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## **CHAPTER 4**

### **PUBLIC PROTECTION AND GENERAL LICENSING**

#### **SECTION 401.01    LICENSING AND PERMIT PROVISIONS.**

Except as otherwise provided in this code, all licenses granted by the City shall be governed by the provisions of this Section. For purposes of this Section, “license” means a document issued by the City, including any permit, allowing the applicant to engage in the conduct specified in the license.

**Subd. 1.        Application.** Every application for a license shall be made to the Clerk on a form the Clerk provides and shall include any other information required by the Council and this Chapter. An application shall be accompanied by payment to the Clerk of the prescribed annual fee to cover the cost to issue the license and to supervise, inspect and regulate licensees. Unless otherwise specified herein or in the terms of the license, all license terms shall begin on July 1 and terminate on June 30 of the following year.

**Subd. 2.        Action on Application.** The Clerk shall present the completed application to the Council for action or, if the license does not require Council approval, the Clerk shall issue or deny the license.

**Subd. 3.        Refusal and Revocation.** The Council, or the Clerk where the license is used by the Clerk, may, for any reasonable cause, refuse to grant any application and revoke any license. Reasonable cause may include failure to submit a complete and accurate application, the failure to comply with applicable code Sections or other applicable laws, the failure to follow any conditions in the code for issuing a license, and failure to follow any conditions of the issuance of the license. The Council may attach any reasonable conditions which an applicant must meet before a license is issued. An applicant or licensee shall receive notice and a hearing prior to revocation or suspension of a license. Summary suspension of a license is permitted where emergency action is required or under such other reasonable circumstances where the Clerk denies, suspends or revokes a license, the applicant may appeal the Clerk’s decision to the Council. Where the Council denies, suspends or revokes a license, there is no further appeal of the decision, unless otherwise provided by this Code or by law.

**Subd. 4.        Insurance Requirements.** Whenever insurance is required by a Section of this chapter, the applicant shall file with the Clerk a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, (3) that such insurance will not be cancelled, terminated, or materially altered without 30 days’ advance written notice served upon the Clerk, and (4) that the City, its elected and appointed officials and employees are named insureds on the policy or certificate. Cancellation, termination or material alteration of such coverage shall be grounds for license revocation.

**Subd. 5.        Unpaid Claims.** The Council may suspend, refuse to grant, or refuse to renew a license for any property upon which taxes, assessments, or other financial claims of the State, County, School District, or City are delinquent or remain unpaid after due. In the event a legal

or administrative proceeding has been commenced, in good faith, questioning the amount or validity of such taxes, assessments or other financial claims, the Council may, upon application, waive strict compliance with this requirement.

**Subd. 6. Disqualification Because of Prior Conviction.** No person shall be disqualified from obtaining a license solely or in part because of a prior conviction of a crime or crimes, unless the crime or crimes for which convicted directly relate to the occupation or activity for which the license is sought. In determining if a conviction directly relates to an occupation or activity for which a license is sought, the City shall consider the factors and evidence of rehabilitation referred to in Minn. Stat. §364.03.

**Subd. 7. Fixing License Fees and Insurance/Bond Amounts.** Except as otherwise herein provided, all fees for licenses under this Chapter and all required insurance or bond amounts shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees and amounts may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees and amounts shall be kept on file in the office of the Clerk and open to inspection during regular business hours. For the purpose of fixing such fees and amounts, the Council may subdivide and categorize licenses under a specific license requirement, provided that any such Subdivision or categorization shall be included in the resolution authorized by this Section.

#### **SECTION 402.01. SHOWS AND LARGE ASSEMBLIES.**

**Subd. 1. License Required.** No person shall present, sponsor, promote, participate in or permit any public show, circus, theatrical or other performance or exhibition or assembly of 200 or more persons at one time in a single location, for any purpose, to which the public is invited, (any of which is hereafter referred to as a “Large Assembly”) without first having obtained a license therefor from the City.

