

CITY OF DEEPHAVEN  
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## CHAPTER 4. LICENSING, PERMITS AND FEES

### SECTION 400 GENERAL LICENSING AND PERMITS

400.01 License or Permit Required. No person may 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 that activity or use. For the purpose of this Code a person will be deemed to be engaged in a business for which a license is required if the person:

- (a) Sells any goods or service for which a license is required.
- (b) Solicits such business or offers such goods or services for sale or hire.
- (c) Acquires or uses a vehicle or any premises in the City for such business purposes.

Agents or other representatives of non-residents of the City who do business in the City will be personally responsible for any failure of their principals or the businesses they represent to comply with this Code. A license is required for each branch establishment or location of a business as if it were a separate business. No license is required for mere delivery in the City of any property purchased or acquired in good faith from a regular place of business outside the City if there is no intent to evade this Code.

400.02 Application. A person required to obtain a license under this Code will apply to the Clerk for the license. The application will:

- (a) Be on forms provided by the Clerk.
- (b) Include an affidavit sworn to by the applicant before a person authorized to administer an oath.
- (c) Contain all information necessary to comply with the Code and any other information required by the Clerk, including full identification of the applicant, the applicant's address, and the address of the business.
- (d) Be accompanied by the applicable license fee stated in Section 405.05.

400.03 Bond. Where a bond is required for a license or permit, the bond will be a corporate surety bond executed on a form approved by the City Attorney and will be filed with the Clerk before the license or permit is issued. The bond will be in the amount and with the penalty provisions as required by the Code.

400.04 Procedure for Issuance. If, after investigation, the Clerk is satisfied that all requirements of law and this Code have been met, the Clerk will present the application and a report of the investigation and findings to the Council for action. If the license or permit does not require Council approval, the Clerk may issue the license or permit.

400.05 Appeal Procedure. Upon denial of a license or permit by the Clerk, an applicant may appeal the denial to the Council by filing a request for review with the Clerk within 10 days after notice of the denial. The Council will hear the applicant at its next regular meeting, and review the determination of the Clerk. The Council may then grant or deny the license.

400.06 License Period. All licenses will terminate on December 31 of the year issued, unless otherwise indicated.

400.07 Renewal. Applications for renewal of a license will be made to the Clerk on forms provided. The renewal application will contain the information required for the original application plus any additional information required by the Clerk.

400.08 Duplicates. A duplicate license certificate or tag may be issued by the Clerk to replace any license certificate or tag previously issued which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, if the licensee files an affidavit with the Clerk attesting to such fact and pays to the Clerk a fee of seventy-five cents.

400.09 Refunds. License fees will not be refunded in whole or in part for non-use of a license, or for any change in the business or its location. The Clerk may refund a license fee collected through error or in cases where the application for the license is denied.

400.10 Duties of Licensee. Every licensee will:

- (a) Permit reasonable inspections of the business and books and records of the business by City officers or employees.
- (b) Comply with all laws, ordinances, and regulations applicable to the licensed business.
- (c) Refrain from operating the licensed business after expiration or revocation of the license and during any suspension of the license.
- (d) Display the license in a conspicuous place on the licensed premises, vehicle, or device to which the license relates.
- (e) Pay prior to the date any penalty attaches for non-payment, all special assessments and real and personal property taxes levied against real and personal property owned by the licensee and used in the licensed business.

400.11 Unlawful Disposition. A licensee may not lend, sell, give or assign a license to any person, or allow any other person to use, display or possess the license.

400.12 Enforcement. Police officers and other appropriate officers of the City may inspect and examine all premises, businesses and enterprises subject to license under this Code.

400.13 Termination of License. If the Clerk determines that a licensee has not complied with some requirement of this Code, the Clerk will give the licensee written notice of the violation delivered either personally or by depositing the notice in the U.S. mail addressed to the address stated on the license application which will constitute valid service of the notice. If the licensee cannot be found, the notice also may be posted on the licensed premises. The notice will require compliance with the provisions of law stated in the notice within a reasonable time as specified by the Clerk. Upon expiration of the stated time the Clerk may terminate the license if the license was issued by the Clerk. If the license was issued by the Council, the Clerk will report the matter to the Council and the Council may terminate the license.

400.14 Hearing. A licensee may by written notice request a hearing by the Council before termination. The hearing will be held not less than 10 days and not more than 20 days after the request. At the hearing the licensee will be advised of all information upon which the alleged violation is based, and the licensee will be given the opportunity to offer evidence regarding the alleged violation. After the hearing, the Council may make a final order suspending, terminating or reinstating the license.

## SECTION 405 FEES

405.01 License Fees. The fee for any license, permit or application required under this Code will be the amount stated in Section 405.05, which amount will be paid by the applicant at the time the application is submitted to the Clerk.

405.02 Rezoning. Any application to the City for the rezoning of land must be accompanied by a fee in the amount stated in Section 405.05. Rejection of the application by the Council will not entitle the applicant to a refund of all or any part of the fee.

405.03 Vacation of Street, Alley or Public Easement. Any application to the City for the vacation of all or part of any street, alley or public easement must be accompanied by payment of a fee in the amount stated in Section 405.05. Rejection of the application by the Council will not entitle the applicant to a refund of all or any part of the fee.

405.04 Private Use of City-Owned Facilities. Each time the City permits a person to exclusively use City-owned facilities for a limited period of time; the person must pay the fee for that use stated in Section 405.05.

405.05 Establishment of Fee Amounts. The dollar amounts of fees required by the Code are as stated in the following table.

Animal Licenses & Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
1	440.02	Dog license	Bi-annual license	\$ 20.00
			Pro-rated license	\$ 10.00
			Duplicate license	\$ 5.00
2	510.04	Release of impounded dog	0 impounds last 12 months	\$ 40.00
			1 impound last 12 months	\$ 65.00
			2 or more impounds last 12 months	\$ 90.00
3	510.04	Impounded animals	Monthly retainer fee	\$100.00
			Euthanasia & disposal	\$ 75.00
			Cremation only	\$ 60.00
			Daily fee for boarding of cats	\$ 23.00
			Daily fee for boarding of dogs	\$ 25.00
			Minimum daily fee per animal	\$ 25.00

Beer Licenses				
Fee No.	Code No.	Purpose of Fee	Item	Amount
4	465.02	Beer licenses	On-Sale Temporary License	\$ 10.00
			On-Sale Annual License	\$ 50.00
			Off-Sale Annual License	\$100.00

Building Permit Fees			
Fee No.	Code No.	Item	Amount
5	1103.03	\$1 - \$500	\$ 23.50
		\$501 - \$2,000	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, up to and including \$2,000.00
		\$2,001 - \$25,000	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, up to and including \$25,000.00
		\$25,001 - \$50,000	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, up to and including \$50,000.00
		\$50,001 - \$100,000	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, up to and including \$100,000.00
		\$100,001 - \$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000.00, or fraction thereof, up to and including \$500,000.00
		\$500,001 - \$1,000,000	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, up to and including \$1,000,000.00
		\$1,000,001 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.15 for each additional \$1,000.00, or fraction thereof
		Plan Review Fee	65% of Building Permit Fee
6		Load Limit Fee: Per Trip Special Operating Permit	\$50.00 (\$500 March 1-May 1)
7		Load Limit Fee: Blanket Special Operating Permit	20% of the Building Permit Fee for all projects over \$20,000 in value. Not available March 1-May 1
8		Storm Water Impact Review Surcharge of new homes, remodels, and additions	\$100 per permit plus \$150 inspection fee, if required

Cigarette Licenses				
Fee No.	Code No.	Purpose of Fee	Item	Amount
8	425.04	Annual cigarette license	Sale of cigarettes	\$ 50.00
			Sale of cigarette wrappers	\$ 50.00

Contractor's Licenses				
Fee No.	Code No.	Purpose of Fee	Item	Amount
9	410.04	Sewer installer license	If not a state licensed plumber	\$ 50.00
10	420.01	Annual tree trimming or removal		\$ 50.00
11	415.02	Gas fitter's license	Class A	\$ 50.00
12	415.02	Heating/ventilation installer	Class B	\$ 50.00

