CHAPTER XI

BUSINESS AND TRADE REGULATIONS

Section 1100 - Cigarettes and Cigarette Wrappers
(Deleted, Ord. No. 98-2)

Section 1100 - Tobacco
(Added, Ord. No. 98-2)

1100.01. License required. No person shall directly or indirectly or by means of any device keep for retail sale, sell at retail, or otherwise dispose of tobacco or tobacco-related devices at any place in the city unless a license therefor shall first have been obtained as provided in this section. (Amended, Ord. 2013-02)

1100.03. Definitions. (Amended, Ord. 2013-02)

"Tobacco" shall mean cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars; cheroots; stogies, perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco. "Tobacco" 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 devise" shall mean cigarette papers or pipes for smoking.

1100.05. Application. Subdivision 1. Contents. Application for a license required by the provisions of this section shall be made to the city administrator on a form supplied by the city. Such application shall state: (Amended, Ord. 2013-02)

(a) the full name and address of the applicant;

(b) the location of the building and the part intended to be used by the applicant under such license;

(c) the kind of business conducted at such location; and

(d) such other information as shall be required by the application form.

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

1100.07. License fee; term; transfer. The fee for every license required by the provisions of this section shall be set by resolution of the city council. Every such license shall expire on the last day of June next after its issuance. Licenses issued under the provisions of this section shall not be transferable from one person to another.

1100.09. Display of license. Every license issued under the provisions of this section shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any authorized person upon request.

1100.11. Restrictions. Subdivision 1. General restrictions. No license shall be issued under this section except to a person of good moral character. No license shall be issued to an applicant for the sale of tobacco at any place other than their established place of business. No license shall be issued for the sale of tobacco at more than one place of business. No person shall sell or give away tobacco to any person below the age of 18 years. No person shall keep for sale, sell, or dispose of any tobacco containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine and other substances found naturally in tobacco or lawfully added as part of the manufacturing process.

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

1100.13. Penalties. Subdivision 1. Licensees. If a person licensed under this section or an employee of a person licensed under this section violates any provision of this section, the licensee shall be charged an administrative penalty of $75.00. If a person licensed under this section or an employee of a person licensed under this section violates any provision of this section twice at the same location within 24 months of the initial violation, the licensee shall be charged an administrative penalty of $200.00. If a person licensed under this section or an employee of a person licensed under this section violates any provision of this section three times at the same location within 24 months of the initial violation, the licensee shall be charged an administrative penalty of $250.00, and the licensee's license shall be suspended for seven days. No penalty under this section 1100.13, subdivision 1 shall take effect until the licensee has received notice, served personally or by mail, of the alleged violation, and has had an opportunity for a hearing before the city council or a person authorized by the city council to conduct the hearing. A decision that a violation of this section has occurred shall be in writing. Judicial appeal shall be as provided for by state law. (Amended, Ord. 2013-02)

Subd. 2. Individuals. Any person who sells tobacco to a person under the age of 18 years shall be charged an administrative penalty of $50.00. This penalty shall be in addition to the penalty charged under section 1100.13, subdivision 1. No penalty under this section 1100.13, subdivision 2 shall take effect until the person against whom the penalty will be charged has received notice, served personally or by mail, of the alleged violation, and has had an opportunity for a hearing before the city council or a person authorized by the city council to conduct the hearing. A decision that a violation of this section has occurred shall be in writing. Judicial appeal shall be as provided for by state law. (Amended, Ord. 2013-02)

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

Subd. 4. Minors. Any person under the age of 18 years who purchases, possesses, or consumes tobacco shall be charged an administrative penalty of $25 or perform 10 hours of community service for a first violation. Any person under the age of 18 years who purchases, possesses, or consumes tobacco shall be charged an administrative penalty of $50 or perform 15 hours of community service for a second violation. Any person under the age of 18 years who purchases, possesses, or consumes tobacco three or more times may be referred to the Hennepin County Attorneys Office for each such violation. No penalty under this section 1100.13, subdivision 4 shall take effect until the person against whom the penalty will be charged has received notice, served personally or by mail, of the alleged violation. Judicial appeal shall be as provided for by state law.

Subd. 5. Revocation. In addition to any other penalty imposed under this section 1100.13, any license issued under this section may be revoked by the city council for a violation of any provision of this section if the licensee has been given a reasonable notice and an opportunity to be heard.

1100.15. Compliance checks and inspections. At least once each calendar year, for the purpose of testing compliance with this section and Minnesota Statutes, Section 609.685, the city shall conduct an unannounced compliance check at each location for which a license has been issued under this section. Compliance checks shall involve minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the city.

Section 1105 - Dance Halls

1105.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. "Dance hall" or "public dancing place" means any room, place or space open to public patronage in which dancing in which the public may participate is carried on and to which admission may be had by the public by payment directly or indirectly of an admission fee or price for dancing.

Subd. 3. "Public dance" means any dance wherein the public may participate by payment directly or indirectly of an admission fee or price for dancing or a fee for a membership in a club and shall include any manner of holding a dance which may be participated in by the public through the payment of money directly or indirectly, knowingly or without knowledge of the payment thereof.

