

TITLE 3

BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1

GENERAL LICENSING AND PERMIT PROVISIONS

SECTION:

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3-1-1: **LICENSES AND PERMITS:**

A. General Rule: Except as otherwise provided in this Code, all licenses and permits granted by the City shall be governed by the provisions of this Chapter.

B. License, Permit Required: No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use. Violation of this Section is a misdemeanor and punishable by law. (1981 Code § 501.01)

3-1-2: **APPLICATION FOR LICENSE OR PERMIT:** Every application for a license or permit shall be made to the Clerk-Treasurer on a form provided by the Clerk-Treasurer. It shall be accompanied by payment to the Clerk-Treasurer of the prescribed fee. If, after investigation, the Clerk-Treasurer is satisfied that all requirements of law and this Code have been met, the Clerk-Treasurer shall present the application to the Council for action or, if the license or permit does not require Council approval, the Clerk-Treasurer shall issue the license or permit. (1981 Code § 501.01)

3-1-3: **LICENSE AND PERMIT FEES:**

A. Fee Established: License fees are in the amounts established in the governing chapters of this Title or as otherwise provided in this Code. The license and permit fees as set forth in the various chapters of this Title are the official controlling provisions.

B. Prorated Fees: License fees shall not be prorated unless otherwise specified by this Code or by law.

C. Refunds: License fees shall not be refunded in whole or in part unless otherwise specified by this Code or by law. (1981 Code § 501.02)

3-1-4: **DURATION OF LICENSE:** Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31. (1981 Code § 501.03)

3-1-5: **TRANSFER OF LICENSE:** No license issued under this Code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Council or other licensing authority. (1981 Code § 501.04)

3-1-6: **INSPECTION:**

A. Authorized Personnel: Any City official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine any licensee, licensee's business or premises to enforce compliance with applicable provisions of this Code. Subject to the provisions of subsection B of this Section, such City official or employee may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code.

B. Search Warrants: If the licensee objects to the inspection of his/her premises, the City official or employee charged with the duty of enforcing the provisions of this Code shall procure a valid search warrant before conducting the inspection. (1981 Code § 501.05)

3-1-7: **DUTIES OF LICENSEE:** Every licensee and permittee shall have the duties set forth in this Section.

A. Inspection: Licensee shall permit, at reasonable times, inspections of licensee's business and examination of licensee's books and records by authorized officers or employees. Failure to comply with this Section shall be grounds for suspension under Section 3-1-8 of this Chapter.

B. Compliance With Law: Licensee shall comply with laws, ordinances and regulations applicable to the licensed business, activity or property.

C. Display Of License: Licensee shall display the license or other insignia given licensee as evidence of the license in a conspicuous place on the premises, vehicle or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever licensee is carrying on the licensed activity.

D. Unlawful Disposition: The licensee shall not lend or give to any other person his/her license or license insignia. (1981 Code § 501.06)

3-1-8: **SUSPENSION OR REVOCATION OF LICENSE:** The Council may suspend for a period not exceeding sixty (60) days or revoke any license or permit for violation of any provision of law, ordinance or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law without a hearing the holder of the license or permit shall be granted a hearing upon at least ten (10) days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee. (1981 Code § 501.07)

CHAPTER 2

LIQUOR CONTROL

SECTION:

- 3-2-1: Adoption of State Law by Reference
- 3-2-2: City May Be More Restrictive Than State Law
- 3-2-3: Definitions
- 3-2-4: Nudity on The Premises Of Licensed Establishments Prohibited
- 3-2-5: Reserved
- 3-2-6: Number of Licenses Which May Be Issued
- 3-2-7: Term and Expiration of Licenses
- 3-2-8: Kinds of Liquor Licenses
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- 3-2-10: Council Discretion To Grant Or Deny A License
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- 3-2-21: Restrictions On Purchase And Consumption
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- 3-2-30: Effective Date
- 3-2-31: Summary Approved

3-2-1: **ADOPTION OF STATE LAW BY REFERENCE:** The provisions of M.S. Ch. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in fall.

3-2-2: **CITY MAY BE MORE RESTRICTIVE THAN STATE LAW:** The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. § 340A, as it may be amended from time to time.

3-2-3: **DEFINITIONS** In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

Liquor: As used in this chapter, without modification by the words intoxicating or 3.2 percent malt, includes both intoxicating liquor and 3.2 percent malt liquor.

Restaurant: An eating facility, other than a hotel, under the control of a single proprietor or

manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a "small establishment," "medium establishment" or "large establishment" as defined in M.S. § 157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of a "small establishment", "medium establishment" or "large establishment".

3-2-4: NUDITY ON PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED:

- A. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.
- B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.
- C. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 29(B).

3-2-5: RESERVED

3-2-6: NUMBER OF LICENSES, WHICH MAY BE ISSUED:

State law establishes the number of liquor licenses that a city may issue. The Council in its sound discretion may approve up to the number of licenses authorized by M.S. Ch. § 340A, as it may be amended from time to time, including licenses in a particular category authorized by a referendum held under the provisions of M.S. § 340.A.413, subd. 3, as it may be amended from time to time. The Council is not required to issue the full number of licenses that it has available.

3-2-7: TERM AND EXPIRATION OF LICENSES:

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

3-2-8: KINDS OF LIQUOR LICENSES:

The city council may issue the following licenses and permits, up to the number specified in Section 6.

- A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- B. 3.2 percent malt liquor off-sale license.
- C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
- D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994.
- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 9 of this ordinance shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.
- F. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 9 of this ordinance, shall not exceed the maximum amount provided by M.S. § 340A.504, subd. 3c, as it may be amended from time to time.
- G. RESERVED
- H. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year.
- I. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria

- of M.S. § 340A.404, subd. 5, as it may be amended from time to time; to licensed bed and breakfast facilities which meet the criteria in M. S. § 340.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 9 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- J. One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.
 - K. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 9 of this ordinance shall not exceed the maximum amount permitted by M.S. § 340A.14, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
 - L. Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.
 - M. Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 9.
 - N. Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 8 (O) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.
 - O. Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 8 (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at M.S. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the Manner required by M.S. § 340A.301 subd, 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 8 (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year,

provided that off-sales may not total more than 500 barrels.

- P. Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

3-2-9: LICENSE FEES; PRO RATA:

- A. No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish from time to time in the Ordinance Establishing Fees and charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis, with any portion of an effective quarter charged as a full quarter to the applicant.
- D. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- E. No refunds will be granted on liquor license fees.

3-2-10: COUNCIL DISCRETION TO GRANT OR DENY A LICENSE:

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter. No retail license shall be issued to:

- A. A person who is not a resident of the State. If the applicant is a corporation, all of the shareholders must be residents of the state. The provisions of this subparagraph A shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.
- B. A person under 21 years of age.
- C. A person who has had an intoxicating or 3.2% malt liquor license revoked within 5 years of the license application.
- D. A person who at the time of a liquor license violation:
 - 1. owns any interest in the premises,
 - 2. holds more than 5 percent of the capital stock of a corporation licensee, or
 - 3. was a partner in the business for firm where the violation occurred
- E. A person not of good moral character and repute.
- F. A person with a direct or indirect interest in a liquor manufacturer, brewer, or wholesaler.
- G. In addition, no new retail license may be issued to and the governing body of the municipality may refuse to renew the license of a person who, within 5 years of the license application has

been convicted of a felony or a willful violation of a Federal or State law or local ordinance governing the manufacture, sale, distribution or possession of alcoholic beverage.

In addition, the following restrictions apply to licenses:

- H. Each license shall be issued only to the applicant for the premises described in the application.
- I. Not more than one license shall be directly or indirectly issued within the city to any one person.
- J. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.
- K. No license shall be issued for any place or any business ineligible for a license under state law.
- L. No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school/church to the closest side of the structure on the premises within which liquor is to be sold.

3-2-11: APPLICATION FOR LICENSE:

- A. **Form:** Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.
- B. **Financial responsibility:** Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

3-2-12: DESCRIPTION OF THE PREMISES

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk unless the applicant is specifically applying for seasonal outdoor sales described below.

3-2-13: APPLICATIONS FOR RENEWAL:

At least 90 days before a license issued under this chapter is to be renewed, an application for

renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

3-2-14: TRANSFER OF LICENSE:

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

3-2-15: INVESTIGATION:

- A. **Preliminary background and financial investigation.** On an initial application for a license, on an application for transfer of a license and on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee not to exceed \$500 which shall be in addition to any license fee and which shall be set by the Council from time to time not to exceed the cost of such investigation. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

- B. **Comprehensive background and financial investigation.** If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

3-2-16: HEARING AND ISSUANCE

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

3-2-17: SEASONAL OUTDOOR SALES

The sale of liquors pursuant to any of the licenses issued with this chapter shall be limited to sale and consumption inside of a structure on the licensed premises, unless the licensee applies for and receives permission from the City for sale and consumption outside of the structure on the licensed premises as indicated by receipt of a license to conduct "Seasonal Outdoor Sales". An on-sale license holder which is a restaurant as defined in this chapter may include in the application or re-application the additional request to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of liquor in such

contiguous area that is not wholly within a completely enclosed building. The contiguous area shall not be part of a public grounds and such area must be specified as included on the liquor liability insurance certificate.

Each application pursuant to this section shall contain a description of the outdoor area that is proposed to be licensed and shall be accompanied by a drawing of the proposed area to be licensed. Such application shall also include a detailed description of the barriers that will be used, method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements, and lighting. The drawing required hereunder must include the dimensions of the area, barriers, tables, aisles, and equipment, and must be drawn proportionately to scale. The drawing shall also include adjacent properties and uses (e.g. residential, commercial). Live entertainment or the use of sound producing equipment in the licensed area is prohibited except upon receipt of a special permit issued separately by the City.

City staff will review such request for seasonal outdoor sales of liquors for suitability of the proposed location in light of applicable fire, building and life safety codes, zoning ordinances, past performance of the licensee in maintaining order and obeying applicable laws in the licensed outdoor area and in the principal licensed premises, the adequacy of the proposal to provide for the safety of persons on the proposed premises, impact on the surrounding land, adequacy of lighting, appropriateness of noise level, suitability of ingress and egress arrangements including control of persons entering and leaving for purposes of preventing consumption by minors and safety arrangements. An application may be denied based on the following non-exclusive list of factors:

- A. Inability to comply with fire, building and life safety codes or inability to comply with zoning ordinances;
- B. Occurrences of disorderly conduct;
- C. Demonstrated history or inability to provide safety on the premises;
- D. Adverse impact on surrounding land, inadequate lighting, in appropriate noise levels;
- E. Unsuitable ingress and egress arrangements;
- F. Such other grounds if the City finds that issuing the permit is not in the best interest of the general health, welfare and safety of the citizenry.

Sales of liquor in approved outdoor locations is limited to the hours commencing at 10:00 a.m. and ending at 10:00 p.m. from April 15th through October 15th of any year. Any licensing of premises must be deemed experimental and as such, no expectation must be made by the licensee that the licensing of outdoor areas will be renewed, even though no misconduct occurred in the outdoor area, in the event the City Council determines to repeal the general authorization for seasonal outdoor sales.

3-2-18: CONDITIONS OF LICENSE:

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
- B. Every licensee is responsible for the conduct of the place of business and the

conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

- C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

3-2-19: HOURS AND DAYS OF SALE:

- A. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 20 minutes after the time when a sale can legally occur.
- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 20 minutes after the time when a sale can legally occur.
- D. Employees: All employees of the licensed premise whose primary duties include the sale or service of intoxicating liquor or 3.2 percent malt liquor must vacate the premises of an on-sale intoxicating liquor establishment or a 3.2 percent malt liquor establishment within 1 hour of the legal termination of the sales and may not return to the establishment until 2 hours before the legal sales may again be tendered.
- E. Every room, place or premises wherein intoxicating liquor and 3.2 percent malt liquor is permitted to be sold under on-sale license, including any cafe, restaurant, dining room or any other enterprise operated in connection therewith, shall be closed to the public during the time the sale of liquor is prohibited by State law, unless all liquor serving facilities, liquor displays and liquor storage areas are secured by lock and key.
- F. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

3-2-20 MINORS ON PREMISES

- A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
- B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

3-2-21: RESTRICTIONS ON PURCHASE AND CONSUMPTION

- A. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
- B. Age misrepresentation: No minor shall misrepresent his or her age for the purposes of obtaining intoxicating liquor and/or 3.2 percent malt liquor.
- C. No person shall induce a person under the age of 21 years of age to purchase or procure and intoxicating liquor and/or 3.2 percent malt liquor.
- D. Procurement: No person, other than the parent or legal guardian, shall procure intoxicating liquor and 3.2 percent malt liquor for any person under the age of 21 years of age.
- E. Possession: No person under the age of 21 years of age shall have intoxicating liquor and/or 3.2 percent malt liquor in his/her possession at a place other than at the household of, and with the permission of his/her parent or guardian.
- F. Consumption: No person under the age of 21 years of age shall consume intoxicating liquor and/or 3.2 percent malt liquor unless in the company of a parent or guardian at the household of such parent or guardian.
- G. Consumption in public places: No person shall consume intoxicating liquor and/or 3.2 percent malt liquor on a public highway, public street, public alley or other public place. Consumption is permitted in public parks when the park is open if the person is of legal age.
- H. Liquor on license premises: No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquor or does not hold a consumption and display permit.