Electrical Permit Fees			
Fee No.	Code No.	Item	Amount
13	416.03	Minimum Residential Fee	\$ 50.00
		Minimum Commercial Fee	\$ 50.00
		\$1 - \$500	Minimum
		\$501 - \$1,000	\$15.00 plus 2.75% of amount over \$ 500
		\$1,001 - \$5,000	\$28.75 plus 2.50% of amount over \$ 1,000
		\$5,001 - \$10,000	\$128.75 plus 2.25% of amount over \$ 5,000
		\$10,001 - \$25,000	\$241.25 plus 2.00% of amount over \$10,000
		\$25,001 - \$50,000	\$541.25 plus 1.75% of amount over \$25,000
		\$50,001 and up	\$978.75 plus 1.50% of amount over \$50,000
		Re-inspections	\$ 25.00
		Swimming pool flat rate	\$ 45.00
		Plan Review Fee for commercial jobs valued over \$30,000 will be 10% of permit fee	

False Alarm Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
14	545.02	3-6 false alarms	Within one calendar year	\$ 50.00
		7-10 false alarms	Within one calendar year	\$ 100.00
		In excess of 10 false alarms	Within one calendar year	\$ 150.00

Facilities Use Fee			
Fee No.	Code No.	Purpose of Fee	Amount
15	405.04	Private Use of Public Facilities	\$10.00 Fee plus \$50.00 refundable deposit

Heating and Gas Fitting Permit Fees			
16	415.08	Heating, Ventilating, Air-conditioning and Refrigeration	
	(1) Central System	2% of estimated cost with a minimum of	\$ 50.00
	(2) Additions, Alterations & Repairs	2% of estimated cost with a minimum of	\$ 50.00
	(3) Addition of A/C to heating system	2% of estimated cost with a minimum of	\$ 50.00
	(4) Furnace or boiler replacement	1.25% of estimated cost with a minimum of	\$ 50.00
	(5) Gas Piping	First (3) units at \$7.50 with a minimum of	\$ 50.00
		Each additional unit at \$4.00 with a minimum of	\$ 50.00

Intoxicating Liquor, Beer and Wine License Fees			
Fee No.	Code No.	Purpose of Fee	Amount
17	470.07	Off-Sale Intoxicating Liquor License	\$ 100.00
18	470.07	On-Sale Intoxicating Liquor License	\$ 2,500.00
19	470.07	On-Sale Wine License	\$ 1,250.00
20	470.07	Combination Wine and Beer License	\$ 1,450.00
21	470.07	Sunday On-Sale Intoxicating Liquor License	\$ 200.00
22	470.07	One Day License	\$ 25.00
23	470.07	Liquor License Investigation Fee (in state)	\$ 500.00
24	470.07	Liquor License Investigation Fee (out state)	\$10,000.00
25	470.07	Investigation on Change in Status (per person)	\$ 50.00



Parking Permits				
Fee No.	Code No.	Purpose of Fee	Item	Amount
26	450.02	Annual parking permits	All Purposes	\$120.00
			Beaches Only	\$ 60.00
			Each additional permit after 2nd	\$ 10.00
			Temporary daily parking fee	\$ 5.00
27	1120.02	Manufactured home parking	Per home parking fee	\$ 10.00

Planning and Zoning Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
28	1200.07	Subdivision: Preliminary Plat	Filing fee	\$ 750.00
29	1200.03	Subdivision: Final Plat	Filing fee	\$ 650.00
30	405.07	Subdivision Escrow Fee	Consultant review	\$3,000.00
31	1200.04	Administrative Plat	Filing fee	\$ 450.00
32	1315.03	Variance application	Filing fee plus actual cost of consultant's and attorney's fees and other expenses	\$6 5 0.00
33	1115.05	Temporary sign permit	Filing fee	\$ 50.00
34	405.02	Rezoning application	Filing fee	\$ 650.00
35	405.03	Vacation application	Street, alley, public easement	\$ 450.00
36	1320.04	Conditional/Special Use permits	Filing fee plus actual cost of consultant's and attorney's fees and other expenses	\$ 650.00 plus \$500 storm water mitigation inspection fee, if required
	1302.03 1302.04 1302.05	Five-year stormwater mitigation inspection	Inspection fee	\$150
37	1306.06	Home occupation permit	Annual fee	\$ 50.00
38	1355.03	Showcase Event Permit	Filing fee	\$450.00

Plumbing Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
39	410.04	Residential plumbing fee	Minimum fee	\$ 50.00
			Fee per fixture	\$ 8.50
		Water softener	Minimum fee	\$ 50.00
		Water heater	Minimum fee	\$ 50.00
40	410.04	Commercial plumbing fee	Minimum fee	\$ 50.00
			Fee per fixture	\$ 9.50

		Water softener	Minimum fee	\$ 50.00
		Water heater	Minimum fee	\$ 50.00

Police Services Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
41	215.03	Release of impounded property	50.00 fee + \$5.00 per day	\$ 50.00
42	430.08	Peddler, transient merchant	Per peddler for 12 month period	\$ 50.00
43	430.07	Photo I.D. Fee	Per photo	\$ 5.00

Annual Refuse Collection License				
Fee No.	Code No.	Purpose of Fee	Item	Amount
44	460.01	Annual refuse collection license	Per hauler	\$ 50.00

Right of Way Permit Application Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
45	720.07	Excavation Permit	Per permit	\$195.00
46	720.07	Obstruction Permit	Per permit	\$165.00
47	720.07	Small Wireless Facility Permit Fee	Per permit	\$195.00
48	720.03	Delay penalty	Per day	\$100.00

Utility Fees and Permits				
Fee No.	Code No.	Purpose of Fee	Item	Amount
49	1005.02	Sewer Use Rates	Per quarter unit	\$ 115.00
50	1005.01	Sewer Connection Permit Fee	Residential	\$ 50.00
51	1200.10	Sewer Connection Fee	Per lot or multiple family unit	\$2,400.00
52	1020.02	Storm Sewer Management	Per month	\$ 8.50
53	1000.06	Water System Use Rates		
		Minnetonka Boulevard	125% of current Minnetonka Rate	
			Quarterly trunk charge	\$ 20.00
			Quarterly administrative charge	\$ 10.00
		Commercial	125% of current Minnetonka Rate	
			Quarterly trunk charge	\$ 20.00
			Quarterly administrative charge	\$ 10.00
			Sales tax (use, trunk, admin)	6.875%
		The Pines	Current Minnetonka rate	
			Quarterly trunk charge	\$ 20.00
			Quarterly administrative charge	\$ 10.00
		Amesbury	Current Shorewood Rate	
			Quarterly trunk charge	\$ 20.00
			Quarterly administrative charge	\$ 10.00
			Annual safe water surcharge	\$ 5.21
54	1000.03	Water Connection Permit	Stub in only	\$ 25.00
			5/8" meter deposit	\$ 90.00
			Larger than 1" service	\$ 50.00
			Fire sprinkler with service connect	\$ 50.00
			Surcharge	\$ 0.50
			Delinquent water bill charge	\$ 5.00
55	1000.08	Water Meter Charge	City's cost of meter plus 15%	
56	410.05	Water Service	Reconnect fee	\$ 15.00

<b>Watercraft Mooring Fees</b>				
<b>Fee No.</b>	<b>Code No.</b>	<b>Purpose of Fee</b>	<b>Item</b>	<b>Amount</b>
57	900.06	Annual mooring permit fee	Docks	\$1,000.00
			Buoys	\$500.00
			Shore Space per front foot	\$ 71.00
			B2 Slide	\$225.00
			Canoe Rack	\$100.00
			Street End Slide	\$225.00
			B1 Slide	\$325.00
58	550.03	Fire Alarm User's Fee	In excess of one false alarm within one calendar year	\$200.00

405.06 Fee Established by Resolution. Fees will be payable to the City in amounts established by annual resolution of the Council for miscellaneous items and administrative services, including without limitation, special assessment searches, accident reports, copying, ordinances, maps, minutes of Council and various commission meetings, printed forms, and certified copies.

405.07 Escrow Fees. Any application to the City for a subdivision must be accompanied by an escrow fee in the amount stated in Section 405.05. The escrow fee will be used to pay for the cost of any review of these applications provided by the City Attorney, City engineer or special consultant. The City will refund the applicant for any amount remaining from the Escrow Fee after deducting the cost of the review.