Subd. 4. "Liquor" or "intoxicating liquor" means and includes ethyl alcohol and include distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight.

Subd. 5. "Sale" and "sell" and "sold" mean and include all barters and all manners or means of furnishing intoxicating liquor or liquors as above described in violation or evasion of this section and this code, or in violation of state or federal law.

1105.03. Licenses. Subdivision 1. License required. No person shall directly or indirectly give, hold or conduct a public dance unless the proprietor of the public dancing place or the person giving the same or in charge thereof shall have first obtained a license therefor from the city council, provided that the council may in its discretion permit any lodge or society not organized or maintained for profit to conduct infrequent public dances without being licensed as herein provided.

Subd. 2. Application. Every person desiring a license shall make application upon blanks furnished by the clerk-treasurer and shall, except in the case of the renewal of an existing license, accompany the application with affidavits of at least two residents of the city wherein it is shown that the applicant is a person of good moral character and reputation and has not been convicted of a felony, gross misdemeanor, other crime involving moral turpitude or in violation thereof within five years prior to the making of the application.

Subd 3. Denial of license application. An applicant who is a person of bad character or who has been convicted of any such crime as aforesaid shall be denied a license. A license shall not be issued or renewed to any person who is a keeper of any disorderly house of any kind nor to any place which has any direct or indirect communication with any room in which intoxicating liquor is sold, given away, or otherwise used nor for any place having any so-called private apartments or private rooms furnished or used for any other than legitimate business purposes which adjoin such dancing place or which may be reached by stairs or hallway leading from such dancing place. No license shall be issued or renewed for any public dancing place which is not properly ventilated and equipped with necessary toilets, washrooms and lighting facilities nor to any place likely to become a public nuisance or detrimental to public morals.

Subd. 4. Fee. All license fees are payable in advance to the clerk-treasurer before the issuance or renewal of a license. The annual license fee for each place sought to be licensed shall be set by resolutions of the city council, and every such license shall expire on the last day of June of each year. Licenses shall not be transferred from one place or from one person, to another without prior council approval.

1105.05. Conduct. No person shall dance nor shall any person to whom such license is issued permit or suffer any person to dance in any indecent or immoral dances or any dance which is characterized by immodest motion of the body. No person shall act or speak in a rude, boisterous, obscene or indecent manner in any public dancing place nor shall any licensee suffer or permit any person therein to so act or speak.

1105.07. Lightings. Dance halls shall be adequately illuminated during public dances and dancing therein while lights are extinguished, dimmed or turned low so as to give inadequate or imperfect illumination is hereby prohibited.

1105.09. Certain persons to be denied admittance. Unmarried persons under the age of 18 years, unless accompanied by parent or guardian are forbidden to enter any public dancing place, provided that unmarried persons between the ages of 16 and 18 may be admitted without the presence of either parent or guardian if the written consent of either parent is presented by such minor to the officer in charge of such place who shall retain the same. Prostitutes, intoxicated persons and persons of known immorality are prohibited in any public dancing place. It shall be a violation hereof for any such minor or other prohibited person to be in such place and it also shall be a violation hereof for any licensee to permit such persons to be in such place.

1105.11. Hours. Public dances are prohibited between the hours of 1:00 o'clock and 6:00 o'clock a.m., of any day provided that no public dance shall be held or conducted on Sunday during the hours preceding 12:00 o'clock noon thereof.

1105.13. Officer to attend. It is incumbent upon every licensee to have an officer of the law present at every public dance during all times such dance is being held. Such officer shall be designated by the chief of police but the fees and expenses of such officer of the law shall be paid in advance by the licensee. The licensee shall be responsible for the acts and conduct of any person not a public officer, who is designated as such officer of the law, and there shall be no liability for officer's acts and conduct on the part of the chief.

Section 1110 - Junkyards and Junk Dealers

1110.01. Statement of purpose. Since the collection of unused and unusable motor vehicles, bodies, parts, engines and related accessories have become a source of visual blight and nuisance, a source of danger to the physical and mental well being of the children and adults within the community, a source of unreasonable annoyance to the citizens of the community and a source of depreciation of the property values within the community, this section establishes for the purpose of prohibiting the collection and maintaining of such motor vehicles, bodies, parts, engines and related accessories.

1110.03. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd 2. "Person" means any natural person, firm, association, partnership or corporation, and agent of any of the aforesaid, except duly licensed new and used car dealers who are engaged in the operation of their business.

Subd. 3. "Junk vehicle" means and includes any motor vehicle which is not currently licensed in Minnesota or any other state or which is not in operable condition or which is partially dismantled or which is used for the sale of parts or as a source of repair or replacement parts for other vehicles or which is kept for scrapping or dismantling or salvage of any kind.

1110.05. Parking and storage. With the exception of appropriately licensed pioneer, classic or collector vehicles as defined in Minnesota Statutes, section 168.10 no person shall park, keep, place, store or permit the parking, keeping, placement or storage of a junk vehicle whether on public or private land if such junk vehicle causes or becomes any one of the following:

(a) A source of visual blight or nuisance;

(b) A source of nuisance or danger to the physical and mental well being of children and adults within the city;

(c) A source of unreasonable annoyance to one or more neighboring property owners.