**Subd. 2. Application.** The application for a license shall set forth the name and address of the person who is to conduct and sponsor the Large Assembly, state the times and places where the Large Assembly is to be held or conducted, and state the nature of the activity. The application shall also contain such other information as is reasonably requested by the Council or the Clerk.

**Subd. 3. Maximum Size.** It is unlawful for any licensee to admit a larger number of people than the maximum fixed by the Council at the time of issuance of the license.

**Subd. 4. Overnight Camping Prohibited; Food Preparation Restricted.** It is unlawful for any licensee to permit any participant, spectator or customer to camp or sleep overnight at the location of a Large Assembly. It is also unlawful for any licensee to permit any participant spectator or customer to prepare food at the location of the Large Assembly, unless that person is a concessionaire. This Section does not apply to security officers performing their duties as such.

**Subd. 5. Investigation Fee.** In addition to the license fee the Council may fix an investigation fee commensurate with the cost of the investigation.

**Subd. 6. Permitted Area; Factors.** Large Assemblies shall be permitted only after a finding by the Council that the character of the proposed Large assembly is compatible with the character of the surrounding neighborhood considering the problems of noise, lighting, traffic, sanitation, congestion and other factors affecting the public health, safety and welfare of the entire area, and compliance with this code or ordinances.

**Subd. 7. Exemptions.** The following activities and performances are exempt from compliance with this subchapter:

- A. Performances of athletic, musical or theatrical events sponsored by public or private schools, located on school-owned property, and utilizing only student athletes or performers;
- B. A performance sponsored by a bona fide religious or nonprofit organization located within the City, provided that the organization shall have been incorporated for purposes other than the performance, the performance is exclusively for the members of the religious or nonprofit organization, and the performance occurs on organization-owned property.
- C. Any Large Assembly sponsored by the City.

**Subd. 8. Display of License.** Each license issued under this Section shall be kept conspicuously posted at the location for which the license is issued and shall be exhibited to any person upon request.

#### **SECTION 403.01. DANCES.**

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

- A. “Public dance” applies to any place where dancing may be or is carried on, other than a private residence, whether an admission fee is charged or not.
- B. “Incidental dance” means a public dance which is incidental to the regular business at the premises.
- C. “Single event dance” means any public dance which is not an incidental dance.

**Subd. 2. Conditions Applicable to All Public Dances.**

- A. It is unlawful for any person to hold a public dance without a license issued by the City.

- B. No license under this Section shall be granted if the applicant is not 18 years of age or older on the date the license application is submitted to the issuing authority.
- C. A licensee under this Section shall be responsible for the conduct of the public dance and shall maintain conditions of safety, sobriety, noise and crowd control and order.
- D. A license issued under this Section is effective only for the space specified in the approved license application.
- E. No public dance shall be held between the hours of one and ten o'clock a.m.
- F. If applicable, a license for a Large Assembly must be obtained.
- G. No Alcoholic Beverage shall be served, dispersed, sold or consumed, unless an appropriate and separate license therefore has been obtained.
- H. All persons conducting a public dance shall within 30 days prior to the scheduled dance, submit to the Council a security agreement plan. Upon review of said plan, the Council may require the licensee to have at the dance, at the licensee's expense, security precautions including but not limited to the presence of officers of the law.
- I. Any person conducting a public dance shall obtain such insurance as is required by the Council.

**Subd. 3. Incidental Dances.**

- A. The application for an annual license for incidental dancing shall contain the following information:
  - 1. Whether the applicant is a natural person, corporation, partnership or other form of organization;
  - 2. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
  - 3. A description of the business for which the premises is licensed;
  - 4. Such other information as the Council or issuing authority shall require.
- B. Incidental dance licensing is restricted to premises located in the appropriate zoning districts of the City.
- C. Public dances conducted pursuant to an incidental dance license are restricted to the indoor area of the licensed premises, or such other areas as the Council may allow.

- D. The licensee is responsible for maintaining order at the incidental dancing business. In the event the licensee fails to maintain order, the Council may undertake necessary measures to ensure proper security.