## **SECTION 410 PLUMBING AND PLUMBERS**

410.01 License Required. No person may engage in the business of plumbing, or construct, extend, alter or repair any plumbing work or house drainage, or construct cesspools, or connect any house drainage with cesspools or with the sewer or water supply system of the City without first obtaining a license from the Clerk.

410.02 Insurance. The applicant must provide evidence of public liability insurance written by an insurer licensed to do business in the State, including products liability insurance, with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The term of the insurance must include the entire term of the license.

410.03 Bond. A license will not be effective until the applicant has furnished the Clerk with a copy of the bond given to the State for the issuance of a master plumber's license. The City and its residents may look to the bond to insure the performance of all plumbing work undertaken in the City (including all water and sewer connections), to insure that any streets and sidewalks excavated by the licensee are restored to their former condition to the satisfaction of the Director of Public Works with a warranty for one year, and to insure the performance of all other requirements of this Code.

410.04 Permits. Every licensed plumber, before constructing, extending, altering or repairing any plumbing work or connecting any plumbing work with a cesspool or City water or sewer system, except as provided in this Code, will apply to the Building Inspector for a permit for that purpose, and will pay the permit fees required under Section 405.05.

410.05 Restoring Water Service. If water service is restored after it has been discontinued, the owner will pay to the City a service fee for restoring the service as required under Section 405.05.

## **SECTION 415 LICENSING AND REGULATION OF GAS FITTERS**

41501 Definition. The term "Gas Fitter" means any person engaged in the business of installing, altering, repairing, testing or extending any fuel tanks, power plants, gas or oil piping or gas or oil appliance items or connections.

41502 License Required. No person, firm or corporation may engage in the business of a gas fitter within the City without first obtaining a license under Section 415 and paying the license fee set forth in Section 405.05.

41503 Classes of Licenses. There are two classes of gas fitter's licenses: Class A and Class B.

Subd. 1. *Class A*. The holder of a Class A license may perform "Hayes Orsatt" safety tests on gas and oil burners and may, after first obtaining the proper permit, install, alter, repair, test or extend fuel tanks, power plants, gas or oil burners, gas or oil piping and gas or oil appliance items and connections, including clothes dryers, gas ranges, gas water heaters and barbecue grills.

Subd. 2. *Class B*. The holder of a Class B license may only install, alter or repair only gas or oil appliance items and connections, such as clothes dryers, gas ranges, gas water heaters and barbecue grills.

41504 Issuance. Licenses will be issued according to the following requirements.

Subd. 1. Applicant's Training. Applications for the license will include a description of the applicant's training and experience as a gas fitter.

Subd. 2. Examination. The Building Inspector may require the applicant to take an examination given by the Building Inspector to test the applicant's knowledge and experience as a gas fitter. If the examination is required, a score satisfactory to the Building Inspector will be a condition to issuance of the license. If the applicant does not obtain a satisfactory score, the applicant may not take the examination again within the next 30 days.

Subd. 3. Bond, Insurance. No license will be issued until the applicant has delivered to the City:

- (a) A performance bond in the amount of at least \$2,000 in favor of the City and in favor of all persons suffering damages by reason of the breach of the conditions of the bond. The bond will be in a form prescribed by the City and will be conditioned upon the faithful performance of all contracts performed in the City and upon compliance with this section. A copy of the bond given to the State for the issuance of a master plumber's license will satisfy the requirements of this Section.

- (b) A certificate of comprehensive liability insurance issued by an insurance company licensed to do business in the State and naming the applicant and the City as insureds. The minimum limits of coverage for such insurance are:

- (1) Each claim, at least \$100,000
- (2) Each occurrence, at least \$200,000
- (3) Property damage, at least \$50,000

This insurance must be kept in force during the term of the license and must provide for notification to the City 10 days before termination or cancellation. Any license issued under this Section will automatically be revoked upon notification of termination or cancellation of the insurance and will remain revoked until the required insurance is provided.

41505 Duration. The license will be issued for a calendar year or the remaining portion thereof and will be renewable annually on or before January 1 of each year.

41506 Revocation. The license may be revoked or refused renewal by the Council for cause. Any work done in violation of State Law or Section 415, or refusal on the part of a licensee to correct any defective work, may be cause for revocation of or refusal to grant or renew a license. Any revocation or suspension of or refusal to grant or renew a license may be appealed to the Council for a hearing on the matter conducted according to Section 400.14.

41507 Transfer. No person, firm or corporation licensed under Section 415 may allow any other person, firm or corporation other than a bona fide employee to use the license.

41508 Permits for Class A License Work. A person having a Class A license may do work which can be performed only with a Class A license only if a permit for the job is issued according to the following requirements:

- (a) At the discretion of the Building Inspector the applicant for the job permit may be required to take and complete to the satisfaction of the Building Inspector an examination given by the Building Inspector.
- (b) A fee for the job permit will be paid according to 405.05.
- (c) Every permit issued under this Subsection 415.08 will expire in accordance with Section 400.06.

41509 Inspections. Upon completion of any gas fitter work, the gas fitter will notify the Building Inspector or his authorized representative that the work for which a permit was issued is ready for inspection and testing. The Building Inspector or his authorized representative will also be notified before any portion of the work is connected within the building and will be given reasonable time and opportunity to inspect the work before the building operations progress to a point where the work can no longer be examined and inspected. No work may be covered until it has been inspected. No newly constructed building may be occupied until the inspector has made a final inspection, has approved the installation and has issued a certificate of occupancy.

## **SECTION 416 LICENSING AND REGULATION OF ELECTRICIANS**

416.01 Inspection Required. Any person making a new electrical installation in the City of Deephaven that is governed by the provisions of the Minnesota Electrical Act, Minnesota Statutes, Section 326.241 through 326.48 inclusive, shall request inspection of such work by the City before commencement of any installation required to be inspected. Such request shall be made according to standardized procedures specified by the Building Official.

416.02 License to be Filed. Each person doing electrical work in the City of Deephaven governed by this Section shall file with the City before commencement of any such work a copy of that person's current license issued by the State Board of Electricity pursuant to the Minnesota Electrical Act or such other evidence of such license as may be provided by said Board. This requirement may be satisfied by the submission of a written statement signed and dated by the person required to make said filing that the required license or evidence thereof was previously filed with the City, the address in connection with which that information was filed, and that all the information contained on said license or evidence thereof is still current.

416.03 Permit Fee. No requested inspection will be made until the applicant has paid to the City the required permit fees as set forth in Section 405.05 of this Code.

416.04 Violations and Penalties. The activities described as crimes in Minnesota Statutes, Section 326.246, shall also constitute violations of this Section 416.

416.05 Electrical Inspector. Pursuant to authority set forth in Minnesota Statutes, Section 326.244, Subd. 4 and the Minnesota Electrical Act, the City of Deephaven hereby creates the position of Electrical Inspector.

Subd. 1. The Electrical Inspector shall inspect new electrical installations for compliance with the Minnesota Electrical Act, the ordinances of the City of Deephaven, and accepted standards of construction for safety to life and property.

Subd. 2. The Electrical Inspector must be a licensed master or journeyman electrician under Minnesota Statutes, Section 326.242, Subd. 1 (1) or Subd. 2 (1) and may not otherwise engage or be employed in the sale or installation of electrical wiring, devices, appliances or equipment, and shall have no financial interest in any concern engaged in any such business.

Subd. 3. The Electrical Inspector shall be responsible for the enforcement and administration of the laws, ordinances and standards referred to in Subd. 1 above.

Subd. 4. In addition to any powers or duties given the Electrical Inspector, the inspector shall have the powers and duties set forth in Minnesota Statutes, Section 326.244, Subd. 2. For purposes of administering those Statutes, any reference to the "board" shall mean the City of Deephaven.

## **SECTION 420 LICENSING FOR TREE TRIMMING OR REMOVAL**

420.01 License Required. No person may engage in the business of trimming or removing trees in the City without first obtaining a license from the City to do so. Licenses will be issued only upon payment to the Clerk of the fee set forth in Section 405.05.