1110.07. Exceptions. This section does not prohibit the storage of junk vehicles which are housed completely within a building on the premises.

1110.09. Storage of parts, engines and related accessories. No person shall store or keep parts, engines or related accessories on any public or private land unless such parts, engines or related accessories are kept or stored completely within an enclosed building.

1110.11. Penalty. Each day that a violation of this section continues shall be deemed a separate punishable offense.

Section 1115 - Large Assemblies

1115.01. Statement of purpose. The purpose of this section is to regulate the assembly of large numbers of persons whose presence in the city can reasonably be anticipated to exceed the capability of the health, sanitary, fire, police, transportation and utility services provided by the city and in order to establish regulations which protect the health, safety and welfare of all persons within the city.

1115.03. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. "Large assembly" means a gathering numbering more than 200 persons or actions by one or more persons the intention of which is to attract and assemble a gathering of persons in excess of 200 at a single time and place for any purpose.

1115.05. Permit required. No person shall encourage, permit, maintain, conduct, advertise, organize, manage, sell, barter or give tickets to any large assembly whether held on public or private property, unless a permit therefor has been approved by the city council except as hereinafter provided.

1115.07. Exclusions. The following large assemblies do not require a permit:

(a) Large assemblies sponsored by the city.

(b) Large assemblies conducted primarily within a building as defined by the state building code or where the number of persons assembled, both within and without said building, does not exceed 150% of the maximum occupancy of said building.

1115.09. Large assemblies prohibited in certain areas. Large assemblies may be prohibited and a permit denied upon a finding by the city council that the proposed assembly is incompatible with existing residential land uses. Factors considered in determining incompatibility include without limitation, noise, lighting, traffic, sanitation, congestion of persons, communications, water supply, waste disposal, enforcement of laws against contraband of all types, physical damage to adjoining properties, parking areas, fire hazard, containment on the site, obedience to this code and state and federal statutes and other factors affecting the public health, safety and welfare of the public.

1115.11. Administrative fees. The applicant for a large assembly permit shall pay an investigation fee established by resolution of the city council and set forth in appendix II of this code which shall be non-refundable. As a condition of granting a permit, the city may require the establishing of a cash escrow to be deposited with the city clerk-treasurer. The cash escrow shall be used to guarantee payment by the applicant of the city's costs for legal, engineering, planning, sanitation, health, traffic control and other law enforcement services which are directly attributable to the large assembly. Any amount remaining after payment of such costs shall be refunded to the applicant.

1115.13. Application for permit. The application for a large assembly permit shall be made in writing and filed with the city clerk-treasurer no less than ten days in advance of the city council meeting at which it is to be considered and no less than 45 days in advance of the proposed date for the large assembly upon forms supplied by the city clerk-treasurer. The application shall contain without limitation, the following information:

(a) The name, age, residence and mailing address of the applicant if an individual; all partners if a partnership; and all officers of the corporation if the applicant is a corporation.

(b) The address and legal description of all property which will be in any way used or occupied by the large assembly.

(c) The names and addresses of all persons holding an equitable or legal interest in land where the proposed large assembly is to be conducted together with a written statement of their approval of such use. Mortgages are excluded from this provision.

(d) The names and addresses of all persons with a legal or equitable interest in the land which abuts the subject property.

(e) A full description of the nature, purpose and extent of the proposed large assembly.

(f) The maximum number of persons which the proposed large assembly will attract at any given time together with the days and hours during which the proposed large assembly will be conducted.

(g) The names, addresses, credentials, hours of availability and development of security officers and other general plans for security to be utilized at the proposed large assembly by the applicant.

(h) A full description of the plans for sound amplification and sound control to be utilized by the applicant.

(i) Plans for any food or other concession which will be provided together with the name, addresses and licensing information of all concessionaires.

(j) All other information which would be required by the provisions of subsection 1115.15.

(k) Any other information required or requested by the city clerk-treasurer or the city council.

1115.15. Conditions of approval in granting a large assembly permit. The city council may impose any condition reasonably required to protect the health, safety and welfare of the general public and the persons assembled, including without limitation the following elements:

(a) A fence, barrier or other enclosure which controls and regulates ingress and egress to and from the assembly with reasonable safety and speed.

(b) A potable water supply meeting all local, state and federal standards for sanitation, quality and quantity at the rate of one gallon per person per day.

(c) Separate enclosed toilets for males and females which meet state specifications conveniently located throughout the grounds, in sufficient numbers to meet the Minnesota state board of health regulations and standards.

(d) An efficient and sanitary method of disposing of solid waste at the rate of at least 2.5 pound per person per day together with provisions for restoration of the site to its original condition.

(e) A lighting plan for safe illumination during hours of darkness.

(f) Security officers: private, off-duty or on-duty Minnesota law enforcement peace officers in sufficient numbers to provide for adequate safety and security of the proposed assembly. Security and traffic control must meet the requirements of all state and local authorities.