3-2-22: SUSPENSION AND REVOCATION:

- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.
- B. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:
 - 1. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of M.S. § 112.04, the license shall be revoked.
 - 2. The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter

for at least the minimum periods as follows:

- (a) For the first, second, or third violation within any three-year period, up to a one day suspension, in addition to any criminal or civil penalties which may be imposed.
 - (b) For a fourth violation within any 3-year period, at least a three day suspension, in addition to any criminal or civil penalties which may be imposed.
 - (c) For a fifth violation within any 3-year period, at least a ten day suspension; in addition to any criminal or civil penalties which may be imposed.
 - (d) For a sixth violation within any 3-year period, a license shall be revoked.
3. The Council shall select the day or days during which the license will be suspended.
- C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.
- D. The provisions of Section 29 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

3-2-23 to 3-2-28 RESERVED FOR FUTURE USE

3-2-29: PENALTIES:

- A. Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- B. The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Nonpayment of the penalty within 30 days of invoicing is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:
- (1) For the first violation within any three-year period, \$250.
 - (2) For the second violation within any three-year period, \$500.
For the third and subsequent violations within any three-year period, \$1,000 for each violation.
- C. The term "violation" as used in Section 22 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

CHAPTER 3

AMUSEMENTS

SECTION:

- 3-3-1: Definition
- 3-3-2: License Required
- 3-3-3: Application; Fee
- 3-3-4: Term
- 3-3-5: Display Of License
- 3-3-6: Prohibited Practices And Restrictions

3-3-1: **DEFINITION:** As used in this Chapter, the term "a game of skill" shall include any device played by manipulating special automatic equipment by hand or mechanically, and propelling balls, figures or numbers across a board or field into respective positions, the object of which is to secure a special number or numbers of high total score, or to place the figures or numbers in a special position, which game may be played by the public generally at a price paid either directly or indirectly for such privilege, whether a prize is offered for the game or not, whether known as a pinball game or by any other name. (1981 Code § 508.01)

3-3-2: **LICENSE REQUIRED:** No person shall operate or keep for operation any game of skill without having applied for and received a license therefor from the City Council. (1981 Code § 508.02)

3-3-3: **APPLICATION; FEE:** Every such application shall be made to the Clerk-Treasurer and be accompanied by a license fee as established by Council resolution, (Ord. 81-2, 5-11-1981)

3-3-4: **TERM:** The license shall be for a term of one year. (1981 Code § 508.02)

3-3-5: **DISPLAY OF LICENSE:** The license granted hereunder shall be posted in a conspicuous place on the game so licensed and shall identify the same, by number or description. (1981 Code § 508.03)

3-3-6: **PROHIBITED PRACTICES AND RESTRICTIONS:**

A. Proximity To Schools: No license hereunder shall be issued for any game of skill within three hundred feet (300') of any school building.

B. Gambling; Lottery Prohibited: No person shall use any device licensed under this Chapter as a gambling device, and no licensee shall permit any person or persons to use any game licensed hereunder for gambling purposes. The operation of lottery or gambling device is declared to be contrary to this Chapter.

C. Use By Minors During School Hours: No minor under the age of eighteen (18) years or any minor enrolled in a public school shall be permitted to play any such device during normal school hours. (1981 Code § 508.04)

CHAPTER 4

BINGO

SECTION:

- 3-4-1: Purpose
- 3-4-2: Definitions
- 3-4-3: License Required
- 3-4-4: Application for License
- 3-4-5: License Fee
- 3-4-6: Terms of License
- 3-4-7: Transfer of License
- 3-4-8: Conduct of Bingo
- 3-4-9: Bingo on Leased Premises
- 3-4-10: Prizes
- 3-4-11: Records
- 3-4-12: Reports
- 3-4-13: Inspection, Investigation
- 3-4-14: Use of Receipts
- 3-4-15: Use of Profits
- 3-4-16: Exemptions
- 3-4-17: Suspension or Revocation of License
- 3-4-18: Penalty

3-4-1: **PURPOSE:** The purpose of this Chapter is to closely regulate and control the conduct of the game of bingo and to prohibit commercialization of bingo.

3-4-2: **DEFINITIONS:** Whenever the following terms appear in this Chapter, they shall have the meanings assigned to them in this Section:

ACTIVE MEMBER: A member of the organization requesting a license whose dues are paid for the current membership period and who has been a member for at least six (6) months.

BINGO: A game where each player has a card or board for which a consideration has been paid, containing five (5) horizontal rows or spaces, with each row except the central one containing five(5) figures. The central row has four (4) figures with the word "free" marked in the center space thereof. A player wins a game of bingo by completing any preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five (5) spaces in a row, either vertical, horizontal or diagonal.

BINGO OCCASION: A single gathering or session at which a series of one or more successive bingo games is played.

ELIGIBLE ORGANIZATION: Any fraternal, religious, veterans or other nonprofit organization which has been in existence for at least three (3) years and has at least thirty (30) active members.

PROFIT: The gross receipts collected from one or more bingo occasions less reasonable sums necessarily and actually expended on bingo supplies and equipment, prizes, rent and utilities used during the bingo

occasions, bingo license fees and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion. (1981 Code § 510.02; 1997 Code)

3-4-3: **LICENSE REQUIRED:** No bingo occasion shall be conducted except by an eligible organization which has secured a license for that purpose, as provided in this Chapter. (1981 Code § 510.03)

3-4-4: **APPLICATION FOR LICENSE:**

A. Form: Every application for a bingo license shall be made to the Clerk-Treasurer on a form supplied by the City and containing such information as the Clerk-Treasurer or the Council may require. No person shall make a false statement in an application. (1981 Code § 510.04)

B. Refer To Police Chief: Copies of each application shall be referred to the City Police Chief for his/her recommendation. (1981 Code § 510.04; 1997 Code)

C. Council Action: A license application shall be acted upon by the Council no sooner than thirty (30) days and no later than one hundred eighty (180) days after the date of application. Failure of the Council to act on said application shall be deemed a denial of such license. (1981 Code § 510.03)

3-4-5: **LICENSE FEE:** The annual license fee shall be established by Council resolution. (Ord. 81-2, 5-11-1981)

3-4-6: **TERM OF LICENSE:** A license shall be valid for twelve (12) calendar months from the date of issuance. (1981 Code § 510.03)

3-4-7: **TRANSFER OF LICENSE:** No bingo license issued may be transferred to any other person or organization. No bingo license shall be transferred to any location other than the location specified in the license without prior approval by the Council. (1981 Code § 510.03)

3-4-8: **CONDUCT OF BINGO:**

A. Bingo Manager:

1. Appointment: Each licensed organization shall appoint a bingo manager to supervise bingo occasions conducted by it.

2. Qualifications: The bingo manager must be a member of the licensed organization, with dues paid for the current membership period and must have been a member of the organization for at least two (2) years.

3. Fidelity Bond:

a. Amount: The bingo manager shall give a fidelity bond in the sum of ten thousand dollars (\$10,000.00) in favor of the organization conditioned on the faithful performance of his or her duties, except that the City Council may waive the bond requirement upon a showing by the proposed bingo manager and the licensed organization that bond is not required to protect the organization and upon a unanimous vote of the City Council.

b. Notice Of Cancellation: Terms of the bond shall provide that notice shall be given in writing to the City Council not less than thirty (30) days prior to its cancellation.

4. Responsibilities: Each bingo manager shall be responsible for the conduct of the bingo occasion in compliance with all applicable laws and ordinances.

5. Limitation: No person shall act as bingo manager for more than one organization.

B. Checkers:

1. Number Required: One or more checkers shall be engaged for each bingo occasion.

2. Qualifications: The checkers shall be active members of the licensed organization or spouses of active members of the licensed organization.

3. Duties: The checker or checkers shall record the number of cards purchased and played in each game prior to the completion of each game and record the prizes awarded to the recorded cards.

4. Certification Of Figures: Each checker shall certify all figures which he or she has recorded as accurate and correct to the best of his or her knowledge, on forms prescribed by the City Clerk.

C. Additional Personnel: Additional persons may be engaged for other duties in connection with bingo occasions as needed, but no person shall assist in the conduct of a bingo occasion who is not an active member of the licensed organization.

D. Compensation: No person shall receive more than twelve dollars (\$12.00) as compensation for any duties in connection with any one bingo occasion.

E. Number Of Bingo Occasions: No more than one hundred four (104) bingo occasions each year or two (2) bingo occasions each week shall be conducted by any licensed organization.

F. Limitation Of Hours: A bingo occasion shall not continue for more than four (4) consecutive hours. (1981 Code § 510.06)

3-4-9: **BINGO ON LEASED PREMISES:**

A. Bingo Occasions Restricted: Any person, corporation or eligible organization, which leases any premises that it owns to two (2) or more eligible organizations for purposes including the conduct of bingo occasions, shall not allow more than four (4) bingo occasions to be conducted on the premises in any week.

B. Rental:

1. Use Of Rental Income: Any eligible organization which leases any premises to one or more other eligible organizations for purposes including the conduct of bingo occasions shall use the proceeds of the rental, less reasonable sums for maintenance, furnishings and other necessary expenses, only for the uses for which bingo profits may be used, as set out in Section 3-4-15 of this Chapter.

2. Report To Council: Not less than once each year the lessor organization shall report to the City Council the disposition of all receipts which it has received during the reporting period from the rental of its facilities to other organizations for purposes including the conduct of bingo occasions.

C. Written Lease:

1. Written Lease Required: No eligible organization shall conduct bingo on any leased premises without a written lease for a term at least equal to the remainder of the term of the bingo license of the lessee organization.

2. Lease Payments: Lease payments shall be at a fixed monthly rate, or rate per bingo occasion, not subject to change during the term of the lease. No such lease shall provide that rental payments be based on a percentage of receipts or profits from bingo occasions. (1981 Code § 510.07)

3-4-10: **PRIZES:**

A. Value Of Prizes:

1. Single Game: Prizes for a single bingo game shall not exceed one hundred dollars (\$100.00) except prizes for a game of the type commonly known as a "cover-all game",

2. Cover-All: Cover-all prizes may exceed one hundred dollars (\$100.00); provided, that the aggregate value of such prizes for a bingo occasion shall not exceed five hundred dollars (\$500.00).

3. Aggregate Value Per Bingo Occasion: The aggregate value of prizes for a bingo occasion shall not exceed two thousand five hundred dollars (\$2,500.00) except that in the case of a bingo occasion during which a cover-all game is played for a maximum prize of more than one hundred dollars (\$100.00) but less than five hundred dollars (\$500.00). The aggregate value of prizes for the bingo prizes shall be valued at fair market retail value.

B. Bingo Winner: Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted. (1981 Code § 510.08)

3-4-11: **RECORDS:**

A. Receipts And Profits:

1. Gross Receipts And Profits: Each licensed organization shall keep records of its gross receipts and profits for each bingo occasion.

2. Deductions: All deductions from gross receipts from a bingo occasion shall be documented with receipts or other records.

3. Distribution Of Profits: The distribution of profits shall be itemized as to payee, amount, and date of payment.

4. Preservation Of Records: Records required by this Chapter shall be preserved for three (3) years.

B. Gross Receipts/Checkers' Records:

1. Comparison: Gross receipts shall be compared to the checkers' records for the bingo occasion by a person who did not sell cards for the bingo occasion. (1981 Code § 510.09)

2. Discrepancies: If a discrepancy exceeding twenty dollars (\$20.00) is found between the amount of gross receipts for a bingo occasion as determined by the checkers' records, and the amount of gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the Council.

C. Separate Records: Bingo gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its bingo operations. The person who accounts for bingo gross receipts and profits shall not be

the same person who accounts for other revenues of the licensed organization. (1981 Code § 510.09; 1997Code)

3-4-12: **REPORTS:**

A. Monthly Reports: Each licensed organization shall report monthly to its membership its gross receipts from bingo, its profits from bingo and the distribution of those profits itemized as required by subsection 3-4-11A of this Chapter.

B. Filed With Council: At the time of making its first license application under this Chapter, and on an annual basis thereafter, each licensed organization shall file with the Council copies of the following:

1. Return Of Organization Exempt From Income Tax: The most recently filed Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, form 990, or a comparable form if the organization is required to file the form with the Department Treasury.