420.02 Insurance. Each applicant for a license will include with his application policies or certificates of insurance by an insurance company authorized to do business in the State evidencing the following insurance coverage:

- (a) Workers compensation insurance as required by State law.
- (b) Insurance against claims for death, bodily injury and property damage liability in the amounts of at least \$500,000 for injury to or death of any one person, \$500,000 for injury to or death of more than one person in any one accident, and \$100,000 for damage to property.

## **SECTION 425 SALE, LICENSING, POSSESSION AND USE OF TOBACCO**

425.01 Purpose. Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach 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 shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related 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, and tobacco related 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. 144.391.

425.02 Definitions and Interpretations. 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 neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

Subd. 1. Tobacco or Tobacco Products. "Tobacco" or "Tobacco products" shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars, pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; Cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

Subd. 2. Tobacco Related Devices. "Tobacco related devices" shall mean any tobacco products as well as 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.

Subd. 3. Self-Service Merchandising: "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related 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, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 4. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related 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, or tobacco related device.

Subd. 5. 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 or 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.

Subd. 6. Loosies. “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7. Minor. “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8. Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 9. 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.

Subd. 10. Sale. A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11. Compliance Checks. “Compliance Checks” shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related 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, or tobacco related 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, and tobacco related devices.

425.03 License. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related devices without first having obtained a license to do so from the city.

Subd. 1. Application. An application for a license to sell tobacco, tobacco products, or tobacco related 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 council for action at its next regularly scheduled council meeting. If the 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.

Subd. 2. Action. The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

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

Subd. 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.

Subd. 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 council.

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

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

Subd. 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. (Note: City may use different timeline.) 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 an automatic renewal of the license.

425.04. 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 set forth in Section 405.05.

425.05 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:

- A. The applicant is under the age of 18 years.
- B. 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 or tobacco related devices. (Note: The five year ban is a common number but it could be modified. Bans longer than five years, however, are morerisky.)
- C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

425.06 Prohibited Sales. It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- A. To any person under the age of eighteen (18) years.
- B. By means of any type of vending machine, except as may otherwise be provided in this ordinance.
- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or the licensee's employee, and the customer.
- D. By means of loosies as defined in Section 200 of this ordinance.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
- F. By any other means, to any other person, or in any other manner or form prohibited by Federal, state, or other local law, ordinance provision, or other regulation.

425.07 Self-Service Sales. It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby 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, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage behind a counter or other area not freely accessible to customer, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this ordinance is adopted shall comply with this Section within 30 days of adoption.

425.08 Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related 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.

425.09 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the city police 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, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are 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.

425.10 Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance.

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

Subd. 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, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 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, or tobacco related device.

Subd. 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, or tobacco related 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, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

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

425.11 Violations.

Subd. 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.

Subd. 2. Hearings. If a person accused of violating this ordinance to requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The City Administrator shall serve as the hearing officer.

Subd. 4. Decision. 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 1300 of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. 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.

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

Subd. 6. Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

#### 425.12 Penalties.

Subd. 1. Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75 for a first violation of this ordinance; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

Subd. 2. Other Violations. 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 of \$50.

Subd. 3. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be cited in family court.

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

425.13 Exceptions and Defenses. Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, or tobacco related 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.

425.14 Severability and Savings Clause. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

### **SECTION 430 LICENSING OF PEDDLERS AND TRANSIENT MERCHANTS AND CANVASSERS**

#### 430.01 Definitions.

Unless the context clearly indicates otherwise, the words below are defined for the purpose of this section as follows:

1. “Peddler” includes a person who goes from place to place on residential property exhibiting merchandise for sale, making sales, and delivering articles to purchasers.
2. “Solicitor” includes a person who goes from place to place on residential property soliciting orders for the sale of merchandise or personal services for future delivery or future performance, whether or not the person has a sample of the merchandise or is collecting advance payments for the orders. The word also includes activity that has as

its ultimate purpose the obtaining of orders even though it may not initially purport to do so, but does not include soliciting donations for non-profit entities.

3. “Transient Merchant” includes a person who temporarily sets up business out of a vehicle, trailer, 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 in any one location for more than fourteen (14) consecutive days.
4. “Regulated Activity” means the activity of a peddler, solicitor and transient merchant as defined above. The term only includes activities that involve the sale of a product or service. It does not include activities that involve only statements of opinion or belief or that request only a donation.
5. “Licensee” means an individual, partnership, corporation or association licensed within the city under this section and also includes a person who is or will be conducting the regulated activity on behalf of the licensee.
6. “Person” means any natural individual, group, organization, corporation, partnership, or similar association.
7. “Non-profit” means an organization that currently has tax-exempt status from either the state or federal government and provides written evidence of that status.
8. “Occupant” means a person living, staying, or working at a residence, including a guest.
9. “Do Not Solicit List” means a list maintained by the city of those residents who want to exclude peddlers, solicitors, and transient merchants from their property

#### 430.02 Regulation Established.

A person engaging in a regulated activity within the city must comply with the provisions of this section. The person must also comply with any applicable zoning and health regulations.

#### 430.03 License Required.

A person engaging in a regulated activity within the city must first obtain a license and an identification card from the police department.

#### 430.04 Exceptions.

A person engaging in the following activities is not required to obtain a license and an identification card from the city:

1. selling personal property at wholesale to dealers of the articles;
2. selling newspapers;
3. selling products of the farm or garden grown or raised by the seller, including meat, but such activities must comply with applicable health regulations;
4. selling antiques, collectibles, or other products in a show or festival which lasts for five days or less and which involves two or more sellers or exhibitors;

5. calling upon residents in connection with a regular route service for the sale and delivery of perishable daily necessities of life such as bakery products and dairy products. This exception does not relieve that person of the duty to comply with other applicable city requirements; or
6. soliciting money, donations or financial assistance for a political, religious or non-profit tax-exempt organization, or selling or distributing literature or merchandise for which a fee is charged or solicited on behalf of such an organization.

#### 430.05 Ineligible People.

The following people are not eligible for a license and identification card from the city:

1. A person whose license and/or identification card for regulated activity was revoked by the city or another governmental body within three years before the application date;
2. A person who has been denied a license for regulated activity by the city or another governmental body because of circumstances that occurred within three years before the application date;
3. A person who has violated, or whose representative has violated, a provision of this section within three years before the application date, or who violates a provision of this section during the application period pending the issuance of the license;
4. A person who has been convicted within three years before the application date of a crime that adversely reflects on the person's ability to honestly safely, or lawfully conduct the regulated activities, unless the individual can show sufficient evidence of rehabilitation as defined in Minn. Stat. 364.03, subd. 3;
5. A person who has falsified information, or omitted material information, required by this section; or
6. A person who produces documentation of identification that is torn, pasted, peeled, or otherwise damaged or altered.

#### 430.06 Application.

Application for a license must be made at least five working days before the regulated activity is proposed to begin and must include an accurate, sworn statement in writing, on a form furnished by the city, that gives the information listed below and includes the required supporting documentation:

1. name and physical description of the applicant;
2. complete home and local address of the applicant;
3. a brief description of the proposed activity, its location, and the merchandise or service involved;
4. the dates and hours of the day during which the activity will be conducted;
5. name, address, and phone number of the person on whose behalf the orders are solicited, together with credentials establishing the applicant's relationship to the person;

6. the source of supply of merchandise proposed to be sold, where the goods are located at the time the application is filed and the proposed method of delivery;
7. whether or not the applicant has been convicted of any crime other than petty traffic violations, the nature, time and location of the offense and the punishment or penalty imposed;
8. the last cities or other localities, not exceeding five, where the applicant has conducted the proposed activity immediately preceding the date of the application and wherewithin those areas the activity took place;
9. make, model, year, color, and state license number of each motor vehicle to be used in connection with this proposed activity;
10. social security number, date of birth, and driver's license or state or tribal identification card number;
11. passport information and visa status if the applicant is not a United States citizen;
12. the name, address, tax identification number and phone number of the person or company employing the individual, if different from the information in sub-paragraph 5 above; and
13. a copy of all documents to be used by the applicant in the regulated activity.

#### 430.07 Photographs.

Each individual applicant and person who will be conducting the regulated activity on behalf of the partnership or organizational applicant must submit two copies of a recent photograph of themselves approximately 1½ inches by 1½ inches, showing the head and shoulders of the person in a clear and distinguishable manner. If a recent photograph is unavailable, the police department will provide the applicant with two copies of a photograph at a fee specified in Section 405. An application is not complete until the required photographs are supplied.