(g) An administrative communications control center for communication with city officials either by messenger or telephone while the large assembly is being operated.

(h) Physicians, nurses or other medical personnel licensed to practice in the state of Minnesota sufficient to provide emergency medical care together with an enclosed, covered structure where treatment may be rendered together with at least two emergency ambulances with attendants for each 5,000 people anticipated in the proposed assembly.

(i) A parking area off the public right-of-way and inside the proposed large assembly area sufficient to provide parking space for one vehicle per each four persons anticipated. Permission for parking from all affected property owners must be obtained.

(j) A fire protection plan to be provided by the applicant including without limitation, an alarm system, fire extinguishing devices, fire lanes together with sufficient personnel supplied by the applicant to efficiently operate the required equipment.

(k) Copies or descriptions of all proposed advertising to insure that the proposed advertising conforms with the plans as presented to the city council.

(l) Any reasonable restrictions on sound and sound reproduction and amplification as are necessary to contain unreasonable noise within the enclosed boundaries of the location of the large assembly.

(m) A surety bond or other financial guarantee approved as to form by the city attorney and established by the city council in an amount not less than $5,000 to guarantee performance by the applicant of the conditions imposed by the city council in granting the large assembly permit.

(n) A comprehensive general liability insurance policy covering any and all damages, claims or other liabilities arising out of the operation of the large assembly whether incurred by the city or by any other association or person.

1115.17. Maximum size. The city council may limit the size of the large assembly after considering, without limitation, those matters set forth in subsection 1115.09.

1115.19. Overnight camping. No person holding a large assembly permit shall permit and no participant in a large assembly shall remain overnight at the location of a large assembly except for a reasonable number of persons required for security purposes.

1115.21. Enforcement. The large assembly permit shall be issued by the city clerk-treasurer after approval thereof by the city council. The permit shall contain a statement of all conditions attached by the city council in issuing the permit. Enforcement of this section and of any large assembly permit may take any of the following forms, within the discretion of the city.

(a) Enforcement by injunction, declaratory judgment or any other civil remedy by any court of competent jurisdiction.

(b) Enforcement by declaring such large assembly to be a public nuisance followed by abatement procedures provided by statute or section 2010 of this code.

(c) Enforcement by issuing a citation or criminal complaint against persons parking automobiles in violation of this section or any condition of the large assembly permit and the towing of such automobiles at the expense of such persons.

(d) Enforcement by disbursing all persons gathered at such large assembly.

(e) Enforcement by revoking the large assembly permit ordering removal of all large assembly paraphernalia and the disbursing of persons gathered at the large assembly.

1115.23. Penalty for violation by participants. The applicant shall be required to post copies of the large assembly permit at several locations in and about the premises, including the automobile parking area. Any participant in the large assembly other than the applicant and its employees, who violates any provision of such posted conditions which is specifically applicable to participants, upon conviction thereof by lawful authority, shall be subject to the penalty provisions of section 115 of this code.

Section 1120 - Adult Establishments
(Added, Ord. 97-03, Sec. 1)

1120.01. Findings and purpose. Studies conducted by the Minnesota attorney general, the american planning association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. Based on these studies and findings, the city council concludes:

(a) Adult establishments have adverse secondary impacts of the types set forth above.

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

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

(d) Minnesota Statutes, section 462.357 and section 412.221 allow the city to adopt regulations to promote the public health, safety, morals and general welfare.

(e) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.

1120.03. Definitions. For purposes of this article, the following terms have the meanings given them.

(a) "Adult Establishment" means:

(1) any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business, except any business licensed under chapter XII of this code;

(2) any business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to or derives 25% or more of its revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, discussing, or relating to specified sexual activities or specified anatomical areas; or

(3) any business that engages in any adult use as defined in paragraph (b) of this section.

(b) An "adult use" is any of the following activities or businesses:

(1) "Adult body painting studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) "Adult bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if: (1) the business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; or (2) 25% or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or 25% or more of the revenue of the business is derived from, items, merchandise, or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

(3) "Adult cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of specified sexual activities or specified anatomical areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) "Adult companionship establishment" means a business or establishment that excludes minors by reason of age, and that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) "Adult conversation/rap parlor" means a business or establishment that excludes minors by reason of age, and that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) "Adult health/sport club" means a health/sport club that excludes minors by reason of age, and that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) "Adult hotel or motel" means a hotel or motel that excludes minors by reason of age, and that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

(8) "Adult massage parlor/health club" means a massage parlor or health club that excludes minors by reason of age, and that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) "Adult mini-motion picture theater" means a business or establishment with a capacity of less than 50 persons that presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) "Adult modeling studio" means a business or establishment that provides figure models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

(11) "Adult motion picture arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) "Adult motion picture theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice excludes minors by reason of age or that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) "Adult novelty business" means an establishment or business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives 25% or more of its revenues from, items, merchandise, or devises that either simulate specified sexual activities or specified anatomical areas or are designed for sexual stimulation.

