entitled to appeal to the City Council immediately, by filing a Notice of Appeal. The Administrative Authority shall schedule a date for hearing before the City Council and notify the aggrieved person of the date.

The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action. The decision of the Administrative Authority shall not be voided by the filing of such appeal. Only after the City Council has held its hearing will the decision of the Administrative Authority be affected.

Subd. 12. Applicable Laws. Licenses shall be subject to all of the ordinances of the City and the State of Minnesota relating to rental dwellings; and this ordinance shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.

Subd. 13. Rental Dwelling Licenses; Conduct On Licensed Premises. It shall be the responsibility of the rental license holder to take appropriate action to prevent conduct by tenants or their guests on the licensed premises which is hereby deemed to be disorderly, (hereinafter referred to as a “Disorderly Use Violation”) in violation of any of the following statutes or ordinances:

- A. Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
- B. Minnesota Statutes, Sections 609.321 through 609.324, which prohibits prostitution and acts relating thereto;

- C. Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
- D. Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
- E. Minnesota Statutes, Section 609.72, and Chapter 9, Section 9.30 of this Code, which prohibits disorderly conduct when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation;
- F. Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716 which prohibit the unlawful possession, transportation, sale or use of a weapon.

Subd. 14. Disorderly Use Violations.

- A. Upon determination by the Administrative Authority that a Disorderly Use Violation occurred on the licensed premises, as described in Subdivision 13 above, the City shall notify the licensee by certified mail of the violation and direct the licensee to take appropriate action to prevent further violations.
- B. If a second Disorderly Use Violation occurs on the licensed premises by the same tenant, a family member, a roommate, or a guest of the tenant within twelve (12) months of an incident for which the notice in Subdivision 13A above was given, the City shall notify the licensee by certified mail of the violation and shall also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent disorderly use of the premises. This written report shall be submitted to the City within seven (7) days of receipt of the notice (excluding holidays) of disorderly use of the premises.
- C. If a third Disorderly Use Violation occurs on the licensed premises by the same tenant, a family member, a roommate, or a guest of the tenant within twelve (12) months after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the unit occupied by the involved tenant may be suspended by the City Council. The initial suspension may be for up to sixty (60) days. If another disorderly use violation occurs on the licensed premises by the same tenant, a family member, a roommate, or a guest of the tenant within twelve (12) months after the end of a suspension period, the City Council may suspend the rental dwelling license for the unit occupied by the involved tenant for up to one hundred twenty (120) days. In lieu of a suspension, the City Council may impose a fine equivalent to the rent for the suspension period.
- D. It shall not be considered an instance of disorderly use if the tenant is evicted or voluntarily vacates the licensed premises prior to the hearing before the City Council and within two (2) full calendar months after the determination by the Administrative Authority that disorderly use has occurred and notice of the determination has been sent to the licensee.

Subd. 15. Multiple Suspensions. If the license of more than one dwelling unit in a licensed premises is suspended within twelve (12) months, the period of suspension for the second and subsequent dwelling units licensed that are suspended may be doubled for the suspension period specified in Subdivision 14 above.

Source: Ordinance No. 7-2006
Effective Date: 3-2-2006

SECTION 5.73 DOMESTIC PARTNERSHIPS

Source: Ordinance No. 3-2012
Effective Date: 01-26-2012

Subd. 1. Purpose and Findings. The City of Eden Prairie authorizes and establishes a voluntary program of registration of domestic partners. The domestic partnership registry is a means by which unmarried, committed couples

who reside in Eden Prairie and who share a life and home together may document their relationship. Eden Prairie's Domestic Partnership ordinance is a City ordinance and does not create rights, privileges, or responsibilities that are available to married couples under state or federal law. The City of Eden Prairie cannot provide legal advice concerning domestic partnerships. Applicants and registrants may wish to consult with an attorney for such advice including but not limited to: wills, medical matters, finances and powers of attorney, children and dependents, medical, health care and employment benefits.

Subd. 2. Definitions. The following words and phrases used in this Section have the meanings given in this Section.