#### 430.08 Fees, Duration.

The application must be accompanied by the required license and identification card fees specified in Section 405. A license or identification card is valid only for the calendar year in which it is issued. The fees are for a one year period and will not be prorated for periods less than one year. No fees are required of individuals taking orders for the shipment of goods through interstate commerce.

#### 430.09 Investigation, Issuance, Denial.

1. Within five working days after the application, the police department will conduct an investigation regarding the information provided in the application and the eligibility for a license and identification card. The police department will issue a license and identification card only to eligible people. Each identification card will include a copy of the person's photograph.
2. The police department may not issue a license or identification card if there are circumstances indicating that the intended recipient may not honestly, lawfully, and safely conduct the proposed regulated activity. The police department must notify an applicant in writing of a denial of a license and/or identification card, specifying the



reasons. The police department must comply with the provisions of Minn. Stat. Chapter 364 if the denial is based in whole or in part upon prior criminal convictions. The applicant may appeal the denial by submitting to the police department a written request within ten days after the denial asking to address the city council. The city council may deny a license and/or identification card when it is believed such action will protect the public health, safety, or welfare.

#### 430.10 Standards of Conduct.

1. Except for those people specified in Section 430.04, a person may conduct regulated activity in the city only if a valid city identification card identifying the person has been issued, is prominently displayed by attaching it to the front of the outermost clothing between the waist and neck, and has not been revoked, suspended, or impounded.
2. A licensee must not transfer a license or identification card to another person.
3. A person must not use a city identification issued to someone other than that person.
4. A city identification card must be displayed only while conducting the regulated activity in the city and must be used for no other purpose and in no other location.
5. A person must not be on a street, highway, or adjacent boulevard and direct regulated activity towards the occupants of any motor vehicle in transit and must not obstruct the free flow of vehicular or pedestrian traffic on any public street, sidewalk, or other public right-of-way.
6. A person must not conduct the regulated activity in a manner that creates a health or safety hazard.
7. A person must conduct the regulated activity in a reasonably courteous manner at all times, must not engage in offensive, obscene, or abusive language, must not push open a door not opened by an occupant, must not place any portion of the person's body through an opened doorway without the invitation of an occupant and must not physically attempt to stop an occupant from closing the door.
8. A licensee must immediately leave private property when requested to do so by an occupant or owner and must leave immediately upon completion of a transaction or an unsuccessful attempt to contact an occupant.
9. A licensee entering onto residential property must go directly to the front door of the house, unless there is an adult present outside the house or in an open garage. At no time may a licensee go to a window or to the back yard, unless invited to do so by the occupant.
10. A person conducting the regulated activity must not make untrue statements to the people contacted regarding the purpose of the contact, orders placed by the neighbors, or the goods and services offered.
11. A licensee must not make statements to the people contacted indicating or implying that the city identification card constitutes an endorsement of their activities or products by the city.
12. While conducting regulated activity, a licensee must not be accompanied by a person who is not licensed or not listed in the license application.

13. Conducting the regulated activity before 10:00 a.m. and after one-half hour before sunset.

430.11 Exclusion of Peddlers, Solicitors, Transient Merchants from Private Property.

1. A person conducting the regulated activity must not go onto private property for that purpose when there are signs prominently posted indicating that trespassing and/or solicitation is unwelcome or prohibited.
2. A person conducting the regulated activity must not go onto private property for that purpose when that property is listed on the Do Not Solicit List.

430.12 Suspension; Revocation.

1. The city may suspend or revoke an identification card and/or license if the person who is the subject of the card, a person acting on behalf of the licensee, or the licensee has:
  - a. violated a provision of this section, or other local laws governing the same activity, during the license period;
  - b. violated a criminal law during the license period that adversely reflects on the ability to honestly, safely, or lawfully conduct the regulated activity; or
  - c. submitted false information or omitted material information in the licensing process required by this section.
2. If a license is revoked or suspended, all identification cards issued to people acting on behalf of the licensee are automatically revoked or suspended.
3. The identification card or any person convicted of violating a provision of this section is automatically revoked. The license of the organization on whose behalf the person was acting and all other identification cards issued to people acting on behalf of that licensee are also automatically revoked upon that conviction.

430.13 Penalty, Enforcement.

1. A violation of a provision of this section is shall be guilty of a misdemeanor.
2. The chief or police or designees are authorized to enforce this ordinance. They may impound an identification card and license when a person has been found violating a provision of this section, when cause exists for suspending or revoking the identification card or license, or when the identification card or license has been suspended or revoked. When impounding a card or license, the official must send a notice to the licensee and the subject of the card at the address on the application form giving the parties ten days to submit a written request for a hearing before the city council. Failure to timely request an appeal, constitutes a waiver of that appeal and results in automatic suspension of the license or card for three years.

## SECTION 440 LICENSING OF DOGS

440.01 Definitions. The following terms, for the purpose of this Section, will have the meanings specified:

Subd. 1. "Owners" Any person owning, keeping, harboring, or acting as custodian of a dog or other animal, or the parent or guardian of any person under the age of 18 years owning, keeping, or harboring a dog or other animal.

Subd. 2. "Dog" Any animal of the species *Canis familiaris*, including both males and females of the species.

440.02 Licensing.

Subd. 1. License Required. No owner may keep a dog over six months of age within the City unless the owner has a current license for the dog.

Subd. 2. Application. Application for a dog license will be made on a form provided by the City, and will include:

- (a) Name, address, and telephone number of owner.
- (b) Name of applicant (if different from owner).
- (c) Description of dog, including sex, breed, name, age, color, whether spayed or neutered.
- (d) Written evidence of vaccination for rabies by a licensed veterinarian within the past 12 months with a killed rabies vaccine or within the past 24 months with a live rabies vaccine.

Subd. 3. Expiration. Dog licenses will be issued on a bi-annual basis by the Clerk and will expire on December 31 on the odd numbered year. Licenses purchased after January 1 of the even number year will be prorated at one half of the cost of the license and will expire on December 31 of the odd numbered year.

Subd. 4. License Tags. The City will obtain a sufficient number of metallic tags suitably numbered or lettered, and indicating the current year. The City will deliver one tag for each dog which is licensed. Every dog must wear a collar or harness with a license tag affixed. A tag will be issued for only one dog, and will not be transferable or assignable to any different dog or new owner. No person may counterfeit any dog license or tag. If a tag is lost or stolen, the owner may obtain a new tag by surrendering the receipt copy for the license and paying the license fee for a duplicate tag as set forth in Section 405.05.

## SECTION 450 PARKING PERMITS

450.01 Permit Required. No person may leave or park any vehicle on any street or municipally controlled land within the posted area adjacent to any public bathing beach, boat launching or docking area, or other public grounds within the City on any day of the week during the period from May 1 to October 1 of each year without having attached to the vehicle a permit authorizing such parking.

450.02 Permit Issuance Procedure. Permits will be issued without payment of a permit fee to employees of the City, residents of the City and owners of property in the City as shown by the City's tax records. Only one permit will be issued to a resident unless the resident provides the Clerk with the license number of each vehicle to be used by the permittee. Permits will be issued to others only upon payment to the Clerk of the fee stated in Section 405.05. The permit will entitle permittee to park a vehicle within the posted areas. The first sticker to be issued without payment of the permit fee will be mailed out without charge. A second sticker will be given free of charge at City Hall upon completion of appropriate forms. There will be a charge for any additional stickers in the amount stated in Section 405.05.

450.03 Temporary Permits. The Chief of Police may issue up to 10 temporary parking permits to an owner or resident for a gathering or function which would, in the opinion of the Chief, necessitate additional parking in an area where parking permits are required under this Section. The temporary parking permits will be issued for a specified period of time, not to exceed 24 hours, and the date and time of the permit will be indicated on the permit.

450.031. Guest Permits. A resident may request two guest parking permits to allow guests to park in a permitted parking zone directly in front, or as close as possible to the resident's home for a period of not more than 48 continuous hours. The permits may be issued by the Chief of Police for a given calendar year.

450.04 Permit Display. The permit must be affixed to the lower rear corner of the rearmost left side window of the vehicle. The permit must be affixed so that it will remain in clear view at all times. When the period for which the permit is issued has expired, the permit must be removed.