(14) "Adult sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

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

(c) "Nude or specified anatomical areas" means:

(1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and

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

(d) "Specified sexual activities" means:

(1) Actual or simulated; sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism; sapphism; or zooerastia;

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

(6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

1120.05. Location. An adult establishment may not be located within 1000 feet of any residentially guided area. For purposes of this section, this distance is a horizontal measurement from the main public entrance of the adult establishment to the nearest point of any residentially guided area.

1120.07. Hours of operation. An adult establishment may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

1120.09. Additional conditions for adult cabarets. The following additional conditions apply to adult cabarets:

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

(b) A dancer, live entertainer, performer, patron, or any other person may not display specified anatomical areas in an adult cabaret;

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

(d) A dancer, live entertainer, or performer may not be under 18 years old;

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

(f) A dancer or performer may not perform a dance or live entertainment closer than ten feet from any patron;

(g) A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;

(h) A patron may not pay or give any gratuity to any dancer or performer; and

(i) A dancer or performer may not solicit or accept any pay or gratuity from any patron.

1120.11. License required.

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

(b) The application for an adult establishment license must be submitted on a form provided by the city and must include:

(1) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than 5% of the issued and outstanding stock of the corporation;

(2) The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's;

(3) The address and legal description of the premises where the adult establishment is to be located;

(4) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or adult business by the applicant, operator, or manager, and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;

(5) The activities and types of business to be conducted;

(6) The hours of operation;

(7) The provisions made to restrict access by minors; and

(8) A building plan of the premises detailing all internal operations and activities.

(c) The license fee provisions for adult establishments are as follows:

(1) The annual license fee is set by council resolution.

(2) An application for a license must be submitted to the city clerk and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.

(3) Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.

(4) No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the city council within 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:

(i) Destruction or damage of the licensed premises by fire or other catastrophe;

(ii) The licensee's illness, if such illness renders the licensee unable to continue operating the licensed adult establishment;

(iii) The licensee's death; or

(iv) A change in the legal status making it unlawful for the licensed business to continue.

(5) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the city council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the police chief or the city clerk in writing and they will report it to the city council. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

(d) The investigative fee for an adult establishment license is established by council resolution.

(e) The procedures for granting an adult establishment license are as follows:

(1) The chief of police will conduct and complete an investigation within 30 days after the city clerk receives a complete application and all license and investigative fees.

(2) If the application is for a renewal, the applicant will be allowed to continue business until the city council has determined whether to renew or refuse to renew a license.

(3) If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, then the license will be issued by the city council within 30 days after the investigation is completed. If the city council fails to act within 30 days after the investigation is completed, the application will be deemed approved.

(4) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than 5% of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this section must obtain an annual license.

(f) A license will not be granted to or held by a person who:

(1) Is under 21 years of age;

(2) Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;

(3) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments;

(4) Who is not the proprietor of the establishment for which the license is issued;

(5) Who is residing with a person who has been denied a license by the city or any other Minnesota municipal corporation to operate an adult establishment, or residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding 12 months; or

(6) Who has not paid the license and investigative fees required by this section.

(g) An adult establishment license will not be granted for:

(1) Any adult establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this article, or where a license hereunder has been revoked for cause, until one year has elapsed after the conviction or revocation;

(2) Any adult establishment that is not in full compliance with the city code and all provisions of state and federal law; or

(3) Any premises that are licensed under chapter IV of this code.

(h) A license is subject to the provisions of this article, and of any applicable sections of the city code and all provisions of state and federal law.

(i) Licensed premises must have the license posted in a conspicuous place at all times.

(j) A minor may not be permitted on the licensed premises.

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

(l) The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.

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

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

(o) Suspensions, revocations, and nonrenewals of adult establishment licenses are governed by the following provisions:

(1) A violation of this article is a basis for the suspension or revocation of a license granted hereunder. In the event that the city council proposes to revoke or suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.

(2) If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action, then the suspension or revocation is stayed until the conclusion of such action.

(3) If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the city acted properly, the licensee may continue in business until the conclusion of the action.

(4) If the city council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the city acted property. The applicant may not commence doing business unless the action is concluded in its favor.

Section 1125 – Regulation of Pawnbrokers
(Added, Ord. No. 2002-03)

1125.01. Purpose. The city council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The city council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The city council further finds that the pawn industry has outgrown the city's current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this section is to prevent pawn businesses from being used as facilities for the commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

To help the police department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this section also implements and establishes the required use of the automated pawn system (APS).

1125.03. Definitions. As used in this section, the following words and terms have the meanings ascribed to them in this section. Subdivision 1. "Pawnbroker" means:

(a) Except as provided in paragraph (b) of this subdivision, 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.

Subd. 2. "Reportable transaction" means every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, is reportable except:

(a) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; and

(b) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Subd. 3. "Billable transaction" means every reportable transaction conducted by a pawnbroker except renewals, redemptions or extensions of existing pawns on item previously reported and continuously in the licensee's possession is a billable transaction.

1125.05. License required. No person shall engage in the business of pawnbroker at any location without a pawnbroker license for that location. No pawnbroker license may be transferred to a different location or a different person. Issuance of a license under this section shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other locations.