2. Exempt Organization Business Income Tax: The most recently filed Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, form 990-T, or a comparable form if the organization is required to file the form with the Department of the Treasury.

3. Charitable Organization Annual Report: The most recently filed annual report required of charitable organizations by Minnesota Statutes section 309.53; provided, that an organization that is licensed to conduct bingo but is exempt from submitting this report to the Department of Commerce under Minnesota Statutes section 309.53, subdivision 1A, shall nevertheless submit such a report under this subsection.

4. Statement Of Bingo Operations: The most recently filed Minnesota Department of Commerce Statement of Bingo Operations. All information contained in the statement shall be true, correct and complete to the best of the knowledge of the person or persons signing the statement.

5. Lease Agreements: Any lease agreements required by this Chapter, executed by the organization in regard to premises leased for the conduct of bingo.

C. False Statement: No person shall knowingly make a false statement in any report required by this Section. (1981 Code § 510.10)

3-4-13: **INSPECTION, INVESTIGATION:** Any City official or employee having a duty to perform with reference to a bingo license and any police officer may inspect and examine the bingo records of any licensed organization upon twenty four (24) hours' notice. (1981 Code § 510,11; 1997 Code)

3-4-14: **USE OF RECEIPTS:** No expense shall be incurred or amounts paid in connection with the conduct of bingo, except those reasonably expended for bingo supplies and equipment, prizes, rent or utilities used during the bingo occasion, bingo license fees and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion. (1981 Code § 510.12)

3-4-15: **USE OF PROFITS:**

A. Organization Approval Required: Profits from any bingo occasion shall be expended only as authorized by a resolution recorded in the official minutes at a regular meeting of the licensed organization and only for one or more of the following purposes:

1. Religious Or Educational Advancement: Benefiting persons by enhancing their

opportunity for religious or education advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens or by increasing their comprehension of and devotion to the principles upon which this nation was founded.

2. Public Works: initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures.

3. Supplementation of Governmental Services: Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people.

4. Real Property: The improving, expanding, maintaining or repairing of real property owned or leased by the licensed organization.

B. Council Approval Required: Profits from bingo occasions shall not be expended for the erection or acquisition of any real property, unless the City Council specifically authorized the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this Section. (1981 Code § 510.13)

3-4-16: **EXEMPTIONS:** Bingo may be conducted without complying with the requirements of subsections 3-4-8E and F and Section 3-4-9 of this Chapter if conducted:

A. County Fair/Civic Celebration: In connection with the County fair conducted by the County Agricultural Society or in connection with a civic celebration recognized by resolution of the City Council; provided, that bingo shall not be conducted for more than twelve (12) days during any one County fair or recognized civic celebration; or

B. Less Than Five Bingo Occasions: By an organization that conducts fewer than five (5) bingo occasions in any calendar year. (1981 Code § 510.14)

3-4-17: **SUSPENSION OR REVOCATION OF LICENSE:**

A. Violation: The Council may suspend for a period not exceeding sixty (60) days, or revoke, any bingo license for violation of any provision of Minnesota Statutes chapter 349, or this Chapter.

B. Notice; Hearing: The holder of the license shall be granted a hearing upon at least ten (10) days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee. (1981 Code § 510.0S)

3-4-18: **PENALTY:** Violation of any provision of this Chapter shall be a misdemeanor. A person convicted of violating any provision of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code. (1981 Code § 510.15; 1997 Code)

CHAPTER 5

GAMBLING

SECTIONS:

- 3-5-1: Adoption of State Law by Reference
- 3-5-2: City May Be More Restrictive Than State Law
- 3-5-3: Purpose
- 3-5-4: Definitions
- 3-5-5: Applicability
- 3-5-6: Lawful Gambling Permitted
- 3-5-7: Council Approval
- 3-5-8: Application and Local Approval of Premises Permits
- 3-5-9: Revocation and Suspension of Local Permit
- 3-5-10: License and Permit Display
- 3-5-11: Notification of Material Changes to Application
- 3-5-12: Designated Trade Area
- 3-5-13: Records and Reporting
- 3-5-14: Hours of Operation
- 3-5-15: Penalty

3-5-1: ADOPTION OF STATE LAW BY REFERENCE: The provisions of Minnesota Statutes, Chapter 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of Minnesota Statutes, Chapter 349, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

3-5-2: CITY MAY BE MORE RESTRICTIVE THAN STATE LAW: The Council is authorized by the provisions of Minnesota Statutes, Section 349.213, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on gambling within its limits beyond those contained in Minnesota Statutes, Chapter 349, as it may be amended from time to time.

3-5-3: PURPOSE: The purpose of this ordinance is to regulate lawful gambling within the City of Sartell, to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

3-5-4: DEFINITIONS: In addition to the definitions contained in Minnesota Statutes, Section 349.12, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

BOARD: As used in this ordinance, means the State of Minnesota Gambling Control Board.

CITY: As used in this ordinance, means the City of Sartell.

COUNCIL: As used in this ordinance, means the City Council of the City of Sartell.

LICENSED

ORGANIZATION: As used in this ordinance, means an organization licensed by the Board.

LOCAL PERMITS: As used in this ordinance, means a permit issued by the city.

TRADE AREA: As used in this ordinance, means the City of Sartell, City of Sauk Rapids, City of St. Cloud, Township of LeSauk, Township of St. Wendel and Township of Sauk Rapids.

3-5-5: **APPLICABILITY:** This ordinance shall be construed to regulate all forms of lawful gambling within the city except:

- A. Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.
- B. Raffles if the value of all prizes awarded by the organization in a calendar year does not exceed \$1,500.

3-5-6: **LAWFUL GAMBLING PERMITTED:** Lawful gambling is permitted within the city provided it is conducted in accordance with Minnesota Statutes, Sections 609.75-609.763, inclusive, as they may be amended from time to time; Minnesota Statutes, Sections 349.11-349.23, inclusive, as they may be amended from time to time; and this ordinance.

3-5-7: **COUNCIL APPROVAL:** Lawful gambling authorized by Minnesota Statutes, Sections 349.11-349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this ordinance and state law.

3-5-8: **APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS:**

- A. Any organization seeking to obtain a premises permit or renewal of a premises permit from the Board shall file with the city clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the Board.
- B. The Council shall consider the application within 45 days of the date the application was submitted to the city clerk.
- C. The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.
- D. The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:
 - 1. Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
 - 2. Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three (3) years.

E. Term of Permit. No premise permit shall be issued for more than one year and all permits shall expire on December 31 of the year in which issued.

3-5-9: REVOCATION AND SUSPENSION OF LOCAL PERMIT:

- A. A local permit may be revoked, or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.
- B. A license shall not be revoked or suspended until notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served and shall state the provision reasonably believed to be violated. The notice shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

3-5-10: LICENSE AND PERMIT DISPLAY: All permits issued under state law or this ordinance shall be prominently displayed during the permit year at the premises where gambling is conducted.

3-5-11: NOTIFICATION OF MATERIAL CHANGES TO APPLICATION: An organization holding a state issued premises permit or a local permit shall notify the city within ten (10) days in writing whenever any material change is made in the information submitted on the application.

3-5-12: DESIGNATED TRADE AREA:

- A. Each organization licensed to conduct gambling within the city shall expend 100 percent of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.
- B. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premise within the city's jurisdiction.

3-5-13: RECORDS AND REPORTING:

- A. Organizations conducting lawful gambling shall file with the city clerk one copy of all records and reports required to be filed with the Board, pursuant to Minnesota Statutes, Chapter 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.
- B. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by Section 16. Such report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal.

3-5-14: HOURS OF OPERATION: Lawful gambling shall not be conducted between 1 a.m. and 8 a.m. on any day of the week.

3-5-15: PENALTY: Any person who violates:

- A. Any provision of this ordinance;
- B. Minnesota Statutes, Sections 609.75-609.763, inclusive, as they may be amended from time to time; or
- C. Minnesota Statutes, Sections 349.11-349.21, as they may be amended from time to time or any rules promulgated under those sections, as they may be amended from time to time;

shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. In addition, violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization's license.

CHAPTER 6

TOBACCO AND ELECTRONIC DELIVERY DEVICES

- 3-6-1: Purpose
- 3-6-2: Definitions and Interpretations
- 3-6-3: License
- 3-6-4: Fees
- 3-6-5: Basis for Denial of License
- 3-6-6: Prohibited Sales
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- 3-6-11: Violations
- 3-6-12: Administrative Penalties
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- 3-6-14: Severability and Savings Clause

3-6-1: **PURPOSE:** Because the City of Sartell recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices, and the sales, possession, and use are violations of both state and federal laws; and because studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reached the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance is intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. SS 144.391.

3-6-2: **DEFINITIONS AND INTERPRETATIONS:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TOBACCO OR TOBACCO PRODUCTS: "Tobacco" or "Tobacco products" shall mean any substance or item that can be chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any means or any component, part or accessory of a tobacco product, containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco, cheroots, stogies; perigue; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff flour; cavendish; shorts plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds 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 DEVICES: "Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

ELECTRONIC DELIVERY DEVICE: "Electronic delivery devices" are products containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to stimulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of such a product whether or not sold separately. Electronic delivery device does not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment for other medical purposes, and is being marketed and sold solely for that approved purpose.

NICOTINE OR LOBELIA DELIVERY DEVICES: Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, but including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

SMOKING: The word smoking shall mean the inhaling or exhaling smoke or vapor from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product, or from any electronic delivery device. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe or any other lighted or heated tobacco or plant product or electronic delivery device intended for inhaling or exhaling smoke or vapor.

SELF-SERVICE MERCHANDISING: "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the customer and the licensee or employee. Self- service merchandising shall not include vending machines.

VENDING MACHING: "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices nicotine or lobelia delivery devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device.

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

LOOSIES: "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, or more than \$2.00 per cigar.

MINOR: "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

RETAIL ESTABLISHMENT: "Retail Establishment" shall mean any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, drug stores and restaurants.

MOVEABLE PLACE OF BUSINESS: "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

SALE: A "Sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

COMPLIANCE CHECKS: "Compliance Checks" shall mean a file system the City of Sartell uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices.

CITY: The "City" shall mean the City of Sartell, Minnesota.

INDOOR AREA: The words "indoor area" shall mean all space between a floor and a ceiling that is bound by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door or other physical barrier, whether temporary or permanent.

TOBACCO SHOP: The words "Tobacco Shop" mean a self-contained, independent retail facility, as opposed to a department within a larger retail establishment, that is not more than 1,500 gross square feet in area, in which tobacco is offered for sale, with or without non-tobacco products, which includes open air display of individual products for inspection and selection by patrons, and which is continuously staffed by an employee from which persons under 18 years of age are prohibited from entering, and which otherwise complies with the requirements of Minnesota State Statute Section 461.18, Subd. 1. Excluding a wall mounted sign for the store name and address, the display of products or signage of any form that is related to a product offered at the tobacco shop shall not be displayed on the exterior nor visible from the exterior of the building or property. Any door used for customer entrance to a tobacco shop must be free of signs, markings or advertisements, except:

1. A prescribed notice to minors that they are not allowed to enter a tobacco shop. The notice to minors shall be an octagonal red sign, 10" by 10" with contrasting white block letters that state, "STOP!" (in 1" letters), "NO PERSON UNDER THE AGE OF 18 SHALL BE ALLOWED ON TOBACCO SHOP PREMISES" (in ½" letters) and SARTELL ORD. 3-6-2" (in ¼" letters). The sign shall be centered on the door, between 4-6 feet from the bottom of the door.

2. No more than 1.5 square feet of advisory details, limited to identifying a numerical address, hours of operation and notices of caution.

3-6-3: LICENSE: No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device without first having obtained a license to do so from the City.

1. **Application.** An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

2. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as is necessary to complete any investigation of the application or the applicant it deems necessary. The City shall request a background check on the applicant before the application is forwarded for action. The application shall be forwarded to the City Police Department within a reasonable period of time, and the background check should be completed within ten days. The application and investigation results shall then be forwarded to the City for action. If the City Council approves the license, the City Administrator shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

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

4. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.

5. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

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

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

8. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to make automatic renewal of the license.

9. Proximity to youth-orientated facilities. No license shall be granted pursuant to this ordinance to any person for any retail sales of tobacco, tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices within 1,000 feet of any school, playground, house of worship, or youth-orientated facility, as measured by the shortest line between the space to be occupied by the proposed licensee and the occupied space of the school, playground, house of worship, or youth-orientated facility, unless that person has been in the business of selling such products in that location before the date this ordinance was enacted into law for at least one year. For the purpose of this ordinance, a youth-orientated facility is defined to include any facility with residents, customers, visitors or inhabitants of which 25 percent or more are regularly under the age of 21 or which primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21.