450.05 Transfer. No person may sell, assign or otherwise transfer a permit to any other person.

## SECTION 455 FIREARM PERMITS

455.01 Permit Required. No person may fire off, discharge or explode any gun, pistol or firearm within the City without a current and effective permit to do so issued by the Council.

455.02 Issuance. The Council may issue a firearm permit to any person it deems suitable for a period not to exceed one year and upon such terms and conditions as are determined by the Council. A permit will not be issued contrary to rules, regulations or statutes of the State or its administrative agencies or departments.

455.03 Revocation. The Council may summarily revoke a firearm permit at anytime.

455.04 Exception. This Section does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law.

## **SECTION 460 REFUSE COLLECTION LICENSES**

### **460.01 Refuse Collectors Regulations.**

Subd. 1. License Required. No person may collect refuse for hire from any other person in the City without first obtaining a license as provided in this Section and paying the license fee set forth in Section 405.05.

Subd. 2. Licensing Procedure. Any person seeking a license to collect refuse in the City may apply to the Council on a form provided by the Clerk. In addition to the information required under Section 400.02 the application will include a description of the equipment which is proposed to be used in the collection and the portion of the City in which the collections will be made.

Subd. 3. Insurance. Applicants for licenses or renewals of licenses must submit evidence of insurance for personal injury and property damage liability and indemnity coverage with coverage in the amount of at least \$500,000 for death or personal injury and at least \$100,000 for property damage.

Subd. 4. Number of Licenses. The number of licenses to be issued under this Section will be determined by the Council. The number will be set so as not to adversely affect the efficient collection of refuse in the City.

Subd. 5. Vehicle Identification and Maintenance. Each refuse collection vehicle must be lettered on the outside to identify the licensed refuse collector. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste, or refuse containing such materials, must be covered, leak-proof, durable and of easily cleanable construction. The vehicles or containers used for the collection and transportation of garbage, rubbish or refuse must be reasonably airtight so that unreasonable quantities of dust, paper or other collected materials do not escape. The vehicles or containers must be kept clean to prevent nuisances, pollution or insect breeding, and must be maintained in good repair. The vehicles may not stand in any street, alley, or public place for a period longer than is necessary to collect refuse. Vehicles or containers used for the collection and transportation of any solid waste must be loaded and moved in such a manner that the contents will not fall, leak or spill and must be covered when necessary to prevent blowing of material. Where spillage does occur, the material must be picked up immediately by the collector or transporter and returned to the vehicle or the containers and the area properly cleaned.

## **SECTION 465 BEER LICENSING**

465.01 Definitions. For purposes of this Section, the following terms will have the meanings given them in this Section.

Subd. 1. “Beer” Any malt liquor containing not less than 0.5 percent alcohol by volume or more than 3.2 percent alcohol by weight. The same as “non-intoxicating malt liquor,” as defined by state law.

Subd. 2. “Original Package” The container in which beer is first sealed for distribution.

Subd. 3. “On-Sale” Any sale of beer to be consumed on the licensed premises.

Subd. 4. “Off-Sale” Any sale of beer to be consumed off the licensed premises.

Subd. 5. “Bona Fide Club” An organization organized for social purposes, business purposes, for intellectual improvement, or for the promotion of sports where the serving of beer is incidental to and not the main purpose of the club.

465.02 License Required. No person may sell, vend, deal in or dispose of, or keep for sale, any beer within the corporate limits of the City without an appropriate license and payment of the appropriate license fee in accordance with Section 405.05. Licenses may be of two kinds: on-sale and off-sale.

Subd. 1. “On-Sale” Retail on-sale licenses will permit the licensee to sell beer for consumption on the licensed premises only. Annual on-sale licenses will be granted only to bona fide clubs, and restaurants. A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the sale of beer for a specified day or number of days during a year.

Subd.2. “Off-Sale” Retail off-sale licenses will permit the licensee to sell beer in original packages for consumption off the premises only.

465.03 License Applications.

Subd. 1. Form. An application for an annual license will include the name of the applicant, applicant’s age, representations as to applicant’s character with such references as may be required, citizenship status, the address and legal description of the premises to be licensed, the names of the owner of the premises and operator of the business, the period applicant has been in business at such location, and such other information as the Council may require. It is unlawful to make any false statement in the application.

Subd. 2. Temporary License. An application for a temporary license will include the name of the applicant, the address of the headquarters of the organization, the location of the premises to be licensed, the dates for which the license is being requested, and such other information as the Council may require.

Subd. 3. Proof of Financial Responsibility. Before the issuance of a beer license, the applicant must demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340A.409, with reference to liability under the statutes, Section 340A.801. Such proof will be filed with the Commissioner of Insurance except that if a license involves sales of beer of a prospective vendor who is not required by law to file such proof with the Commissioner of Insurance, such proof will be filed with the Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision must conform to Minnesota Statutes, Section 340A.409.

Subd. 4. Approval of Security. Liability insurance policies required by this Section but not by state law will be approved as to form by the City Attorney. Operation of a business licensed by this Section without having on file with the State Insurance Commissioner or the City at all times effective security as required in Subdivision 3 is a cause for revocation or suspension of the license.

465.04 Granting of Licenses.

Subd. 1. Investigation. The Council will investigate the facts included in the application. After investigation, the Council will grant or deny the application in its discretion. Opportunity will be given to any person to be heard for or against the granting of the license.

Subd. 2. Transfers. Each license will be issued to the applicant only and will be issued for the premises described in the application. The license may not be transferred to another person or to other premises.

465.05 Persons Ineligible for a License. No license will be granted to or held by any person who:

- (a) Is less than 21 years of age.
- (b) Has within five years before the license application, been convicted of a felony, or of violating any law of the State or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer, and cannot show competent evidence under Minnesota Statutes, Section 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee.
- (c) Is a manufacturer of beer or is interested in the control of any place where beer is manufactured. A manufacturer of beer may without a license from the City sell beer to licensed dealers holding either on-sale or off-sale licenses.
- (d) Is an alien.
- (e) Is not of good moral character.
- (f) Is or during the period of the license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor.
- (g) Is not the proprietor of the establishment for which the license is issued.

465.06 Eligibility for Temporary Licenses. Temporary licenses may be issued to organizations referred to in Minnesota Statutes, Section 340A.403.

465.07 Places Ineligible for a License. No license will be granted for sale on any premises where a licensee has been convicted of the violation of this Code, or of the State beer or liquor laws, or where any license under this Section has been revoked for cause until one year has elapsed after such conviction or revocation.

465.08 Conditions of License. Every license will be granted subject to the conditions in the following subdivisions and all other provisions of this Code and of any other provision of the City or State law.

Subd. 1. Insurance. Compliance with financial responsibility requirements of State law and of this Section is a continuing condition of any license granted pursuant to this Section.

Subd. 2. Inspections. All premises licensed under this Section will be open to inspection by any police or other properly designated officer or employee of the City, or any Councilmember, at any time during which the licensed premises are open to the public.

Subd. 3. Gambling. No gambling, nor any gambling device prohibited by law, is permitted in any licensed premises.

Subd. 4. Duration. All licenses for the sale of beer will be issued for a period of one year.

Subd. 5. Display. All licenses issued under this Section will be posted in a conspicuous place on the licensed premises at all times.

Subd. 6. Intoxicating Liquor. It is the duty of every licensee to prevent the consumption of intoxicating liquor on the licensed premises. Any licensee who knowingly permits intoxicating liquor to be consumed on the licensed premises may have his license revoked by the Council.

465.09 Violations. It is unlawful for any:

- (a) Licensee or his employee to sell or serve beer to any person under the age of 21 years or to permit any person under the age of 21 years to consume beer on the licensed premises.
- (b) Person other than the parent or legal guardian to procure beer for any person under the age of 21 years.
- (c) Person to induce a person under the age of 21 years to purchase or procure beer.
- (d) Person under the age of 21 years to misrepresent his age for the purpose of obtaining beer.
- (e) Person under the age of 21 years to consume any beer unless in the company of his parent or guardian.
- (f) Person under the age of 21 years to have in his possession any beer, with intent to consume it at a place other than the household of his parent or guardian. Possession of such beer at a place other than the household of his parent or guardian will be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

465.10 Hours of Operation. Licensees under this Section must observe the following restrictions upon the hours of operation:

Subd. 1. Closing Hours. No sale of beer may be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday, inclusive. Neither will any sale of beer be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon.