1125.07. License fees. Subdivision 1. The annual license fees for licenses issued under this section shall be $2,500. The annual license fee shall be payable semi-annually in accordance with procedures established by the city council.

Subd. 2. The billable transaction license fee shall be classified according to the medium by which daily reports required by this section are submitted to the West Hennepin Public Safety Department. These classifications shall be as follows:

(a) Modem - Required of all licensees.

(b) The billable transaction license fee shall reflect the cost of processing transactions from the licensees and other related regulatory expenses as determined by the city council and shall be reviewed and adjusted, if necessary, at least every six months. Licensees shall be notified in writing 30 days before any adjustment is implemented.

(c) Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this section.

1125.09. Investigation fee. An applicant for a new license under this section, or for the renewal of an existing license that is more than six months past due, shall deposit $1,500 with West Hennepin Public Safety at the time an original application is submitted to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section. If the investigation process is conducted solely within the State of Minnesota, the fee shall be $500 and the remainder of the deposit shall be returned to the applicant upon completion of the investigation. If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding $10,000.

1125.11. Expiration of license. All licenses shall expire on January 1st.

1125.13. Application required. Subdivision 1. Contents. An application form provided by the city of Independence must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

(a) If the applicant is a natural person:

(1) The name, place and date of birth, street resident address, and phone number of applicant.

(2) Whether the applicant is a citizen of the United States or resident alien.

(3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.

(4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by Minnesota Statutes, section 333.01.

(5) The street address at which the applicant has lived during the preceding ten years.

(6) The type, name and location of every business or occupation in which the applicant has been engaged during the preceding ten years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding ten years.

(7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.

(8) The physical description of the applicant.

(9) Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to application.

(10) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (a) through (h) of subdivision 1 of this section.

(b) If the applicant is a partnership:

(1) The name(s) and address(es), of all general and limited partners and all information concerning each general partner required in subdivision 1 of this section.

(2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business.

(3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, section 333.01, a certified copy of such certificate must be attached to the application.

(4) A true copy of the federal and state tax returns for partnership for the two years prior to application.

(5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in section 1125.13, subdivision 1(a)(1) through (8).

(c) If the applicant is a corporation or other organization:

(1) The name of the corporation or business form, and if incorporated, the state of incorporation.

(2) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, section 303.06, must be attached.

(3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required by section 1125.13, subdivision 1(a)(1) through (8).

(4) A list of all persons who control or own an interest in excess of 5% in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subdivision 1 above. This subdivision (d), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

(d) For all applicants:

(1) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit.

(2) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit.

(3) The location of the business premises.

(4) If the applicant does not own the business premises, a true and complete copy of the executed lease.

(5) The legal description of the premises to be licensed.

(6) 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.

(7) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed.

(8) Such other information as the city council or issuing authority may require.

Subd. 2. New manager.

(a) When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application, on forms provided by the city, within 14 days. The application must include all appropriate information required by this section.

(b) Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this section. If the investigation process is conducted solely within the State of Minnesota, the fee shall, be $500. If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding $10,000. Fees payable to West Hennepin Public Safety.

Subd. 3. Application execution. All applications for a license under this section must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a corporation, by an officer thereof if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

Subd. 4. Investigation. The police must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the police investigator such evidence as the investigator may reasonably require in support of the statements set forth in the application.

Subd. 5. Public hearing. The council will request a public hearing.

Subd. 6. Persons ineligible for a license. No licenses under this section will be issued to an applicant who is a natural person, a partnership if such applicant has any general partner or managing partner, a corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business to be licensed, if the applicant:

(a) Is a minor at the time that the application is filed;

(b) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, section 364.03, subdivision 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by Minnesota Statutes, section 364.03, subdivision 3; or

(c) Is not of good moral character or repute.

1125.15. Bond required. Before a license will be issued, every applicant must submit a $5,000 bond on the forms provided by the city of Independence. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principals business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30 days written notice to the city, which shall be served upon the city clerk-administrator, and West Hennepin Public Safety.

1125.17. Records required. At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by West Hennepin Public Safety:

(a) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(b) The purchase price, amount of money loaned upon, or pledged therefor.

(c) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

(d) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

(e) Full name, residence address, residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.

(f) The identification number and state of issue from any of the following forms of identification of the seller:

(1) Current valid Minnesota driver's license.

(2) Current valid Minnesota identification card.

(3) Current valid photo identification card issued by another state.

(g) The signature of the person identified in the transaction.

(h) Licensee must also take a color photograph or color video recording of:

(1) Each customer involved in a billable transaction.

(2) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

The photographs taken must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that they are being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that they are being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months. Licensees may fulfill the color photograph requirements in this clause by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not altar or amend the requirements in this clause.

(i) Renewals, extensions and redemptions. For renewals. extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(j) Inspection of records. The records must at all reasonable times be open to inspection by the police department. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

1125.19. Daily reports to police. Subdivision 1. Method. Licensees must provide to the police department the information required in section 1125.17(a) through (f), by transferring it from their computer to the police department via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority using a dial-callback protocol or other procedures that address security concerns of the licensees and the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the promises, which informs all patrons that all transactions are reported to the police department daily.