- A. Domestic Partner. Any two adults who meet all the following:
 - 1. Are not related by blood closer than permitted under marriage laws of the state.
 - 2. Are not married.
 - 3. Are competent to enter into a contract.
 - 4. Are jointly responsible to each other for the necessities of life.
 - 5. Are committed to one another to the same extent as married persons are to each other, except for the traditional marital status and solemnities.
 - 6. Do not have any other domestic partner(s).
 - 7. Are both at least 18 years of age.
 - 8. Reside in Eden Prairie.
- B. Domestic Partnership. The term "domestic partnership" shall include, upon production of valid, government-issued documentation, in addition to domestic partnerships registered with the City of Eden Prairie, and regardless of whether partners in either circumstance have sought further registration with the City of Eden Prairie:
 - 1. Any persons who have a currently-registered domestic partnership with a governmental body pursuant to state, local or other law authorizing such registration. The term domestic partnership shall be construed liberally to include unions, regardless of title, in which two individuals are committed to one another as married persons are traditionally committed, except for the traditional marital status and solemnities.
 - 2. Marriages that would be legally recognized as a contract of lawful marriage in another local, state or foreign jurisdiction, but for the operation of Minnesota law.

Subd 3. Registration of Domestic Partnerships.

- A. The City Clerk shall accept an application in a form provided by the City to register domestic partners who state in such application that they meet the definition of domestic partners.
- B. The City Clerk shall charge an application fee for the registration of domestic partners and shall charge a fee for providing certified copies of registrations, amendments, or notices of termination. The fees required by this Section shall be in the amount set forth in the Fee Resolution adopted by the City Council, as the same may be amended from time to time.

- C. The City Clerk shall provide each domestic partner with a registration certificate. The registration certificate shall not be issued prior to the third working day after the date of the application.
- D. This application and certificate may be used as evidence of the existence of a domestic partner relationship.
- E. The City Clerk shall keep a record of all registrations of domestic partnership, amendments to registrations and notices of termination. The records shall be maintained so that amendments and notices of termination are filed with the registration of domestic partnership to which they pertain.
- F. The application and amendments thereto, the registration certificate, and termination notices shall constitute government data and will be subject to disclosure pursuant to the terms of the Minnesota Government Data Practices Act.

Subd. 4 Amendments. The City Clerk may accept amendments for filing from persons who have domestic partnership registrations on file, except amendments which would replace one of the registered partners with another individual.

Subd 5. Termination of Domestic Partnership. Domestic partnership registration terminates when the earliest of the following occurs:

- 1. One of the partners dies; or
- 2. Forty-five days after one partner: a) sends the other partner written notice, on a form provided by the City, that he or she is terminating the partnership; and b) files the notice of termination and an affidavit of service of the notice on the other partner with the City Clerk.

SECTION 5.74. COAL TAR-BASED SEALANT PRODUCTS.

Subd. 1. Purpose. The City of Eden Prairie finds that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of sealers on asphalt driveways is a common practice. Scientific studies on the use of driveway sealers have demonstrated a relationship between stormwater runoff and certain health and environmental concerns. The purpose of this ordinance is to regulate the use of coal-tar based sealer products within the City of Eden Prairie, in order to protect, restore, and preserve the quality of its waters.

Subd. 2. Definitions. For the purpose of this section, certain terms and words are defined as follows:

- 1. Asphalt-Based Sealer. A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.
- 2. Coal Tar. A byproduct of the process used to refine coal, the carbonization of coal for the steel industry or the gasification of coal to make coal gas. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
- 3. Coal Tar Based Sealer. A sealer material containing coal tar which is commonly used on driveways, parking lots and other surfaces.
- 4. MPCA. The Minnesota Pollution Control Agency.
- 5. PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

Subd. 3. Prohibitions.

1. No person shall apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City of Eden Prairie.
2. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar-based sealer to any driveway, parking lot, or other surface within the City.
3. No commercial sealer product applicator, residential or commercial developer, or other person shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar-based sealer to any driveway, parking lot, or other surface within the City.

Subd. 4. Exclusions. Upon the express written approval from both the City and the MPCA, a person conducting bona fide research on the effects of coal tar-based sealer products or PAHs on the environment shall be exempt from the prohibitions of this Section 5.73.

Subd. 5. Asphalt-Based Sealcoat Products. The provisions of this ordinance shall only apply to use of coal tar-based sealer in the City and shall not affect the use of asphalt-based sealer products within the City.

Subd. 6. Severability. If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.”

Source: Ordinance No. 9-2012
Effective Date: 05-10-2012

SECTION 5.75. STORMWATER ILLICIT DISCHARGE AND CONNECTIONS.

Subd. 1. Declaration of Policy and Purpose. The purpose of this section is to set forth minimum requirements for stormwater management that will diminish threats to public health, safety, public and private property, and natural resources of the community by establishing standards that protect the city's lakes, ponds, wetlands, and streams from pollutants carried in urban runoff. This ordinance establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

Subd. 2. Definitions. For the purposes of this Section, the following terms, phrases, and words shall have the meanings stated below.