Subd. 2. Restriction. No beer may be sold, served, consumed, or may remain available for consumption, within premises licensed under this Section for on-sale at any time the sale of beer is not permitted under this Section.

465.11 Revocation. Any violation of any provisions or condition of this Section or any falsification of any statement in the application is grounds for revocation. A license granted under this Section may be revoked by the Council after written notice to the licensee and a public hearing. The notice will give at least 10 days notice of the time and place of the hearing and will be posted in a conspicuous place on the licensed premises at all times.

## **SECTION 470 SALE, CONSUMPTION AND DISPLAY OF INTOXICATING LIQUOR, BEER AND WINE**

470.01 Definitions. The definitions in Minnesota Statutes, Chapter 340A apply to this chapter. In addition, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:



Subd. 1. "Alcoholic beverage" Means any beverage containing more than .5% alcohol by volume.

Subd. 2. "Applicant" Means any natural person, corporation, partnership or limited liability company.

Subd. 3. "Application" Means a form with blanks or spaces on the form, to be filled in and completed by the applicant as his request for a license, furnished by the city and uniformly required.

Subd. 4. "Display" Means the keeping, storing, or permitting to be kept or stored of an alcoholic beverage which has been poured, dispensed or has had its package seal broken on, in or at any table, booth, bar or other area of a licensed premises accessible to the general public, except when the alcoholic beverage is stored in a normal storage area during non-sale hours.

Subd. 5. "Intoxicating Liquor" Means ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent alcohol by weight.

Subd. 6. "License" Means a document, issued by the city, permitting an applicant to carry on and transact the business stated in the license.

Subd. 7. "License Fee" Means the money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on the business stated in the license.

Subd. 8. "Licensee" Means an applicant, who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, by the city for carrying on the business stated in the license.

Subd. 9. "Malt Liquor" Means any beer, ale or other beverage made from malt by fermentation and containing not less than .5% alcohol by volume.

Subd. 10. "Off-Sale" Means the sale of intoxicating liquor in original packages for consumption off the licensed premises only.

Subd. 11. "On-Sale" Means the sale of intoxicating liquor for consumption on the licensed premises only.

Subd. 12. "Package" Means a sealed or corked container of alcoholic beverages.

Subd. 13. "Restaurant" Means any establishment under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and which has seating facilities for seating not less than 10 guests at a time.

Subd. 14. "State established legal drinking age" Means 21 years of age.

Subd. 15. "Wine" Means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, sherry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits as defined in Minn. Stat. 340A.101.

470.02 Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, with reference to definition of terms, applications for licenses, granting of licenses, conditions of licenses, restrictions on consumption, provisions on sales, conditions of bonds of licenses, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor and non-intoxicating malt liquor are hereby adopted and made a part of this Chapter as if fully set out herein.

470.03 License Required. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Intoxicating liquor licenses shall be of five kinds: on-sale intoxicating liquor license, off-sale intoxicating liquor, on-sale wine license, Sunday on-sale intoxicating liquor, and one day license.

Subd. 1. On-sale Intoxicating Liquor Licenses

- (a) On-sale intoxicating liquor licenses shall be issued only to restaurants and shall permit on-site sale of intoxicating liquor only.
- (b) On-sale intoxicating liquor licenses will only be issued for properties located within the C-2 commercial zoning district.
- (c) No more than three “on-sale” liquor licenses shall be granted at onetime.

Subd. 2. Off-sale Intoxicating Liquor Licenses

- (a) Off-sale intoxicating liquor licenses shall be issued only to exclusive liquor stores. Such licenses shall permit off-sales of alcoholic beverages, including intoxicating liquor.
- (b) Off-sale intoxicating liquor licenses will only be issued for properties located within the C-1 and C-2 commercial zoning districts.
- (c) No more than three “off-sale” liquor licenses shall be granted at onetime.

Subd. 3. On-sale Wine Licenses

- (a) On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.404, Subdivision 5, and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. Said restaurants shall be authorized to sell intoxicating malt liquors at on-sale without an additional license.
- (b) On-sale wine licenses shall be issued only to restaurants and shall permit on-site sale of wine and intoxicating malt liquor only.
- (c) On-sale wine licenses will only be issued for properties located within the C-1 and C-2 commercial zoning districts.
- (d) The number of On-sale wine licenses shall count against the overall number of On-Sale licenses permitted in Section 470.03(1)(c).

Subd. 4. Sunday On-Sale Intoxicating Liquor

A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to restaurants which have an “on-sale” license.

#### Subd 5. One Day Permits

Any club or charitable, religious or other non-profit corporation that has existed for at least three years or a political committee registered under state law or a state university desiring to serve intoxicating malt liquor or wine in conjunction with a social activity sponsored by it shall first obtain a permit from the city. It is unlawful for any such organization to fail to obtain such a permit. The term of such permit shall be one day only. No more than twelve permits shall be issued in a calendar year.

#### 470.04 Application for License.

Subd. 1. Form. Every application for a license to sell intoxicating liquor shall state the name of the applicant, his/her age, representations as to his/her character (with such references as the Council may require), his/her citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he/her has been in that business at that place, and such other information as the Council shall require from time to time, including the following:

- (a) True name, place and date of birth, and street address (residence) of applicant.
- (b) Whether applicant is married or single. If married, true name, place and date of birth, and street address (residence) of applicant's spouse.
- (c) Whether applicant and spouse are qualified voters of the State of Minnesota.
- (d) Street addresses at which applicant has lived during the preceding 10 years.
- (e) Kind, name and location of every business or occupation applicant has been engaged in during the preceding 10 years.
- (f) Names and addresses of applicant's employers for the preceding 10 years.
- (g) Whether or not applicant has ever been convicted of any felony, crime or ordinance violation. If so, when, where, and for what such convictions were had.
- (h) Whether applicant has ever been engaged as an employee in operation of a saloon, café, restaurant or other business of similar nature which required the issuance of an intoxicating liquor license. If so, when, where and for how long.
- (i) Whether applicant is a natural person, corporation, partnership or limited liability company.
- (j) If applicant is other than a natural person, the name of the manager or proprietor of the premises to be licensed, giving all the information about said manager or proprietor as is required about the applicant by (a) through (h) above.
- (k) If applicant is other than a natural person, the names of all the members or owners thereof, giving all the information about said members or owners as is required about the applicant by (a) through (h) above.

- (l) Names and addresses of the owner and any lessees of the land upon which is located in the building which houses the premises to be licensed.
- (m) Names and addresses of all owners, lessees, mortgagors or vendors of fixtures or furniture used or to be used in the premises to be licensed.
- (n) Name and address of every person who shall have charge, management or control of the place licensed.
- (o) If applicant is a corporation, partnership, limited liability company or club, the name and general purpose of such corporation, partnership, limited liability company, or club, and the names and street addresses of all officers. In addition, corporations shall file with the application one certified copy of the by-laws, articles of incorporation and minutes of the meeting setting forth the officers of the corporation. If applicant is a corporation, the state of incorporation and a complete list of all stockholders with number of shares owned by each.
- (p) Exact legal description of the premises to be licensed.
- (q) Such other information as the Council may require.

Every application shall also include a copy of each notice received by the applicant under Minnesota Statutes Section 340A.802 during the preceding year. In addition to containing such information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the Clerk. No person shall make a false statement in an application.

Subd. 2. Financial Responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liabilities imposed by Section 340A.801. Such proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409.

Subd. 3. Approval of Security. The security offered under Subdivision 2 shall be approved by the Council and, in the case of applicants for "on-sale" wine licenses, by the State Commissioner of Public Safety. Liability insurance policies required by this ordinance but not by state law shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in Subdivision 2 is a cause for revocation of the license.

#### 470.05 Investigation of Applications.

Subd. 1. Initial Applications. All initial applications for a license shall be referred to the city police department for verification and investigation of the facts set forth in the application. The police department shall cause to be made such investigation of the information requested in section 470.06(1) as shall be necessary and shall make a written recommendation and report to the Council. Such report shall include, but shall not be limited to, a list of all violations of federal, state, or city law committed by the applicant, officers, and directors, if the applicant is a corporation, and managers as disclosed in the application. Upon an initial application the police department shall also conduct a preliminary background and financial investigation of the applicant.