10. Proximity to other tobacco retailers. No license shall be granted pursuant to this ordinance to any person for any retail sales of tobacco, tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices within two thousand feet of any establishment holding such a license, as measured by the shortest line between that space to be occupied by the proposed licensee and the occupied space of the nearest existing license, unless that person has been in business of selling such products in that location before the date this ordinance was enacted into law for at least one year.

11. Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail license. Smoking for the purpose of sampling tobacco and tobacco related products is prohibited.

3-6-4: FEES: No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be such amount as is set forth in a fee schedule to be adopted by the City Council and modified from time to time.

3-6-5: BASIS FOR DENIAL OF LICENSE: The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

1. The applicant is under the age of 18 years.
2. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices.
3. The applicant has had a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices revoked within the preceding twelve months of the date of application.
4. The applicant fails to provide any information required on the application, or provides false or misleading information.
5. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

3-6-6: PROHIBITED SALES: It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device:

1. To any person under the age of eighteen (18) years.
2. By means of any type of vending machine.
3. By means of any type of kiosk.
4. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the licensee or the licensee's employee, and the customer. This section shall not apply to a tobacco shop.
5. Any E-cigarette liquid that is not in a child resistant package, to prevent poisonings.
6. By means of loosies as defined in Section 3-6-2 of this ordinance. This section shall not apply to a tobacco shop.
7. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
8. By any other means, to any other person, on in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

3-6-7: SELF-SERVICE SALES: It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices by any means where by the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices at the time this ordinance is adopted shall comply with this section within 90 days following the effective date of this ordinance.

3-6-8: RESPONSIBILITY: All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

3-6-9: COMPLIANCE CHECKS AND INSPECTIONS: All licensed premises shall be open to inspection by the City Police Department or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

3-6-10: OTHER ILLEGAL ACTS: Unless otherwise provided, the following acts shall be a violation of this ordinance.

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

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

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

4. Illegal Use. It shall be a violation of this ordinance for E-cigarette use in the following entities:

- a. Hospitals, health care clinics and doctor's offices;
- b. "Licensed residential facilities for children, or other health-care related facility";
- c. "Buildings owned or operated by the state, home rule charter or statutory city, county, township, school district or other political subdivisions (including correctional facilities)";
- d. Any facility owned by Minnesota State Colleges and Universities and the University of Minnesota;
- e. Any Facility licensed by the commissioner of Human Services;
- f. Any Facility licensed by the commissioner of Human Services (but only if the facility is also subject to federal licensing requirements); and
- g. Licensed daycare facilities, including home daycares during hours of operation.

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

5. **Use of False Identification:** It shall be a violation of this ordinance for any minor to attempt to disguise his or her the age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

3 -6-11: VIOLATIONS

1. **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation. The citation shall provide notice that a hearing must be requested within ten (10) business days of receipt and that hearing rights shall be terminated if a hearing is not promptly requested. The citation shall provide information how and where a hearing may be requested, including the contact name, address and phone number.

2. **Hearings.** Upon issuance of a citation, a person accused of violating this ordinance may request in writing a hearing on the matter. Hearing requests must be made within ten (10) business days of the issuance of the citation and delivered to the city clerk or other designated city officer. Failure to request a hearing within ten (10) business days of the issuance of the citation will terminate the person's right to a hearing.

The city clerk or other designated city officer shall set the time and place for the hearing. Written notice of the hearing time and place shall be mailed or delivered to the accused violator at least ten (10) business days prior to the hearing.

3. **Hearing Officer.** The city attorney's office shall a hearing officer. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

4. **Decision.** A decision shall be issued by the hearing officer within ten (10) business days. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under Section 3-6-9 of this ordinance, shall be recorded, in writing, a copy of which shall be provided to the accused violator by in person delivery or mail as soon as practicable. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator by in person delivery or mail as soon as practicable.

Costs. If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of \$1,000.00 shall be paid by the person requesting the hearing.

The decision of the hearing officer is final.

5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the City in which the alleged violation occurred.

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

3-6-12: ADMINISTRATIVE PENALTIES:

1. Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine in accordance with the city's annual fee schedule. In addition, after the third offense, the license shall be suspended for not less than seven consecutive days.

2. Other Individuals. Other individuals, other than minors regulated by subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee in accordance with the city's annual fee schedule.

3. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices shall be subject to an administrative fine, or may be subject to a tobacco-related education classes, diversion programs, community services or any other penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by the city's annual fee schedule.

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

5. Statutory penalties. If the administrative penalties authorized to be imposed by Minn. Stat. SS 461.12, as it may be amended from time to time, differ from those established in this ordinance, then the statutory penalties shall prevail.

3-6-13: EXCEPTIONS AND DEFENSES: Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

3-6-14: SEVERABILITY AND SAVINGS CLAUSE: If any section or provision of this ordinance is held invalid, such invalidity shall not affect other sections or provisions which can be given force and effect without the invalidated section or provision.

CHAPTER 7

FOOD VENDING MACHINES

SECTION:

3-7- 1:	Definitions
3-7- 2:	License Required; Exception
3-7- 3:	Application for License
3-7- 4:	License Fee
3-7- 5:	Term of License
3-7- 6:	Transfer of License
3-7- 7:	Display of License
3-7- 8:	Inspection of Machines
3-7- 9:	Condition of Machines
3-7-10:	Owner's Label
3-7-11:	Vending Machines in Food Establishment
3-7-12:	Location of Machines
3-7-13:	Penalty

3-7-1: **DEFINITIONS:** For the purpose of this Chapter, the following words and phrases have the meaning given them in this Section:

FOOD: All articles of food, confection, drink or condiments for human consumption, and all substances or ingredients used in the preparation thereof, and shall include, among other things, candy, chocolates, confectionery, nuts, chewing gum, fruit, sandwiches, ice, pop or water, and the enumeration herein of specific items shall not be deemed a limitation upon the meaning of the word "food".

PERSON: Any natural individual, firm, partnership, association or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations, the term includes the officers, agents or employees.

VENDING MACHINE Any and all types of mechanical devices which operate by the insertion of a coin of one cent (\$0.01) or more, or other token, and which deliver or permit the removal from such machine of any food. (Ord. 86-3, 7-28-1986)

3-7-2: **LICENSE REQUIRED; EXCEPTION:**

A. License Required: It shall be unlawful for any person to engage in the business of selling food by vending machines without a vending machine license as herein provided and complying with all the provisions of this Chapter.

B. Exception: A license need not be obtained for vending machines that dispense bottled or canned soft drinks still in their original containers and which are bottled by a licensed bottling company. (Ord. 86-3, 7-28-1986)

3-7-3: **APPLICATION FOR LICENSE:**

A. Written Application: Any person desiring to engage in and/or continue in and/or to carry on the business of the selling of food by vending machine shall first make application to the Clerk-

Treasurer in writing.

B. Required Information: Said application shall include a list of the addresses wherein the vending machines will be installed, the kind and number thereof, and the kind and general description of food to be vended.

C. Permits For Additional Machines:

1. Application For Additional Permits: After a license has been issued and payment received in the amount set by Council resolution, the licensee may receive from time to time written permits for additional machines over and above the number stated in the original application.

2. Required Information: The application for such permit shall state the desired additional number, the date and number of the original license, the street address of the property or place wherein applicant proposes to install the additional machines and shall be signed in the manner required for an original application. (Ord. 86-3, 7-28-1986)

3-7-4: **LICENSE FEE:**

A. Annual License: The license fee shall be fixed in an amount as established by Council resolution per year per vending machine.

B. Refunds: In no case shall license fees be refunded in whole or in part. (Ord. 86-3, 7-28-1986)

3-7-5: **TERM OF LICENSE:** Licenses shall be issued for a period of one year and shall expire on December 31 next following issuance. (Ord. 86-3, 7-28-1986)

3-7-6: **TRANSFER OF LICENSE:** No transfer of licenses between persons shall be allowed. The transfer of a license from one vending machine to another at the same location shall be allowed, but not more than one machine shall be operated under one license. (Ord. 86-3, 7-28-1986)

3-7-7: **DISPLAY OF LICENSE:** The license or licenses herein provided for shall be posted permanently and conspicuously on the vending machine for which the license is issued. (Ord. 86-3, 7-28-1986)

3-7-8: **INSPECTION OF MACHINES:** All vending machines licensed under this Chapter shall be inspected yearly by a City-appointed inspector. Such inspector shall follow inspection procedures as adopted by Council resolution. (Ord. 86-3, 7-28-1986)

3-7-9: **CONDITION OF MACHINES:** Every licensee shall keep and maintain each vending machine in a clean and wholesome and sanitary condition at all times. (Ord. 86-3, 7-28-1986)

3-7-10: **OWNER'S LABEL:** No licensee shall install, use or operate a greater number of vending machines than that for which he paid the fees. The inspector shall have the right to inspect the licensee's books and records to determine compliance with this Section. Each licensee shall clearly identify each vending machine operated by licensee with licensee's name and telephone number in such a manner that the information can be easily read without moving the machine or machines. The absence of such an owner's label will constitute a violation of this Chapter. (Ord. 86-3, 7-28-1986)

3-7-11: **VENDING MACHINES IN FOOD ESTABLISHMENT:** The owner of a food establishment may dispense food from approved vending machines located on the premises, provided owner is fully responsible for the cleaning, operation and food products being vended and provided the type of equipment and facilities to properly wash and sanitize such machines and their component parts are available. Such machines must be licensed in the manner provided in this Chapter. (Ord. 86-3, 7-28-1986)

3-7-12: **LOCATION OF MACHINES:**

A. Overhead Leakage/Condensation: Each vending machine shall be located in a room, area or space which can be maintained in a clean condition and which is protected from overhead leakage or from condensation from water, waste or sewer piping.

B. Lighting: The immediate area in which the machine is located shall be well lighted.

C. Insect/Rodent Harborage: Each vending machine shall be so located that the space around the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

D. Floor Area: The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing.

E. Immediate Surroundings: The space and the immediate surroundings of each vending machine shall be maintained in a clean condition. (Ord. 86-3, 7-28-1986)

3-7-13: **PENALTY:** Any person who violates any provision of this Chapter is guilty of a misdemeanor and shall be subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 86-3, 7-28-1986; 1997 Code)

CHAPTER 8

PORTABLE CONFECTIONERY STORES AND MOBILE FOOD VENDORS

SECTION:

- 3-8-1: Definitions
- 3-8-2: Permit Required
- 3-8-3: Application For Permit
- 3-8-4: Permit Fees; Transferability
- 3-8-5: Term Of Permit
- 3-8-6: Insurance
- 3-8-7: Sound Devices
- 3-8-8: Sales While In Motion

3-8-1: **DEFINITIONS:** As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

CONFECTIONERY
FOOD PRODUCT: A "confectionery food product" is defined as but not limited to, ice milk, ice cream, candy and popcorn.

PORTABLE
CONFECTIONERY
STORE: A vehicle, regardless of the manner in which it is propelled, for transporting prepackaged confectionery food products, in the vehicle, for the purpose of selling such food products from such vehicle. (Ord. 82-9, 8-23-1982)

FOOD TRUCK OR MOBILE
FOOD VENDOR: A vehicle who prepares and sells food from a properly licensed vehicle eligible to operate on private property for a specified period of time.

3-8-2: **PERMIT AND LICENSES REQUIRED:**

- A. Permit Required: No person shall use, conduct or operate in the City a portable confectionery store or mobile food vendor or food truck without having obtained a permit from the City.
- B. Exemption: This Chapter shall not apply to those motor vehicles used exclusively for the regular delivery of fluid milk and related dairy products to homes. (Ord. 82-9, 8-23-1982) This chapter shall also not apply to temporary food truck or portable confectionery stores for specific community events.

3-8-3: **APPLICATION FOR PERMIT:**

- A. Form: An application for a permit shall be submitted to the Clerk-Treasurer on forms prepared by the Clerk-Treasurer.
- B. Required Information: The applicant shall file with the application such information as will clearly establish the times and the places where the applicant desires to operate such portable stores or mobile food vendors/food truck; shall describe the physical characteristics of such portable stores or mobile food vendors/food truck; shall describe the wares to be sold and any other information the Clerk-Treasurer may require.
- C. Submission: Each application for a permit required hereunder shall be submitted to the Clerk-Treasurer.

D. Each mobile food vendors/food truck shall not receive a permit under this section who has not first received a license from the State and/or County Health Department authorizing such food preparation and sales. Any conditions of the State Health Department shall be incorporated into the license issued under this Section, in addition to any other conditions imposed by the City of Sartell.

E. Issuance: Permits shall not be issued if the administration finds that the health, welfare or safety of the public will be endangered by the operation of a portable confectionery store or mobile food vendors/food truck. (Ord. 82-9, 8-23-1982)

F. Each vehicle shall have current license plates, pass any required DOT inspections and contain a current certified fire extinguisher as required.