Subd. 2. Billable transaction fees. Licensees will be charged for billable transactions at the current rate for the medium by which they were reported to the police department except:

(a) If a licensee who has consistently reported via modem, is unable to successfully transfer the required reports by modem, the licensee must provide the police department printed copies of all reportable transactions along with the video tape(s) for that date, by 12:00 noon the next business day, and must be charged at the modem rate for billable transactions;

(b) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports as detailed in section 1125.19, and must be charged at the modem rate for transactions through the close of the first business day following the failure, and at the manual rate for all subsequent billable transactions until the error is corrected; or

(c) If the problem is determined to be outside the licensee's system, the licensee must provide the reports required by section 1125.19, subdivision 1, and will be billed at the modem rate for billable transactions until the error is corrected.

(d) If a licensee who has consistently reported via modem, is unable to capture, digitize or transmit the photographs required in section 9(8) and (9), the licensee must immediately take all required photographs with a still camera, immediately develop the pictures, cross-reference the photographs to the correct transaction, and deliver them to the police department by 12:00 noon the next business day. Billable transactions will be charged at the modem rate for transactions through the close of the first business day following the failure, and at the manual rate for all subsequent billable transactions until the error is corrected.

(e) Second and subsequent occurrences of circumstances detailed in subdivision 2, (a), (b) or (d), within any six consecutive months, will be charged at the manual rate for billable transactions until the error is corrected.

(f) Notwithstanding the provisions of this subdivision, the police chief or the chief's designee may, upon presentation of extenuating circumstances, extend the period that a qualifying licensee is billed at the modem rate for billable transactions.

1125.21. Receipt required. Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:

(a) The name, address and telephone number of the licensed business.

(b) The date and time the item was received by the licensee.

(c) Whether the item was pawned or sold, or the nature of the transaction.

(d) An accurate description of each item received including but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(e) The signature or unique identifier of the licensee or employee that conducted the transaction.

(f) The amount advanced or paid.

(g) The monthly and annual interest rates including all pawn fees and charges.

(h) The last regular day of business 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 pawned item on that date.

(i) The full name, residence address, residence telephone number and date of birth of the pledger or seller.

(j) The identification number and state of issue from any of the following forms of identification of the seller:

(1) Current valid Minnesota driver's license.

(2) Current valid Minnesota identification card.

(3) Current valid photo driver's license or identification card issued by another state.

(k) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.

(l) The signature of the pledger or seller.

(m) All printed statements as required by State Statute 325J.04, subdivision 2, or any other applicable statutes.

1125.23. Redemption period. Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90 day holding period, items may not be removed from the licensed location except as provided in section 1125.27, subdivision 2. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the police license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with the original transaction record in accordance.

1125.25. Holding period. Any item purchased by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

1125.27. Police order to hold property. Subdivision 1. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to section 1125.27, subdivision 2, whichever comes first.

Subd. 2. Order to hold. Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief or the chief's designee. The order to hold shall expire 90 days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.

Subd. 3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:

(a) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or

(b) Place the item on hold or extend the hold as provided in section 1125.27, subdivision 2, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee shall so notify the licensee.

1125.29. Inspection of items. At all times during the terms of the license, the licensee must allow the police chief or the chief's designee(s) to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in section 1125.27, subdivision 2, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the item, ware and merchandise and records therein to verify compliance with this section or other applicable laws.

1125.31. Label required. Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

1125.33. Prohibited acts. Subdivision 1. No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

Subd. 2. No licensee may receive any goods from a person of unsound mind or an intoxicated person.

Subd. 3. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

Subd. 4. No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

1125.35. Denial, suspension or revocation. Any license under this section may be denied, suspended or revoked for one or more of the following reasons:

(a) The proposed use does not comply with the Independence Zoning Code.

(b) The proposed use does not comply with any health, building, building maintenance or other provisions of this code of ordinances or State law.

(c) The applicant or licensee has failed to comply with one or more provisions of this section.

(d) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

(e) Fraud, misrepresentation or bribery in securing or renewing a license.

(f) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

(g) Violation within the preceding five years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(h) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this section.

1125.37. Business at only one place. A license under this section authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the police chief or chief's designee may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with section 1125.29. All provisions of this section regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises which extends for more than six months.

1125.39. Separability. Should any section, subsection, clause or other provision of this section be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the section as a whole or any part other than the part so declared invalid.

1125.41. Criminal penalties. Any person violating any provision of this section shall be guilty of a misdemeanor and may be sentenced to payment of a fine of up to $1,000 or 90 days in jail or both.

Section 1130 - Peddlers, Solicitors and Transient Merchants
(Added, Ord. No. 2004-08)

1130.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

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

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

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

1130.03. License required. It is unlawful to engage in business as a peddler, solicitor or transient merchant in the city without first obtaining a license as provided in this section.