- A. Illicit discharge. Any direct or indirect non-stormwater discharge to the storm sewer system except as exempted in Subd. 4 of this ordinance.
- B. Illicit connection. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any non-stormwater discharge such as sewage, process wastewater, and wash water, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.
- C. Municipal Separate Storm Sewer System (MS4). A stormwater conveyance or unified stormwater conveyance system (including without limitation roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels or storm drains that are located within the corporate limits of Eden Prairie, MN and are owned or operated by the City, State, County or other public body.

- D. MPCA. The Minnesota Pollution Control Agency.
- E. NPDES. The National Pollutant Discharge Elimination System (NPDES) permit program which controls water pollution by regulating sources that discharge pollutants into waters of the United States.
- F. Pollutant. Any man-made or man-induced alteration of the chemical, physical, biological, thermal and/or radiological integrity of the water which has the potential to harm human life, aquatic life, terrestrial plant life and/or wildlife.
- G. Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
- H. Stormwater System. A Stormwater System includes any stormwater facility, drainage work or improvement that is designed to transport, convey or control the flow of stormwater or that improves or controls the water quality of stormwater. This shall include but is not limited to, outfalls, inlets, outlets, conduits, pipes, curbs, municipal streets, catch basins, gutters, ditches, pumping stations, manholes, structures, channels, retention or detention basins, infiltration areas, filtration systems and other structural components and equipment that are used for managing storm drainage or surface water. Stormwater Systems include both Public and Private Systems.
 - 1. Public Stormwater Systems are those Stormwater Systems that are under the control and/or ownership of the city, county, state or federal government. Public Stormwater Systems includes all Waters of the State located within the City that are used for managing the surface water system.
 - 2. Private Stormwater Systems are those Stormwater Systems that are not under the control or ownership of the city, county, state and/or federal government.
- I. Surface water or waters. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, or irrigation systems, whether natural or artificial, public or private.
- J. Wastewater. Any water or other liquid waste, other than uncontaminated stormwater, that has been used, such as for washing, flushing, or in a manufacturing process, and so contains waste products, discharged from a facility and collected in a sewer system and conveyed to a sewage treatment plant for processing.

Subd. 3. Stormwater and urban runoff control. All water entering the stormwater system will be protected from illegal disposal/dumping and illicit discharges and connections.

- A. Illegal disposal/dumping. No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into a Stormwater System any pollutants or waters containing any pollutants other than stormwater.
- B. Illicit discharges and connections.
 - 1. No person shall cause any illicit discharge to enter a Stormwater System.
 - 2. No person shall use any illicit connection to intentionally convey non-stormwater to a Stormwater System.
 - 3. The construction, use, maintenance or continued existence of illicit connections to a Stormwater System is prohibited. This prohibition includes, without limitation; illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Subd. 4. Exemptions. The following activities shall be exempt from Subd. 3.

- A. Discharge of non-stormwater discharge that is authorized by an NPDES permit, Notice of Intent, waiver, or wastewater discharge order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency (EPA) or MPCA,
- B. Firefighting activities or other activities necessary to protect public health and safety,
- C. Dye testing, but such testing requires written notification to the City Engineering Department prior to the time of the test,
- D. Water line flushing or flushing of other potable water sources,
- E. Landscape irrigation or lawn watering,
- F. Residential car washing,
- G. Diverted stream flows that have a Permit from the Minnesota Department of Natural Resources (DNR) or MPCA,
- H. Uncontaminated ground water infiltration,
- I. Foundation or footing drains that discharge uncontaminated groundwater,
- J. Crawl space pumps,
- K. Air conditioning condensation,
- L. Noncommercial washing of vehicles,
- M. Natural wetland flows,
- N. Dechlorinated swimming pool water,
- O. Street wash water discharged that is necessary for health or safety purposes and not in violation of any other provisions of city code,
- P. Flows from riparian habitats and wetlands, and
- Q. Any other water source not containing a pollutant.

Subd. 5. Good Housekeeping Provisions. Any owner or occupant of property within the City shall comply with the following good housekeeping requirements.

- A. No person shall leave, deposit, discharge, dump or otherwise introduce pollutants in an area where discharge to streets or the storm drain system occurs.
- B. For pools greater than 1,000 gallons in size, water shall sit a minimum of seven (7) days without the addition of chlorine to allow for chlorine to evaporate before discharge.
- C. Any facility subject to a MPCA General Stormwater Permit for Industrial or Construction Activity shall comply with all provisions of such permit including the creation of a Stormwater Pollution Prevention Plan (SWPPP).

The Proof of Coverage from the MPCA of the Stormwater Permit must be submitted to the City before any discharge occurs under the permit. Proof of compliance with said permit shall be provided in a form acceptable to the city upon the City's request.