3-8-4: PERMIT FEES; TRANSFERABILITY:

A. Fee: The fee for each permit shall be as established by Council resolution.

B. Proration; Refund; Transferability: There shall be no prorating or refunding of permit fees, nor shall a permit be transferable.

C. Separate Permit Required: A separate permit shall be required of each portable confectionery store or mobile food vendors/food truck regardless of the ownership. (Ord, 82-9, 8-23-1982)

3-8-5: TERM OF PERMIT: All permits issued hereunder shall expire January 1 of each year. (Ord, 82-9, 8-23-1982)

3-8-6: INSURANCE:

A. Liability insurance Required: The applicant shall carry a general policy of liability insurance in which the City is named coinsured which shall provide a limit of coverage of not less than three hundred thousand dollars/one hundred thousand dollars (\$300,000.00/ \$100,000.00) for bodily injury and twenty five thousand dollars (\$25,000.00) for property damage.

B. Notice Of Cancellation: The insurance policy required by this Section shall further provide that no cancellation of said insurance policy, for any cause, may be made by the insured or the insurance company without first giving thirty (30) days' notice to the City, in writing, of the intention to cancel. Such notice shall be addressed to the Clerk-Treasurer by registered mail or shall be delivered to the Clerk-Treasurer personally. (Ord. 82-9, 8-23-1982)

3-8-7: SOUND DEVICES: No person operating a portable confectionery store shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell, unless prior approval with conditions are received from the City Administrator. (Ord. 82-9, 8-23-1982)

3-8-8: SALES WHILE IN MOTION: At no time shall any sales be made from a portable confectionery store or food truck while it is in motion. (Ord. 82-9, 8-23-1982)

3-8-9 FOOD TRUCK OR MOBILE FOOD VENDOR OPERATIONS

A. No external signage, other than such signage directly attached to the vehicle, may be utilized.

B. No external seating may be utilized.

- C. No other equipment may be utilized that is not fully contained within the vehicle.
- D. Any generator in use must be self-contained and fully screened from view.
- E. Operations shall be limited to the number of days indicated on the applicant's State License
- F. Applicant shall provide waste disposal for litter and garbage generated by the operation of the Food Truck or Vehicle, and shall clean all such litter and garbage before moving from the location.
- G. The Food Truck or Vehicle shall obey the orders of any traffic control officer, peace officer, or inspector, and shall be open to inspection during all open hours.
- H. Vehicle size shall not exceed ten (10) feet in height, nor twenty five (25) feet in length.
- I. Hours of operation shall occur from 7:00 AM and 11:00 PM.
- J. There shall be no overnight parking of food trucks on public right of way.

3-8-10 FOOD TRUCK OR MOBILE FOOD VENDOR LOCATION

- A. Properly licensed Food Truck or Mobile Food Vendor may operate on eligible public streets when occupying no more than two parallel parking spaces.
- B. In no cases, may a Food Truck or Vehicle operate in a traffic lane, on a sidewalk, or in any location, which causes an obstruction to traffic.
- C. No Food Truck or Vehicle may operate on a public street within fifty (50) feet of the intersection of two streets or within thirty (30) feet of the intersection of a public street and private driveway opening.
- D. A Food Truck or Vehicle may operate within a parking lot with written permission of the property owner or owner's authorized representative.
- E. No food truck shall operate within 50 feet of an existing restaurant located within the city.
- F. The City Council, may approve other locations on a temporary basis

CHAPTER 9

PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS

SECTION:

3-9-1	Solicitors and Peddlers
3-9-2	Definitions and Interpretation
3-9-3	Exception
3-9-4	License
3-9-5	Application
3-9-6	Fees
3-9-7	Procedure
3-9-8	Bond
3-9-9	Exemption
3-9-10	Ineligibility
3-9-11	Suspension
3-9-12	Transferability
3-9-13	Registration
3-9-14	Prohibited Activities
3-9-15	Exclusions
3-9-16	Violations and Penalties
3-9-17	Separability

3-9-1: **SOLICITORS AND PEDDLERS:** An ordinance relating to peddlers, solicitors, and transient merchants and exercising the City's authority to regulate the nuisance created by such business practices under the City's general police powers and as specifically authorized by Minnesota Statutes Sections 329.06, 329.15, and 347.02.

3-9-2: **DEFINITIONS AND INTERPRETATION:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter, and vice-versa. The term "shall" means mandatory and the term "may" is permissive. The following terms shall have the definitions given to them:

PEDDLER The term "peddler" shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying to exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.

SOLICITOR The term "solicitor" shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is

to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term canvasser.

TRANSIENT MERCHANT

The term "transient merchant" shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than seven (7) consecutive days.

3-9-3: **EXCEPTIONS TO DEFINITIONS:** For the purpose of the requirements of this ordinance, the terms "peddler," "solicitor," and "transient merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer of the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those personal participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemption from the definitions for the scope of this ordinance shall not excuse any person from complying with any other applicable statutory provision or local ordinance. (Minnesota Courts have held that the above exceptions are not nuisances intended to be regulated by this type of ordinance. See e.g. Excelsior Baking Co. v. City of Northfield, 77N.W.2d 188 (Minn. 1956) (delivery routes); City of Briggs, 88 N.W.2d 984 (relating to wholesalers)).

3-9-4: **CITY LICENSE REQUIRED:** Except as otherwise provided for by this ordinance, no person shall conduct business within the City limits of this municipality, as either a peddler or a transient merchant without first having obtained a license therefore in compliance with the provisions of this Ordinance. (Minnesota case law does not allow solicitors to be licensed. See e.g. City of Waseca V. Braun, 288 N.W. 229 (Minn. 19.9). Solicitors are still required to be licensed pursuant to section XII of this Ordinance).

3-9-5: **APPLICATION:** Application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the Office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- A. Applicant's full legal name;
- B. All other names under which the applicant conducts business or to which Applicant officially answers;
- C. Names and descriptions of all the persons proposed to be used in this City during the period for which application is made;
- D. Full address of applicant's permanent residence;
- E. Telephone number of applicant's permanent residence;
- F. Full legal name of any and all business operation(s) owned, managed, or Operated by applicant, or for which the applicant is an employee or agent;

- G. Full address of applicant's regular place of business (if any);
- H. Any and all business related telephone numbers (s) of the applicant;
- I. A brief description of the name of the business and the goods to be sold;
- J. License number or numbers of vehicles transporting applicants;
- K. The dates during which the applicant intends to conduct business;
- L. Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business;
- M. A statement as to whether or not the applicant has been convicted within the last five years of a felony, gross Misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant;
- O. Proof of any required county license;
- P. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant; and
- Q. All additional information deemed necessary by the City Council.

3-9-6: **FEE:**

- A. All applications for a license under this ordinance shall be accompanied by the fee established by the City's fee schedule as adopted from time to time by the ordinance passed by the Council.
- B. All annual licenses shall be issued so as to expire December 31st of each year.
- C. Where the license application is for the primary benefit of bonafide charities or non-profit ventures, the Council may, at its option, waive the requirements of this Ordinance as to fees.

3-9-7: **PROCEDURE:** Upon receipt of the completed application and payment of the license fee, the City Clerk shall forward the application to the Chief of Police within two (2) regular business days of receipt. An application shall be determined to be complete only if all required information is provided. The City Clerk, within two regular business days of receipt, shall determine if the application is complete. If the clerk determines that the application is incomplete, the clerk shall inform the applicant of the required necessary information which is missing. The Chief of Police shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application and for the protection of the public good. The review shall not exceed five (5) regular business days of receipt from the city clerk.

A. If after result of such investigation, the character and business responsibility of the applicant are found satisfactory, the Chief of Police shall endorse on the application his/her approval, and return said application to the Office of the City Clerk, who shall, upon payment of the license fee, deliver to the applicant the license. Such license shall contain the signature and seal of the issuing officer, show the amount paid, the date of issuance and the length of time the same shall be operative. The City Clerk shall keep a permanent record of all licenses issued.

B. If after result of such investigation, the character and business responsibility of the applicant is found to be unsatisfactory, the Chief of Police shall endorse on such application his/her disapproval and reasons for the same. The applicant shall be notified in writing of the reason for denial, and his or her right to appeal the denial by requesting, within ten (10) days of receiving the denial a public hearing before the City Council within twenty (20) days of the date of request.

C. Any applicant who is issued a denial under paragraph B of section VII, may be issued a temporary permit by furnishing a bond as provided in Section VIII.

3-9-8: **BONDS:** Where an applicant for license has been denied under the provisions of Section VII of this ordinance, the applicant may file with the City Clerk a surety bond, running to the City in the amount of \$ 10,000.00 with corporate surety acceptable to and approved by the City Attorney, conditioned that the applicant shall comply fully with all the provisions of the ordinances of the City of Sartell and the statutes of Minnesota regulating the business of solicitors and peddlers and guaranteeing to any citizen of this municipality that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of Sartell doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor, upon the filing of which bond and payment of the fees provided, a license may be issued. Action on said bond may be brought in the name of the City to use or benefit of the aggrieved person.

3-9-9: **LICENSE EXEMPTION:** No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights (i.e., freedom of speech, press, religion, etc.) except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

3-9-10: **INELIGIBILITY FOR LICENSE:** The following shall be grounds for denying a license under this ordinance.

A. The failure of the applicant to obtain and show proof of having obtained any required County license.

B. The failure of the applicant to truthfully provide any of the information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

C. The conviction of the applicant within the past five years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the city. Such violations shall include, but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

D. The revocation within the past five years of any license issued to fire applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

E. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaint(s) against the applicant with the Better Business Bureau, the Attorney General's Office, and other

similar business or consumer rights office or agency, or the City of Sartell, within the preceding twelve (12) months, or five (5) such complaints filed against the applicant within the preceding five (5) years.

3-9-11: **SUSPENSION AND REVOCATION:** Any license issued under this section may be suspended or revoked at the discretion of the Chief of Police for violation of any of the following:

- A. Fraud, misrepresentation, or incorrect statements on the application form.
- B. Fraud, misrepresentation, or false statements made during the course of the licensed activity.
- C. Conviction of any offense for which granting of a license could have been denied under Section 3-9-10 of this Ordinance.
- D. Violation of any provision of this Ordinance. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

3-9-12: **TRANSFERABILITY:** No license issued under this ordinance shall be transferred to any person other than the person to whom the license was issued.

3-9-13: **REGISTRATION:** All solicitors, and any person exempt from the licensing requirement of this ordinance under Section VIII shall be required to register with the City. Registration shall be made on the same form required of a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

3-9-14: **PROHIBITED ACTIVITIES:** No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be measurably audible within an enclosed structure.
- B. Obstruction the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- C. Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.
- D. Conducting business before eight o'clock in the morning (8:00 a.m.), or after eight o'clock at night (8:00 p.m.)
- E. Failing to provide proof of license registration, and identification, when requested; or using the license or registration of another person.
- F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

3-9-15: **EXCLUSION BY PLACARD.** No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3-3/4) inches long and three and three-quarter (3-3/4) inches wide with print of at least 48 point in size stating "No Peddlers, solicitors, or transient merchant, or Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

3-9-16: **VIOLATIONS AND PENALTIES:** Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction of any violation shall be subject to a fine not to exceed seven hundred dollars (\$700) or a jail sentence not to exceed ninety (90) days, or both, plus the cost of prosecution. Each day a violation exists shall constitute a separate violation for the purposes of this section.

3-9-17: **SEPARABILITY:** Should any section, clause, or portion of this ordinance be found invalid, unenforceable, or unconstitutional by a Court of competent jurisdiction, such finding shall not apply to any other section, clause, or portion of this ordinance, unless the court's findings specifically provides otherwise.