1130.05. Exemptions. This section does not include:

(a) the sale of personal property at wholesale to dealers in such articles;

(b) the sale of newspapers;

(c) the acts of merchants or their employees in delivering goods in the regular course of business;

(d) solicitations by children aged 18 or younger for a school sponsored activity; (Amended, Ord. 2008-05)

(e) solicitations by members or volunteers for an organization in accordance with section 1130.13, or;

(f) sales or solicitations required by statute or by order of any court, or to conduct of a bona fide auction sale pursuant to law.

1130.07. Application. Applications for a license under this section must be filed with the city administrator on a sworn application in writing on a form to be furnished by the city administrator. The application must contain the following information:

(a) full name, date of birth, and physical description of applicant;

(b) complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;

(c) a brief description of the nature of the business and the goods to be sold;

(d) the name and address of the employer, principal or supplier of the applicant, together with proof of the relationship;

(e) the length of time for which the right to do business is desired;

(f) the source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, the location of such goods or products at the time of the application, and the proposed method of delivery;

(g) a recent photograph of the applicant approximately two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;

(h) a statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor; and

(i) the names of other municipalities, not to exceed three, where applicant carried on similar business immediately preceding date of application and the addresses from which such business was conducted in those municipalities.

1130.09. Bond required. The applicant for a transient merchant license who is not required to obtain a license under the provisions of Minnesota Statutes, chapter 329, must provide a bond to the city in the amount of $1,000 conditioned that applicant will in all things conform to the laws relating to transient merchants and on full compliance with all material oral or written statements and representations made by seller, applicant's agents, representatives, or auctioneers with reference to merchandise sold or offered for sale and on faithful performance under all warranties made with reference thereto. The form of bond must be approved by the city attorney.

1130.11. License fee. At the time of filing the application, the license fees set by subsection 1130.27 must be paid to the city clerk.

1130.13. Religious and charitable organizations; exemption. An organization, society, association or corporation desiring to solicit or to have solicited in its name, money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations upon the streets, in office or business buildings, by house-to-house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose is exempt from the provisions of subsection 1130.07 provided there is filed a written statement indicating the following information:

(a) organization's name and specific cause for which exemption is sought;

(b) names and addresses of the officers and directors of the organization;

(c) period during which solicitation is to be carried on; and

(d) whether or not any commission, fee, or wages are to be expended in connection with such solicitation and the amount thereof.

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

1130.15. Investigation and issuance. The city's public safety director will conduct an investigation of the applicant's business and moral character, and provide a recommendation to the city council. The city council may grant or deny the application in order to protect the public health, safety and welfare.

1130.17. The license. The license shall contain the name, address and photograph of the licensee, the kinds of goods to be sold thereunder, the date of issuance and the length of time, not to exceed one year from the date of issuance that the license will be in effect, as well as the license plate number and other identifying description of any vehicle used in such licensed business. Licenses shall be worn or conspicuously displayed at all times during any door-to-door activities. Licensees shall be permitted to conduct door-to-door activities only Monday through Friday from 9:00am to 8:00pm, and Saturday from 9:00 am to 5:00 pm. There shall be no door-to-door activity on Sunday. Licenses are non-transferable. The city administrator shall keep a permanent record of all licenses issued.

1130.19. Loud noises and speaking devices. A person licensed under this section may not shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

1130.21. Use of streets. A person licensed under this section does not have an exclusive right to any location in the public streets, nor is permitted a stationary location thereon. A person licensed under this section may not operate in a congested area where such operation might impede or inconvenience the public use of streets.

1130.23. Private property. Issuance of a license under this section does not permit the license holder to conduct the licensed activity on private property without the permission of the owner or the owner's authorized agent.

1130.25. Records. The director of public safety shall report to the city administrator all convictions for violation of this section. The city administrator must maintain a record for each license issued and record the reports of violation therein.

1130.27. Fees. The fees for licenses issued pursuant to this section are set forth in the city's fee schedule.

Section 1135 – Body Art Establishments
(Added, Ord. No. 2011-13)

1135.01. Findings and Purpose. This Section is enacted to establish standards to protect health, safety and general welfare of the people of the City of Independence through regulation of body art establishments.

1135.03. General Provisions. Subdivision 1. This Section shall apply to all body art establishments where tattooing and body piercing are conducted. Nothing in this Chapter is intended to supersede the provisions in Minnesota Statutes, Chapter 146B applicable to body art establishments or body art technicians.

Subd. 2. No person may own or operate a body art establishment or a temporary body art establishment without first having obtained an establishment license from the commissioner of the Minnesota Department of Health. Any person seeking to open and operate a body art establishment in the City shall, before initiating operations, provide proof of receipt of such license in the City.

1135.05. Location Restricted. No person may engage in body art activities at any place other than a licensed establishment. A body art establishment may only be located in a Commercial-Light Industrial (CLI) district. Body art establishments shall be prohibited in all other districts.

1135.07. Inspections. In addition to allowing inspections by the commissioner, the operator of the body art establishment must, upon request of the City's building official, and after receipt of proper identification, permit access to all parts of the establishment at any reasonable time, for the purpose of City inspection. No person may interfere with or hinder the building official in the performance of such inspection.

1135.09. Penalty. Any person shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided by law if he/she violates this section or permits a violation to occur or exist on premises under his/her control.