Subd. 2. Renewal Applications. All renewal applications shall be referred to the city police department for verification and investigation of the matters set forth in the renewal application and determined by the city administrator to require further investigation.

Subd. 3. Investigation Renewal. Without limiting the discretion of the Council to deny a license application for other reasons, no license shall be issued or renewed if the results of the investigation show, to the satisfaction of the Council, that issuance or renewal would not be in the public interest.

#### 470.06 Investigation Fees.

Subd. 1. Initial Investigation Fee. At the time of each original application for a license, the applicant shall also pay in full an investigation fee. Such fee shall be set from time to time by the Council, and a schedule of such fees is on file and available in the city offices, and, if such investigation is conducted outside the state, all costs and expenses shall be charged to and paid by the applicant. No investigation fee shall be refunded.

Subd. 2. Investigation of Change in Status on Renewal Application. At any time that an additional investigation is required because of a change in the ownership or control of the licensee or change of the manager of the premises, the licensee shall pay an additional investigation fee per person in the amount set from time to time by the Council, and a schedule of such fees is on file and available in the city offices. At the time that an additional investigation is required because of an enlargement, alteration, or extension of premises previously licensed, the licensee shall pay an additional investigation fee in the amount set from time to time by the Council, and a schedule of such fees is on file and available in the city offices.

#### 470.07 License Fees.

Subd. 1. Fees. The annual fees for licenses shall be established from time to time by the Council and are set out in Section 405 of this code.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee required under Section 470.05, Subdivision 1, if any. All fees shall be paid into the General Fund. If an application for a license is rejected, the Treasurer shall refund the amount paid as the license fee.

Subd. 3. Term: Pro Rata Fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December each year.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by Statute.

#### 470.08 Granting of Licenses.

Subd. 1. Initial Investigation. On an initial application for a liquor license, the applicant shall pay with his application an investigation fee of the statutory maximum at the time of application and the City shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the Council determines that

a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation. No license shall be issued or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the initial background and financial investigation conducted pursuant to Subdivision 1. The provisions of Section 400 of this Code shall apply to all licenses required by Section 470.03 and to the holders of such licenses, provided that all licenses shall be granted or denied by the Council and the Commissioner of Public Safety, if required by State law. The Council shall conduct a public hearing on the application for a new on-sale intoxicating liquor license and off-sale intoxicating liquor license within a reasonable period following receipt of a complete application and completion of the investigation required by Section 470.05. A notice of the date, time, place and purpose of the hearing shall be published once in the official newspaper and mailed to all properties within three hundred and fifty feet of the subject property not less than ten days before the date of the hearing. After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting. No hearing shall be required for the renewal of an on-sale intoxicating liquor license or off-sale intoxicating liquor license.

Subd. 3. Restriction of Transfers of Licenses. No license shall be transferred to any person or premises by the person or from the premises to whom and for which the license was granted, by any means whatsoever, including, without limitation, devise or descent or involuntarily by the operation of law, without the person and premises to whom and to which the license is to be transferred having first submitted an application containing all of the information required in an original application, and complying with all requirements for an original license, and receiving the approval of the Council, and where required, the Commissioner of Public Safety. Any change in the persons named in the original application or any change in the information in such original application shall be deemed a transfer for the purposes of this Section. Provided, however, the following changes shall not be deemed a transfer:

- A. A change in the ownership of a partnership or limited liability company comprising 10% or less cumulatively of the ownership interests in the partnership or limited liability company during the then license period;
- B. A change in ownership of a corporation comprising 10% or less cumulatively of the stock owners during the then license period; or
- C. A change in one of the corporation's officers during the term of the license. Provided, however, the corporation shall give notice of a change in officer to the Clerk and the new officer shall comply with all requirements of this Section.

#### 470.09 Persons Ineligible for License.

Subd. 1. No license shall be granted to any person made ineligible for such a license by state law or who is not the applicant or owner of the establishment for which the license is issued. No more than one liquor license shall be directly or indirectly issued within the City to any one person.

Subd. 2. No license shall be issued to a person of the United States not of good moral character and repute, nor to any person who within five years prior to the application for such license has been convicted of any willful violation of any law of the United States, of the state, or of any local ordinance with regard to the manufacture, sale, distribution, or possession, sale or distribution of intoxicating liquor, or sale or possession of controlled substances, nor to any person whose license under the intoxicating liquor act of the state has been revoked for any willful violation of such laws or ordinances.

Subd. 3. No license shall be issued to any person in connection with the violation of Intoxicating Liquor Act; provided, however, that this subsection shall not prevent the granting of a license to a proper lessee by reason of the fact that he shall lease premises to a minor, noncitizen, or a person who has been convicted of a crime other than a violation of the Intoxicating Liquor Act.

#### **470.10 Places Ineligible for License.**

Subd. 1. General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law or the city's zoning ordinance.

Subd. 2. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

Subd. 3. Parking. No license shall be granted for operation at any premises which the licensee shall not have provided adequate off-street parking per the city's zoning ordinance.

#### **470.11 Conditions of License.**

Subd. 1. In General. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

Subd. 2. Insurance. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd. 3. Licensee's Responsibility. Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 4. Hours of Sale. Sale of intoxicating liquor shall be permitted between the hours of 8:00 a.m. and 9:30 p.m., unless modified by the City Council as part of a special use request. Not only must the sale of intoxicating liquor cease at the closing hour appointed each day by city code but also all persons, other than employees of the licensee, shall vacate the licensed premises within 15 minutes of the closing hour. No person shall consume any alcoholic beverage on any such premises before opening hours or 15 minutes after closing hour.

Subd. 5. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter and inspect the premises of the licensee during business hours.

Subd. 6. Display During Prohibited Hours. No "on-sale" establishment shall display alcoholic beverages to the public during hours when the sale of intoxicating liquor is prohibited.

Subd. 7. No Gambling. No gambling or any gambling device prohibited by law shall be permitted in any licensed premises.

Subd. 8. Receipts. No license may be issued or renewed unless the applicant makes a bona fide estimation that at least 60% of the gross receipts of the establishment during its first year of business will be attributable to the sale of food. Thereafter license holders shall annually in conjunction with their request to renew their license hereunder submit a verified statement of the percent of the gross receipts of the licensed establishment during the previous 12 months of operation attributable to the sale of food. Failure to demonstrate to the satisfaction of the city that the sale of food was at least 60% of gross receipts of the establishment in the preceding 12 months shall subject the license holder and license to fines, license suspension, and revocation as provided under section 470.13.

#### **470.12 Restrictions on Purchase and Consumption**

Subd. 1. Consumption. It is unlawful for any business issued a liquor license under this ordinance to permit the consumption of alcohol by patrons outside the structure in which the permit was issued unless permission has been specifically granted or licensed by the Council.

Subd. 2. Consumption in Public Places. It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any street or other public/ property except city parks and other public property when and where permission has been specifically granted or licensed by the Council.

Subd. 3. Sale to Obviously Intoxicated Persons. No person may sell, give, furnish, or in any way procure for another, alcoholic beverages for the use by an obviously intoxicated person.

**470.13 Suspension and Revocation**. The Council upon a finding that a licensee has failed to comply with any applicable statute, regulation, or ordinance relating to sale of alcohol may either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000 or impose any combination of these sanctions for each violation. The Council may upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to \$2,000 for each violation or impose any combination of these sanctions. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.69 of the Administrative Procedure Act. The Council may appoint a hearing officer or may conduct a hearing itself. The hearing notice shall be given at least 10 days prior to the hearing, include notice of the time and place of the hearing, and state the nature of the charges against the licensee. Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall affect an immediate suspension of any license issued pursuant to this ordinance without further action of the Council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities 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 bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if such a request is made in writing to the Clerk, a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the Council determines that the financial responsibility requirements of this ordinance have again been met.

**470.14 Separability**. Every section, provision or part of this ordinance is declared separable from every other section, provision or part; and if any section, provision or part of any ordinance shall be held invalid, it shall not affect any other section, provision or part thereof.