CHAPTER 10

JUNK DEALERS

SECTION:

3-10-1:	License Required
3-10-2:	Application for License
3-10-3:	License Fee
3-10-4:	Bond Required
3-10-5:	Term of License; Renewal
3-10-6:	Action By Council
3-10-7:	Conditions of Operation
3-10-8:	Revocation of License

3-10-1: **LICENSE REQUIRED:** No person shall establish, maintain and/or operate a junk business, junk yard, general wrecking yard or automobile wrecking yard or business within the limits of the City without first obtaining a license to do so from the City Council. (1981 Code § 506.01)

3-10-2: **APPLICATION FOR LICENSE:** Written application shall set forth the name, address and present business of the applicant, the legal description of the premises upon which it is proposed to conduct said business and the general nature of such business. (1981 Code § 506.02)

3-10-3: **LICENSE FEE:** Such application shall be accompanied by a license fee as established by Council resolution. (Ord. 81-2,5-11-1981)

3-10-4: **BOND REQUIRED:** Such application shall also be accompanied by a bond running to the City in the amount as established by Council resolution, which shall guarantee that said applicant, upon being issued the license applied for, will abide by the general law regulating said businesses and all special ordinances, resolutions, rules and regulations laid down by the Council affecting the operation of said business, and upon failure to do so, the bond shall further provide for the forfeiture thereof. (1981 Code § 506.02; Ord. 81-2, 5-11-1981)

3-10-5: **TERM OF LICENSE; RENEWAL:** All permits and licenses shall expire on December 31 next following their issuance and must be renewed prior to January 1 from year to year upon new application to the Council as hereinbefore provided. (1981 Code § 506.02)

3-10-6: **ACTION BY COUNCIL:** The Council may at its option, grant or reject any such application. Failure to act on such application by the Council within thirty (30) days will be deemed rejection of that application or denial of license. (1981 Code § 506.02; 1997 Code)

3-10-7: **CONDITIONS OF OPERATION:** Any person operating such junk yard or automobile wrecking business shall keep the premises in a neat and orderly condition. All such premises shall be enclosed by a tight board fence at least ten feet (10') high which shall be kept in neatly painted condition. No junk or auto part shall be allowed to remain outside such fence. (1981 Code § 506.03)

3-10-8: **REVOCAION OF LICENSE:** The Council shall have the right to revoke such license at any time for cause but only after a hearing, notice of which shall be served upon the owner of such business at least ten (10) days before said hearing. (1981 Code § 506.04; 1997 Code).

CHAPTER 11

PLUMBERS

SECTION:

- 3-11-1: Licensing And Permit Requirements
- 3-11-2: Application For License Verification Certificate; Bond
- 3-11-3: License Verification Fee
- 3-11-4: Term Of License Verification Certificate
- 3-11-5: Bond Required
- 3-11-6: Issuance Of Certificate; Master Plumber
- 3-11-7: Responsibility Of Licensee
- 3-11-8: Permits Requirements; Fee
- 3-11-9: Penalty

3-11-1: **LICENSING AND PERMIT REQUIREMENTS:**

A. Master/Journeyman Plumbers: Except as specifically provided herein, no person shall engage in or work at the business of a master plumber or journeyman plumber within the City unless the work is performed by or under the supervision of a person licensed by the State Board of Health.

B. Plumbing Materials and Supplies; Dealing, Selling: No person shall engage in the business of installing plumbing in connection with the dealing and selling of plumbing material and supplies unless at all times a licensed plumber who shall be responsible for proper installation is in charge of the plumbing work of such person.

C. Single-Family Residence Owner Exempt From Licensing; Permit Required: The owner of a single-family residential dwelling unit doing plumbing work on the dwelling unit is exempt from the licensing requirements of this Chapter; provided, however, the owner shall be required to obtain a permit as herein provided prior to the commencement of the work and shall specify on the application that the person doing the plumbing work is the owner of the dwelling unit and exempt from the license requirements of this Chapter. (Ord. 91-2, 8-26-1991)

3-11-2: **APPLICATION FOR LICENSE VERIFICATION CERTIFICATE; BOND:**

A. Written Application: The application for a license verification certificate shall be made in writing.

B. Required Information: The application shall set forth the name and place of business of the applicant. The applicant may be required to furnish evidence satisfactory to the City Council that applicant or the licensed personnel of the applicant is of good moral character and competent to do plumbing of all kinds in a skillful and workmanlike manner.

C. State License And Bond: The applicant shall execute and deliver to the Clerk-Treasurer a copy of their State license including the required State bond, as provided for in Section 3-11-6 of this Chapter. (ord. 91-2, 8-26-1991)

3-11-3: **LICENSE VERIFICATION FEE:** No license verification certificate shall be issued to any person to carry on business as a licensed plumber except upon the payment of the license verification fee which shall be established by resolution of the City Council. (Ord. 91-2, 8-26-1991)

3-11-4: **TERM OF LICENSE VERIFICATION CERTIFICATE:** Such license, when issued, shall be in force until December 31 following the date of issuance. (ord. 91-2, 8-26-1991)

3-11-5: **BOND REQUIRED:**

A. Amount; Indemnification: A bond signed by the applicant and a corporate surety in the sum of five thousand dollars (\$5,000.00) payable to the City, conditioned upon the applicant's compliance with the laws, ordinances and rules regulating plumbing, and indemnifying the City against loss or damage occasioned by any accident, neglect or unskillfulness on the part of the applicant or the applicant's employees in the performance of any work or in the selection or use of any improper materials for such work is required

B. Approval: Such bond shall be approved by the City Council before a license verification certificate will be granted. (Ord. 91-2, 8-26-1991)

3-11-6: **ISSUANCE OF CERTIFICATE; MASTER PLUMBER:** License verification certificates will be issued only to persons licensed by the Minnesota State Board of Health as master plumbers or to persons having at all times and continuing to have in their employ one or more master plumbers. (Ord. 91-2, 8-26-1991)

3-11-7: **RESPONSIBILITY OF LICENSEE:** A licensed plumber who connects with the public sewer, heating or water systems shall be responsible for any injury caused to such system or the public street and pavements and, in case of injury or damage thereto, shall restore the same to the satisfaction of the City Engineer and/or Public Works Director. (Ord. 91-2, 8-26-1991)

3-1 1-8: **PERMIT REQUIREMENTS; FEE:**

A. Permits Required: It shall be unlawful to construct, install, alter or repair any plumbing, drain, vent, sump, water closet, sink, lavatory or any other plumbing fixture within the City, without first obtaining a permit from the Clerk-Treasurer to do such work.

B. Application For Permit: Application for such permit shall be made at the City office on forms supplied by the City and accompanied by the established fee.

C. Permit Fee: The fee for such permit shall be established by resolution of the City Council.

D. Exception: No permit shall be required in case of repairs not affecting sanitation such as mending of leaks in faucets, valves or water supply pipes, mending of broken fixtures, tanks, releasing frozen pipes or rodding and flushing of any house sewer or drain. (Ord. 91-2, 8-26-1991)

3-11-9: **PENALTY:**

A. Violation: A violation of any provision of this Chapter or a license issued pursuant to this Chapter is a misdemeanor and, upon conviction thereof, shall be punished by a fine and costs of prosecution, or by imprisonment or both, up to the maximum allowed under State law.

B. Enforcement: Any violation of this Chapter or a license issued pursuant to this Chapter may, in addition to criminal prosecution, also be enforced by civil action, injunction, action to compel performance, restoration, abatement or other appropriate action as determined and authorized by the City Council. (Ord. 91-2,8-26-1991)

CHAPTER 12

GAS INSTALLERS

SECTION:

- 3-12-1: License Required; Fee
- 3-12-2: Examination of Applicant
- 3-12-3: Bond Requirement
- 3-12-4: Insurance Requirements
- 3-12-5: Permit Requirements; Fee
- 3-12-6: Emergency Service
- 3-12-7: Penalty

3-12-1: **LICENSE REQUIRED; FEE:** No person shall repair, alter or install any gas piping or gas burning device which is to be connected to the general gas distributing system of a utility company operating in the City, without first having obtained a license from the Clerk-Treasurer, paying the license fee established by City Council resolution, furnishing a bond as hereinafter provided and furnishing evidence of insurance as hereinafter provided. (Ord. 91-3, 8-26-1991)

3-12-2: **EXAMINATION OF APPLICANT:**

A. Written Examination: Each applicant must pass a written examination to determine his or her qualifications before receiving a license.

B. Examination Fee: Such examination shall be conducted by the Building Official after payment of an examination fee in the amount duly established from time to time by the City Council.

C.Exception: In lieu of testing by the City, proof of current licensing from the City of St. Cloud will be sufficient to meet the testing requirements. (Ord. 91-3, 8-26-1991)

3-12-3: **BOND REQUIREMENT:**

A. Amount: Before a license is granted to an applicant, the applicant shall furnish a bond, approved by the City Council in the penal sum of five thousand dollars (\$5,000.00), duly executed by the applicant, as principal, and by a corporation authorized to issue such bond in the State, as surety.

B. Bond Provisions: Such bond shall provide that:

1. Said principal in all materials, equipment and appliances furnished by said principal, and in all work done or performed by said principal, in installing, altering, repairing, servicing gas burners, gas burning equipment and appliances, within the boundaries of the City, shall fully conform to and comply with the requirements of this Chapter; and

2. Said bond shall be payable to the City, as obligee, for the use and benefit of the City, and of all persons to whom the principal has furnished any such materials, equipment or appliances or for whom the principal shall have done or performed any such work. (Ord. 91-3, 8-26-1991)

3-12-4: **INSURANCE REQUIREMENTS:** The applicant shall also furnish, before the license is granted, a policy of liability and property damage insurance, together with a policy of products liability insurance and completed operations insurance, each of which shall provide for the payment of not less

than two hundred thousand dollars (\$200,000.00) for injuries to or death of one person, and not less than six hundred thousand dollars (\$600,000.00) on account of one accident, and not less than two hundred thousand dollars (\$200,000.00) for property damage. Evidence of workers' compensation insurance coverage shall also be provided should applicant have one or more employees. (Ord. 91-3, 8-26-1991)

3-12-5: **PERMIT REQUIREMENTS; FEE:**

A. Permit Required: A permit for the installation or connection of any gas fired burner, apparatus, equipment or appliance, with the general gas distribution system of the utility company holding the franchise therefor, must be obtained from the Clerk-Treasurer before doing any work.

B. Permit Fee: The permit fee shall be determined from time to time by City Council resolution.

C. Materials And Methods: The installation or connection must be done using approved materials and recognized installation methods complying with the State Mechanical Code.

D. Performance Test: The City Building Inspector shall conduct a furnace or appliance performance test, prepare a report containing the results and be present for a leakage test of the system in addition to verifying materials and methods. Such testing shall be done pursuant to State Mechanical Code chapter 1346, or any successor provision. (Ord. 91-3, 8-26-1991)

3-12-6: **EMERGENCY SERVICE:** Nothing in this Chapter shall be construed to limit the right of the gas utility operating in the City and its authorized employees to render necessary service in the event of an emergency or to make necessary adjustments to installed gas equipment. (Ord. 91-3, 8-26-1991)

3-12-7: **PENALTY:**

A. Violation: Any person who commits any of the following shall be guilty of a misdemeanor:

1. Commence the installation, alteration, repair or connection of any gas burning apparatus or appliance without having a City installer's license in effect.

2. Install or connect any gas burner or gas burning apparatus or appliance which does not meet the requirements of this Chapter.

3. Install or connect any gas burner or gas burning apparatus or appliance in violation of the provisions of this Chapter.

4. Violate any other provision of this Chapter.

B. Penalty: A violation of any provision of this Chapter or a license issued pursuant to this Chapter is a misdemeanor and upon conviction thereof shall be punished by a fine and costs of prosecution, or by imprisonment, or both, up to the maximum allowed by State law.

C. Enforcement: Any violation of this Chapter or a license issued pursuant to this Chapter may, in addition to criminal prosecution, also be enforced by civil action, injunction, action to compel performance, restoration, abatement or other appropriate action as determined and authorized by the City Council. (Ord. 91-3,8-26-1991)

CHAPTER 13

ALARMS

SECTION:

- 3-13-1: PURPOSE
- 3-13-2: DEFINITIONS
- 3-13-3: FEES, CORRECTIVE ACTION, NO RESPONSE LIST
- 3-13-4: PAYMENT OF FEES
- 3-13-5: DUTIES OF SECURITY ALARM USERS
- 3-13-6: DELIBERATE FALSE ALARMS
- 3-13-7: CONFIDENTIALITY
- 3-13-8: POLICE DISPATCH CENTER
- 3-13-9: EXCEPTIONS
- 3-13-10: ENFORCEMENT AND PENALTIES

3-13-1: **PURPOSE:** The City's Police Department has no obligation to respond to private alarms, they do so only as a public service. The alarms can serve a beneficial function to those who chose to install them in their business or residences. This benefit must be balanced against the costs incurred by the City as a result of false alarms. The intent of this ordinance is to reduce the number of false alarms occurring within the City and the resultant waste of City resources by providing for corrective administrative action, including fees, listing for no emergency response to alarms and criminal penalties for violations.

3-13-2: **DEFINITIONS:** For purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ALARM SYSTEM: Any device or system which transmits a signal visibly, audibly, electronically, mechanically or by a combination of these methods which indicates a hazard or occurrence requiring urgent attention and to which police are expected to respond. Alarm system shall not include personal, direct telephone call requesting emergency services from a person at the premises in question. Automobile alarm devices shall not be considered an alarm system under the terms of this ordinance.

ALARM USER: The person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

POLICE DISPATCH CENTER: The facility used to receive emergency requests for service and general information from the public to be dispatched to Police patrol units.