- D. As soon as any person responsible for a facility or operation has information of any known or suspected release of materials that are resulting or may result in illegal discharges or pollutants discharging into a Stormwater System, said person shall take steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City in person or by phone or facsimile no later than the next business day.

Subd. 6. Public Waters Protection. Every person owning property through which Public Waters pass, as defined in Minn. Stat. §103G.005, Subd. 15, or such person's lessee, shall keep and maintain that part of the public waters within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the public waters. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to public waters, so that such structures will not become a hazard to the use, function, or physical integrity of the public waters.

Subd. 7. Inspection, Monitoring and Testing.

- A. The city shall be permitted to enter and inspect all Stormwater Systems as necessary to determine compliance with this ordinance. If security measures are in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements to allow access to representatives of the City.
- B. Facility operators shall allow the city ready access to all parts of its Stormwater System for the purposes of inspection, sampling, testing, examination and copying of records that must be kept under the conditions of a NPDES Permit to discharge stormwater.
- C. The city shall have the right to set up at any Stormwater System devices necessary in the opinion of the City to conduct monitoring, sampling and/or dye testing of the facility's stormwater discharge.
- D. The city has the right to require the discharger to install monitoring equipment as the City deems necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- E. If the city has been refused reasonable access to any Stormwater System and the City is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

Subd. 8. Violations and Penalties. It shall be unlawful to violate any provision or fail to comply with any of the requirements of this ordinance.

- A. The city may, without prior notice, suspend Stormwater System access to any building/site when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer system or surface waters.

- B. In the event the violation constitutes an immediate danger to public health or safety, the City is authorized to enter upon the subject property without giving prior notice to take any and all measures necessary to abate the violation and/or restore the property.
- C. Failure to comply with a suspension order issued in an emergency will result in any process deemed necessary to prevent or minimize damage to the storm sewer system or surface waters, or to minimize danger to persons.

Subd. 9. Violation deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Subd. 10. Cost of Abatement of the Violation. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 7 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the City may assess the charges against the property. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

Subd. 11. Remedies not Exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The City may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Subd. 12. Compatibility with Other Regulations. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Subd. 13. Severability. If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Subd. 14. Ultimate Responsibility. The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Source: Ordinance No. 13-2012
Effective Date: 06-14-2012

SECTION 5.76. MOBILE FOOD VENDORS.

Source: Ordinance No. 15-2015
Effective Date: 11-26-15

Subd. 1. Purpose. It is the purpose of this Section to protect the public health, safety and welfare through the regulation of mobile food vendors.

Subd. 2. Definitions. When used in this Section, the following terms have the following meanings:

- A. "City Manager" means the City Manager and his or her designee.

- B. “Food and beverage service establishment” means a building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.
- C. “Food stand” means all of the following:
 - 1. “Food cart” means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.
 - 2. “Mobile food unit” means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.
 - 3. “Seasonal permanent food stand” means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.
 - 4. “Seasonal temporary food stand” means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates for no more than 21 days annually at any one location.
- D. “Location” means for purposes of this Section, one unit of a recorded plat, subdivision, or registered land survey, or a recorded parcel described by metes and bounds.
- E. “Special event food stand” means a food and beverage service establishment which is used in conjunction with special events, and which operates no more than three times annually for no more than ten total days at all locations within the City.
- F. “Special events” means weddings, anniversary parties, birthday parties, employee parties, graduation parties and other similar events.

Subd. 3. Regulations. All food stands and special event food stands shall comply with the following:

- A. State License. All food stands and special event food stands shall hold a valid license from the Minnesota Department of Health or Hennepin County Health as applicable and post such license in the food stand or special event food stand.
- B. Mobile Food Unit. Mobile food units may operate no more than 21 days annually at any location unless operated by a permanent business located in the City of Eden Prairie or an affiliate of such business, licensed under Minnesota Statutes Chapter 157 or Chapter 28A, and readily movable, without disassembling, for transport to another location.
- C. Locations. All food stands and special event food stands shall operate only in the following locations:
 - 1. Food stands may operate only in the office zoning district set forth in City Code Section 11.20, the industrial zoning district set forth in City Code Section 11.30, and the rural zoning district set forth in City Code Section 11.10.
 - 2. Except as provided otherwise below and subject to the restrictions below, special event food stands may operate in any zoning district.
- D. Hours. All food stands and special event food stands shall operate only during the following hours:
 - 1. Food stands may operate only between the hours of 6 a.m. and 12 a.m. (midnight).