INDIRECT ALARM TRANSMITTAL: Any security alarm system which does not directly terminate in the Police dispatch center, but which causes a third party, answering services or central station to notify the Police dispatch center of the alarm activation.

FALSE ALARM: An alarm signal eliciting a response by Police personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system or of his/her employees or agents. False alarms do not include

alarms caused by climatic conditions or as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

AUTOMATIC DIALING DEVICE: A device, which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

3-13-3: FEES, CORRECTIVE ACTION, NO RESPONSE LIST: For police response to any false alarm, the City shall charge and collect from the alarm user such fees according to the City fee schedule. During a one-year period of time, commencing with the first response, the following police response and penalty structure will apply:

- A. For response to premises, at which no other false alarm has occurred within the preceding one-year period, hereinafter referred to as a "first response," no civil penalty shall be charged. Upon first response, notice of conditions and requirements of this chapter shall be given to the alarm user or occupant of the premises on which the false alarm occurred and upon which the alarm system is located.
- B. For additional responses to the premises a civil penalty according to the City fee schedule shall be charged. The alarm user shall, within thirty (30) days after notice to do so, make a written report to the Chief of Police, or his/her designee, setting forth:
 - 1. The cause for such false alarm;
 - 2. The corrective action taken;
 - 3. Whether and when such alarm has been inspected by authorized service personnel;
 - 4. Such other information as the Chief of Police, or his/her designee, may reasonably require to determine the cause of such false alarm, and any mitigating circumstances and corrective action necessary.

Any alarm user which is required by the Police Department to pay a user fee as the result of a false alarm or alarms may make a written appeal of the false alarm charge to the Chief of Police, or his/her designee, within thirty (30) days of the notice by the Police Department of the false alarm charge. Following review and determination by the Chief of Police, or his/her designee, such decision may be appealed to the City Administrator who will have the authority to make a final determination as to whether the appellant is to be charged with a false alarm or alarms.

3-13-4: PAYMENT OF FEES: Payment of penalties provided for under Section 3-13-3 must be paid to the Chief of Police or his/her designee within 30 days from the date of the notice by the City to alarm user. Failure to pay the penalty within 30 days' notice will cause the alarm user to be considered delinquent and subject to a late penalty equal to the original user fee.

If the alarm user fails to provide the information required in Section 3-13-3, Subsection B within the prescribed time or fails to pay the penalty together with any late fee within 60 days from the date of notice by the City to alarm user, the Police Department will inform the alarm user that THE POLICE DEPARTMENT WILL NO LONGER RESPOND TO THEIR ALARM SYSTEM. The "restricted response" status will last until all information has been provided and penalties and late fees have been paid.

3-13-5: DUTIES OF SECURITY ALARM USERS: It shall be the responsibility of the security alarm users to instruct employees or others who may have occasion to activate an alarm that alarms systems are to be used in emergency situations to summon an immediate police response. Alarm users shall also instruct appropriate employees as to the operation of the alarm system, including setting, activation and resetting of the alarm. All instructions pertaining to alarm systems and procedures shall be in written form, suitable for distribution to employees. The user shall be responsible for maintaining the

alarm system in proper working order.

3-13-6: **DELIBERATE FALSE ALARMS:** It shall be unlawful for any person to deliberately and without just cause activate an alarm system to summon the police in a non-emergency situation. Nothing herein contained shall apply to the periodic testing of direct transmittal alarms when sufficient notice is given to the Police Dispatch Center.

3-13-7: **CONFIDENTIALITY:** All information submitted in compliance with this ordinance shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law. Subject to requirements of confidentiality, the Chief of Police, or his/her designee, may develop and maintain statistics for the purpose of ongoing alarm system evaluation.

3-13-8: **POLICE DISPATCH CENTER:** No alarm user shall install, maintain or operate automatic dialing devices which are set or programmed to directly dial, activate, call or in any other manner make direct contact with any emergency telephone line or radio circuit of the Police Dispatch Center.

3-13-9: **EXCEPTIONS:** The penalties of this ordinance shall not be applied to any alarm system used, operated or installed in any premises or place owned, leased, occupied or under the control of the United States Government, the State or any of its political subdivisions, including the counties and school districts in which the City is located together with any officer, agent or employee of the aforesaid governmental agencies while acting or employed in their official capacity.

3-13-10: **ENFORCEMENT AND PENALTIES:** Failure or omission to comply with section 3-13-6 or 3-13-8 of this ordinance shall be deemed a misdemeanor.

CHAPTER 14

Therapeutic Massage Establishments and Massage Therapists

3-14-1:	Purpose
3-14-2:	Findings of the City Council
3-14-3:	Definitions
3-14-4:	License Required
3-14-5:	Exceptions
3-14-6:	License Application
3-14-7:	Issuance of Licenses for New Construction and Alterations of Existing Structures
3-14-8:	Persons Ineligible for Initial License
3-14-9:	General License Restrictions
3-14-10:	Inspection by City Officers and Identification of Employees
3-14-11:	Advertising
3-14-12:	Responsible for Conduct
3-14-13:	Non-Renewal, Suspension or Revocation of License
3-14-14:	Appeal and Hearing Procedure
3-14-15:	Immediate Suspension of License
3-14-16:	Ability to Reapply After Revocation

3-14-1 Purpose. The purpose of this ordinance is to prohibit unlicensed massage businesses and services to the public except those licensed as therapeutic massage establishments and massage therapists pursuant to this section. The licensing regulations prescribed herein are necessary to protect businesses that are operating legitimate establishments, and to protect the health, safety, and general welfare of the community.

3-14-2 Findings of the City Council. The City Council makes the following findings regarding the need to license therapeutic massage establishments and therapists and to prohibit non-licensed massage businesses and services to the public:

- (1) Persons who have recognized and standardized training in therapeutic massage and bodywork can provide a legitimate and necessary service to the public.
- (2) Health and sanitation regulations governing therapeutic massage establishments and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
- (3) Restrictions on unlicensed therapeutic massage establishments and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
- (4) Massage services provided by persons with no specialized and standardized training in massage can endanger citizens.
- (5) Unlicensed massage businesses which employ persons or utilize independent contractors 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.
- (6) 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.

3-14-3 Definitions.

Subd. 1. *Accredited Institution.* An educational institution holding accredited status approved by the United States Department of Education or Minnesota Office of Higher Education. Accreditation outside of these institutions will be reviewed and approved or denied on a case by case basis by the City.

Subd. 2. *Accredited Program.* A professional massage program or educational institution accredited by the Commission on Massage Therapy Accreditation (COMTA) or by an accrediting body recognized by the United States Department of Education. Accreditation outside of these institutions will be reviewed and approved or denied on a case by case basis by the City.

Subd. 3. *Issuing Authority.* The City Council grants the authority to issue and renew licenses pursuant to this Section to the Health Director or designee.

Subd. 4. *Massage, Massage Therapy, and Bodywork.* A healthcare service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations using thrusting force. This includes, but is not limited to many manual therapies, such as massage therapy, Asian bodywork therapies or movement therapies. While these are recognized as separate disciplines, all are subject to the massage and bodywork establishment license ordinance.

Subd. 5. *Massage Therapist.* An individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

- (1) Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage;
- (2) Is affiliated with, employed by, or owns a therapeutic massage establishment licensed by the City; and
- (3) Has completed certified therapeutic massage training with content that includes subjects of anatomy, physiology, healthcare universal precautions, ethics, massage theory and research, and massage practice from an Accredited Institutions or Accredited Program approved by the Issuing Authority.

Subd. 6. *Operate.* To own, manage, or conduct or to have control, charge, or custody over.

Subd. 7. *Persons.* Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

Subd. 8. *Therapeutic Massage Establishment.* Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals that operates a business that employs or hires or independently contracts with licensed therapeutic massage therapists to provide therapeutic massage within the City for a fee or other consideration. For the purposes of this ordinance, this includes Out-Call Massage Establishments or Mobile Massage establishments that engage in or performs massage for any form of consideration or gratuity at a location other than a commercial or home-occupation Massage Establishment.

Subd. 9. *Within the City.* A physical presence as well as mobile massage operations in which the establishment premises, although not physically located within the City, serves as a point of assignment of employees or independent contractors who respond to requests for services from within the City.

Subd. 1. Therapeutic Massage Establishment License. It shall be unlawful for any therapeutic massage establishment to operate, engage in, or carry on, within the City, massage services to the public for consideration without first having obtained a license from the City pursuant to this Section. The owner/operator of a therapeutic massage establishment 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.

Subd. 2. Massage Therapist License. It shall be unlawful for any massage therapist 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.

3-14-5 Exceptions. A therapeutic massage establishment or therapist license is not required under this section for the following persons and places where massage services are provided by or under the direction of any of the following:

Subd. 1. Persons duly licensed or registered in this state to practice medicine, surgery, osteopath, chiropractic, physical therapy, podiatry, acupuncture, acupressure, Reiki, Reflexology, or registered nurses.

Subd. 2. Persons duly licenses by this state as beauty culturists or barbers who do not give or hold themselves out to give massages or other services other than those customarily given in such shops and places of business for beautification only. Massages customarily given by beauty culturists or barbers will be limited to the areas of head, neck and shoulder; hand and lower arms to the elbow; foot and ankle.

Subd. 3. Places duly licensed or operating as a hospital, clinic, nursing home, hospice, or group home established for the hospitalization or care of human beings provided the massage is administered only to the residents or patients of the facility as part of their care and not provided as part of a separate service.

Subd. 4. Athletic coaches, directors, and trainers employed by public or private schools.

Subd. 5. Accredited institutions and students of accredited institutions which provide an accredited program of study or course work in massage therapy, provided that the massage is provided during and as a part of the course or clinical component of the institution's program or course work and students are supervised by an instructor while performing the massage.

3-14-6 License Application.

Subd. 1. Therapeutic massage establishment license application. An application for a therapeutic massage establishment license shall be made on a form supplied by the City and shall contain the following information:

A. Applicant and Owner Information.

- (1) Whether the applicant is an individual, corporation, partnership, or other form of organization.
- (2) Full name, address, date of place of birth, and telephone number of the applicant, all owners and operators, including the designated on-site manager or agent of the applicant.
- (3) Whether the applicant, owners and/or operators have ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used. This includes commonly

nicknames.

- (4) Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.
- (5) The type, name, location, and dates of every business or occupation the applicant has been engaged in during the preceding 10 years.
- (6) Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.
- (7) Street addresses and dates at which the applicant has lived during the preceding 10 years.
- (8) Whether the applicant has ever been arrested, charged or convicted of any crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date(s) and offense for which arrests, charges or convictions were had.
- (9) If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had.
- (10) Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, dates and length of time of the involvement of all such establishments.
- (11) Whether the applicant or other owner has had an interest in, as an individual or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was revoked, suspended, or denied within the last 10 years of the date the license application is submitted to the issuing authority.
- (12) Proof of Workers' Compensation Insurance as required by Minnesota Law.
- (13) Such other information as the City shall require.

B. Commercial Establishment information.

- (1) The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
- (2) Plans and specifications showing the interior and exterior design of the establishment. Including specifications of all massage equipment.
- (3) The current status of the premises and establishment, including whether they are existing, planned, or under construction/renovation.
- (4) The floor number, street number, suite number(s) and rooms where the massage services are to be conducted.
- (5) 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.
- (6) Compatibility with Sartell Zoning Ordinances and the Comprehensive Plan and proximity to residences, other establishments licensed as therapeutic massage establishments, churches, schools, and public buildings.
- (7) Such other information as the City shall require.

C. Home Occupation Establishment Information

- (1) The legal description of the premises to be licensed together with a floor plan of the home showing dimensions, location of rooms being utilized for massage

therapy, public access, and parking facilities.

- (2) Plans and specifications showing the interior and exterior design of the establishment. Including specifications of all massage equipment.
- (3) The status of the premises and establishment, including whether they are existing, planned, or under construction/renovation.
- (4) 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.
- (5) Compatibility with Sartell Zoning Ordinances and the Comprehensive Plan in regards to home occupations, as well as proximity to residences, other establishments licensed as therapeutic massage establishments, churches, schools, and public buildings.
- (6) Such other information as the City shall require.

Subd. 2. Massage Therapist License Application. An application for a massage therapist license shall be made on a form supplied by the City and shall contain the following information:

- (1) The applicant's name and current address.
- (2) The applicant's current employer.
- (3) The applicant's employers for the previous five years, including the employer's name, address and dates of employment.
- (4) The applicant's addresses and dates for the previous five years.
- (5) The applicant's date of birth, home telephone number,. A color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Police Chief, the police department may take photographs for the file.
- (6) Whether the applicant has ever been arrested, charged or convicted of any crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date(s) and offense for which arrests, charges or convictions were had.
- (7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was denied, revoked or suspended within the last 10 years of the date the license application is submitted to the issuing authority.
- (8) Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.
- (9) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
- (10) Whether the applicant has met the definition of a massage therapist in this Section.
- (11) Whether the applicant has ever been the subject of an investigation, public or private, criminal or non-criminal, regarding massage therapy.
- (12) Such other information as the City shall require.

Subd. 3. Background Investigation. The applicant will submit with the completed application form an executed release of information authorizing the Chief of Police to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state. The applicant will also submit

additional information that may be required by the Planning Office, Health and Inspections Department, Police Chief and City Attorney. No person will make a false statement in an application.

Subd. 4. Insurance Required. Each applicant for a therapeutic massage establishment license shall file with the issuing authority 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 establishment. The policy of insurance shall be in limits of not less than \$1,000,000.00. Each applicant for a massage therapist license shall file with the issuing authority a current certificate of insurance providing coverage of \$1,000,000.00 for personal liability in the practice of massage. No cancellation of any insurance policy will be valid except upon 30 days prior written notice to the City. Failure to keep in full force and effect the insurance is grounds for suspension or revocation of the license.

Subd. 5. Review and Investigation Fee. At the time of each initial application, the applicant will pay in full a review and investigation fee. Review and investigation fees will be determined by the City Council and set forth in Section 512 of this Code. Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required. The review and investigation fee will not be refunded.

Subd. 6. License Fee and License Year. The annual license fee for the therapeutic massage establishment and massage therapist license will be in the amount set forth in Section 512 of this Code. A separate license will be obtained for each place of business. Licenses are valid from January 1 to December 31 in the year the license is issued, unless revoked. Renewal application for the license must be made on or before December 1 prior to the next license term.

Subd. 7. Administrative Review. Upon the filing of an application for a license, together with the documents required to accompany the license, the Health Director will forward a copy of the application and accompanying documents to the Planning Office, Health and Inspections Department, Police Chief and City Attorney.

- (1) Planning Office Review. The Planning Office will review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.
- (2) Police Department Review. The Police Chief will make or cause to be made a review of the application to determine the potential impact of law enforcement. The Police Chief will also make or cause to be made an investigation of the applicant's character and criminal history.
- (3) Health and Inspections Department. The Health and Inspections Department will review the license application and inspect the premises for which the license is to be issued to confirm compliance with all requirements of the City and State relating to health and sanitation.
- (4) City Attorney Review. The City Attorney will review the application for compliance with all applicable statutes and ordinances.
- (5) Findings and Approval. Within 45 days of receipt of the initial license application, the Planning Office, Police Chief, Health and Inspections Department and City Attorney will submit in writing to the Issuing Authority their respective findings and recommendations. The Issuing Authority will review the application, findings and recommendations and will approve or deny the application. Upon the filing of a renewal application, the City will respond within a reasonable period of time.

3-14-7
Structures.

Issuance of Licenses for New Construction and Alterations of Existing

Subd. 1. Final Plans Reviewed. Where a license to operate a therapeutic massage establishment is granted for premises on which new construction or alteration of existing structures is to occur, the applicant will submit a set of detailed final plans showing interior and exterior design, including site and space. These plans will be certified by a registered architect or engineer and submitted to the Building Inspections Division. The Issuing Authority will review the plans for compliance with the preliminary plans included in the application.

Subd. 2. Certificate of Occupancy Required. For premises on which new construction or alteration of existing structures is to occur, no license to operate a therapeutic massage establishment will be issued until a certificate of occupancy is issued by the City for premises constructed in accordance with the application and plans reviewed by the Issuing Authority. Prior to issuance of the certificate of occupancy, the Chief Building Official will certify to the Health Director that construction was or was not in compliance with the final plans reviewed by the Health Director. Where the construction is found not to be in accordance with the final plans, the Chief Building Official will state all significant deviations.

Subd. 3. Review of Deviations. Where the certification to the Health Director indicates that construction was not in accordance with the final plans, the Health Director will not issue the license but will return the application, together with the final plans and a statement of deviations.

3-14-8

Persons Ineligible for Initial License.

A. Therapeutic Massage Establishment License. The City may deny issuance of an initial therapeutic massage establishment license in any of the following circumstances, and this list is not intended to state the exclusive reasons for denial:

- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority.
- (2) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 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 Minn. Stat. § 364.03, subd. 3.
- (3) Has had an interest in, as an individual or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was denied, revoked or suspended within the last 10 years of the date the license application is submitted to the issuing authority.
- (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States.
- (5) Is not the real party in interest of the establishment.
- (6) Has knowingly misrepresented or falsified information on a license application within the preceding 10 years.
- (7) Cannot meet the definition of therapeutic massage establishment in this Section.
- (8) The applicant does not have insurance coverage in effect as required by this Section.
- (9) The applicant has been denied a license under this Section within the preceding 12 months.
- (10) The proposed use is in conflict with the Sartell Zoning Code or the Comprehensive Plan.

- (11) The proposed use is in conflict with any health regulations or building code regulations of the City or the State of Minnesota.
- (12) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent.
- (13) Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past 10 years.
- (14) Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

B. Massage Therapist Licenses: The City may deny issuance of an initial massage therapist license in any of the following circumstances, this is not intended to state the exclusive reasons for denial:

- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority.
- (2) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 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 Minn. Stat. § 364.03, subd. 3.
- (3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was denied, revoked or suspended within the last 10 years of the date the license application is submitted to the issuing authority.
- (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States.
- (5) Has knowingly misrepresented or falsified information on a license application within the preceding 10 years.
- (6) Is not affiliated with, employed by, or does not own a therapeutic massage establishment licensed by the city.
- (7) The applicant does not have insurance coverage in effect as required by this Section.
- (8) The applicant has been denied a license under this Section within the preceding 12 months.
- (9) Cannot meet the definition of massage therapist in this Section.
- (10) Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

3-14-9 General License Restrictions.

A. Prohibited Massages. A massage therapist must not intentionally or sexually massage or offer to massage the penis, scrotum, mons veneris, vulva, or vaginal area of a person. The license will be revoked if the massage therapist is engaging in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to a client, or engaging in sexual exploitation of a client, without regard to who initiates the behavior.

- B. License Restrictions. Each license will be issued to the applicant only. Each license will be issued only for the premises described in the application. No license may be transferred to another person or place.
- C. Business Hours. No customers or patrons will be allowed to enter the licensed premises after 10:00 p.m. and before 6:00 a.m. daily. Customers or patrons will not be allowed to remain upon the licensed premises after 10:30 p.m. and before 6:00 a.m. daily.

3-14-10 Inspection by City Officers and Identification of Employees. Licensed premises and licensed applicants will be open to unannounced inspection by City Health, Building and License Inspectors and Police Officers during business hours. For home occupations, only the licensed premise will be inspected. Inspected facilities will comply with following requirements:

- (1) Any person engaged in providing services in any licensed premises will identify themselves giving their true legal name and correct address upon demand by any police officer.
- (2) Current massage license issued by the City of Sartell must be displayed in the front entry or corridor of the licensed facility. For home occupations, the massage license issued by the City of Sartell must be displayed within the designated space(s) for massage therapy on the license application.
- (3) Credentials of all massage therapists are current and available on-site.
- (4) Business hours must be posted on all public entryways into the massage facility. For home occupations, the business hours must be displayed within the designated space(s) for massage therapy on the license application or on their business website.
- (5) Toilet rooms for employees and patrons are adequate and conveniently located.
- (6) Provide single-service disposable paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the massage.
- (7) The massage therapist must wash their hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.
- (8) Massage tables, chairs, and other furniture on which massages are performed must have surfaces that can be readily disinfected after each massage. These surfaces must be disinfected following each massage performed.
- (9) Rooms must be adequately illuminated, to allow for adequate cleaning purposes.
- (10) The facility must be maintained in good repair and in a sanitary condition, and must take reasonable steps to prevent the spread of infections and communicable diseases on the premises.
- (11) Evidence of sexual acts is prohibited, such as semen found in the facility, massage tables, chairs, and other surfaces.
- (12) Massage therapists must be in good health, without skin infections, and wear clean clothing when performing massage services. Facilities must have a health and wellness policy that follows CDC guidelines.
- (13) Massage establishments shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses. Sleeping or living quarters must be physically separated by a door from the licensed massage therapy area designated on the application.

3-14-11 Advertising. Any advertising by a licensee or representative of the licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited.

3-14-12 Responsible for Conduct. A licensee under this Section shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

3-14-13 Non-renewal, Suspension, or Revocation of License. The license may be suspended, revoked or not renewed for any of the following reasons, and this list is not intended to state the exclusive reasons for suspension, revocation, or non-renewal:

- (1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- (2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
- (3) Any violation of this ordinance or state law. The charging of a violation or conviction is not required for non-renewal, suspension, or revocation of a license.
- (4) A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by Minn. Stat. § 364.03, subd. 2.
- (5) Conducting the licensed business or occupation 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.
- (6) If the owner, manager, lessee or any of the employees or independent contractors are found to be in control or possession of a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription. For home occupations on the premises refers to the designated space used for massage therapy as recognized on the license application.
- (7) If the holder of an establishment license fails to maintain with the issuing authority a current list of all employees or independent contractors of such licensed premises. The list shall include all massage therapists licensed under this section.
- (8) A material variance in the actual plan and design of the premises from the plans submitted.
- (9) In the event of multiple massage establishment locations, any license suspension/revocation shall apply to all massage establishment locations within the City of Sartell.

3-14-14 Appeal and Hearing Procedure. Before the City may revoke, suspend, deny or not renew a license, written notice must be sent to the applicant or owner/licensee setting forth the alleged grounds for the potential action. To appeal the revocation, suspension, denial or non-renewal, the applicant or owner/licensee must submit a request for appeal in writing within 10 days of receiving the notice. The appeal will be before an independent hearing officer selected from the list of independent hearing officers maintained by the City of St. Cloud. At the hearing, the applicant/licensee may speak on his or her behalf and may present witnesses and other evidence he or she deems necessary. Upon the conclusion of the hearing, the hearing officer, on behalf of the City Council, shall issue a written decision that includes findings of fact. The applicant/licensee may appeal the hearing officer's decision to the Minnesota Court of Appeals by writ of certiorari.

3-14-15 Immediate Suspension of License. The Health Director or designee may immediately suspend a license, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a substantial hazard to the health, safety, or

general welfare of the public, or after repeated complaints received regarding unlawful conduct of the business practices or method of solicitation. The licensee will be given notice of the immediate suspension on site. The suspension will take place immediately. The licensee can request a hearing within 10 days of notice of the suspension and the hearing procedure will be the same as set forth in 447:13.

3-14-16 Ability to Reapply After Revocation. The holder of a therapeutic massage establishment license or massage therapist license may not reapply for a new license for a period of 10 years if their license is revoked under this ordinance.

CHAPTER 15

LODGING TAX

SECTION:

- 3-15-1: Definitions
- 3-15-2: Local Lodging Tax Imposed and Continued
- 3-15-3: Report and Payment of Tax
- 3-15-4: Records Preserved for inspections
- 3-15-5: Collection Authorized
- 3-15-6: Disposition of Proceeds

3-15-1: **Definitions:**

- (A) "Lodger" - the person obtaining lodging from an operator
- (B) "Lodging" – the furnishing of accommodation for a fee by a hotel, motel, or similarly licensed facility, except where the accommodation shall be for a continuous period of 30 days or more to the same lodger(s).
- (C) "Operator" – a person who provides lodging to others or any officer, agent or employee of such person.

3-15-2: **Local lodging tax imposed and continued:**

- (A) The Council hereby imposes and continues a lodging tax of 3% on the gross receipts of the charges by an Operator for providing Lodging to any person.

3-15-3: **Report and payment of tax:**

- (A) Each Operator shall collect the tax imposed by this Chapter at the time the Lodging rent or charge is paid. The tax collections shall be deemed to be held in trust by the Operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging.
- (B) Any Operator subject to the lodging tax imposed hereby shall report the gross receipts hereinbefore referred to the City within 15 days of the end of the month when collected and said report shall be accompanied by payment in full.
- (C) If the report and payment of the tax is not made within 15 days as herein provided, an automatic fine of \$100 is hereby imposed in addition to the tax and which is to be paid when the tax is paid.

3-15-4: **Records preserved for inspection:**

- (A) Complete records of all such gross receipts, collections, and remittances shall be preserved for a period of 1 year and shall during said year be open to inspection and audit by the City.

3-15-5: **Collection authorized:**

- (A) In addition to any other penalty, the City may collect by legal action, any delinquent tax, plus 6% interest thereon and the cost of collection, including reasonable attorney's fees.

3-15-6: **Disposition of proceeds:**

- (A) At least ninety-five percent of the gross proceeds from the tax imposed hereby shall be used by the City for the purpose of the advancement of the City of Sartell as a tourist destination or convention center and up to 5% may be used for the administration of this section.