2. Special event food stands may operate only between the hours of 6 a.m. and 12 a.m. (midnight) except within residential zoning districts, including TOD-R, where the hours of operation shall be between 7 a.m. and 10 p.m.
- E. Written Permission. All food stands and special event food stands shall operate on private property only with written consent from the person who owns or controls the property.
 - F. Public Property. Food stands and special event food stands shall not operate on public streets or public right-of-ways. Food stands and special event food stands may operate in City parks only with written approval from the City Parks and Recreation Director.
 - G. Storage. All food stands and special event food stands shall be stored in compliance with all regulations relating to storage in the applicable zoning district.
 - H. Gray Water. All food stands and special event food stands shall dispose of gray water daily. Gray water may not be drained into City storm water drains.
 - I. Size. All food stands and special event food stands shall have a maximum length of no more than 30 feet.
 - J. Signs. All food stands and special event food stands shall display all signs in compliance with the requirements of the City Code.
 - K. Fire Extinguishers. All food stands and special event food stands shall have at least one 2A:20BC fire extinguisher in the stand. If deep frying occurs in the stand, then the stand must have at least one Class K fire extinguisher in the stand. Each fire extinguisher must display an inspection tag dated within the past 12 months.
 - L. Laws. All food stands and special event food stands shall comply with all applicable federal, state and local laws, ordinances, regulations, parking zones, and posted signs.
 - M. Power. All food stands and special event food stands shall provide a power supply that meets all Federal, State and Local regulations.
 - N. Propane. All food stands and special event food stands shall secure all propane tanks and provide adequate ventilation.
 - O. Precautions. All food stands and special event food stands shall take all precautions necessary to protect the public against injury.
 - P. Indemnification. All food stands and special event food stands shall defend, indemnify and save the City, its officials, agents and employees, harmless from and against all liabilities, losses, damages and claims of damages (including all reasonable costs, attorneys' fees, and other expenses incident thereto) suffered or incurred by the City, its officials, agents and employees, that may arise by reason of any act or omission on the part of the operator, its agents, or independent contractors, while engaged in operations under this Section.
 - Q. Insurance. All food stands and special event food stands shall maintain all insurance required under this subdivision, covering all vehicles, structures, food stands and special event food stands used and all operations performed under this Section. All food stands and special event food stands shall maintain evidence of such insurance in the food stand and/or special event food stand and present such insurance on request by the City.
 1. The insurance required herein shall be issued by insurers duly licensed to do business within the State of Minnesota, be in force and effect on the dates of operation and provide the following coverages:

- a. Commercial general liability insurance, with a limit of not less than one million dollars (\$1,000,000.00) each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than two million dollars (\$2,000,000.00);
 - b. Automobile liability insurance with a limit of not less than \$2,000,000 combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;
 - c. Food products liability insurance, with a limit of not less than one million dollars (\$1,000,000.00) each occurrence;
 - d. Public liability insurance, with a limit of not less than one million dollars (\$1,000,000.00) each occurrence;
 - e. Property damage insurance, with a limit of not less than one million dollars (\$1,000,000.00) each occurrence; and
 - f. Workers' compensation insurance (statutory limits) or evidence of exemption from state law.
2. Such insurance policy or policies shall provide contractual liability insurance, specifically referring to and covering the obligation to defend, indemnify and save harmless the City, its officials, agents and employees from alleged claims or causes of action for bodily injury or property damage as provided in this Section 5.76.
 3. Said policy or policies shall contain an endorsement as follows: "The policy to which this endorsement is attached is intended to comply with and furnish the coverages required by Section 5.76 of the City Code of the City of Eden Prairie. If anything in any other attachment, endorsement or rider conflicts with the provisions of said Section 5.76, then the provisions of said Section 5.76 shall prevail. Any deductible amount provided for in any part of the policy will be paid by the insurer upon establishment of legal liability of any insured, and the insurer shall be entitled to reimbursement from the insured for such deductible amount."

Subd. 4. Violations and Penalties.

- A. **Misdemeanor.** A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this Section, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of Section is guilty of a misdemeanor.
- B. **Public Nuisance.** Any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance. The City may exercise any remedy available at law or in equity to abate, enjoin, or otherwise compel the cessation of such nuisance and shall be entitled to recover its costs and expenses, including reasonable attorney fees, so incurred.
- C. **Remedies not Exclusive.** The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The City may recover all attorney fees, court costs and other expenses associated with enforcement of this Section.

Subd. 5. Severability. If any provision of this Section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

(Sections 5.77 through 5.98, inclusive, reserved for future expansion.)

SECTION 5.99. VIOLATION A MISDEMEANOR.

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

Source: City Code

Effective Date: 9-17-82