**Subd. 4. Single Event Dances.**

In addition to the requirements for all public dances, single event license applications shall be submitted at least 30 days prior to the scheduled dance and shall contain the following information along with any additional information required by the Council:

- A. The date, time and place of the dance;
- B. The approximate number of persons expected to attend the dance;
- C. A copy of any lease, agreement or letter allowing the dance to take place on the premises if the applicant is not the owner of the premises;
- D. A statement that the applicant is the person who will conduct, sponsor and be responsible for the public dance.

**SECTION 404.01. SOLID WASTE MATERIALS.**

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

- A. “Apartment Buildings” means any building or structure or portion thereof used, designed, or intended to be used for human habitation which is occupied as the home or residence of four or more families or person living independently in separate dwelling units and for which the owner receives, is entitled to receive or will receive consideration in the form of money, goods, labor, or otherwise from or on behalf of the occupant.
- B. “Garbage” means discarded material resulting from the handling, processing, storage, packaging, preparation, serving, and consumption of food.
- C. “Industrial waste” means all organic and inorganic wastes except garbage, resulting from any manufacturing, building repairing, demolition, construction, processing, grain cleaning, the operation of garages and service stations and other similar activities.
- D. “Items to be composted” means decomposable items such as leaves, grass clippings, and yard scraps. It does not include tree branches, limbs or trunks.
- E. “Recyclable materials” or “recyclables” means newspaper, cardboard, computer paper, ledger paper, glass, tin cans, bi-metal cans, aluminum cans, scrap aluminum, and acceptable plastics under the recycling coding system as per the Society of the Plastics Industry, Inc. (SPI) designates listed below:

1. PET – polyethylene terephthalate
2. HDPE – high density polyethylene
3. V – Vinyl
4. LDPE – low density polyethylene
5. PP – polypropylene
6. PS – polystyrene
7. Other

- F. “Refuse” means all non-combustible wastes including ashes, crockery, household rubbish, and all combustible wastes including rags and old cloths; but does not include any material such as earth, sand, brick, stone, plaster or other similar substances that may accumulate as a result of construction operations; it also does not include appliances, auto and auto parts, tree limbs, flammable material including gasoline and motor oil, and any dangerous substance. .
- G. “Residence” means a single-family dwelling, duplex or triplex connected with the City water system and does not include trailer courts, business firms, religious institutions, schools or farms.
- H. “Rubbish” means non-putrescible solid waste, including ashes, consisting of both combustible and non-combustible waste, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and litter of any kind.

**Subd. 2. Deposit of Refuse Restricted.**

- A. No person shall deposit, cause to be deposited or place garbage, refuse, industrial waste, rubbish, items to be composted, recyclables or containers therefore upon any street, alley, vacated lot or upon any ground appurtenant to any building in the City, except upon the premises wherein the garbage, refuse, industrial waste, rubbish, items to be composted, or recyclables originated.
- B. No person, except as authorized and licensed by the City, shall transport garbage, refuse, rubbish or industrial waste, with the exception of recyclable materials and items to be composted, over any street or alley in the City. No person shall disturb, collect or in any manner interfere with garbage, refuse, rubbish, or industrial waste placed in containers for collection, or interfere in any manner with containers thereof.
- C. No person shall disturb, collect or in any manner interfere with recyclable materials placed in containers for collection, or interfere in any manner with containers for recyclable materials, except as authorized by the City or by the person who placed the recyclable materials in the containers for collection.

**Subd. 3. Storage.**

- A. Containers used in the City for garbage, refuse, rubbish and recyclables must be:

1. Made of metal or other suitable material that is not easily corrodible or combustible;
2. Watertight, insect and rodent-proof;
3. Kept tightly covered when containing garbage, refuse or rubbish;
4. Placed in such a manner as to prevent them from being overturned; and
5. Maintained in a sanitary and safe condition, free of a substance on the exterior that attracts or breeds flies, other insects, or rodents, and free of ragged or sharp edges or other defects that may impede or injure the person collecting the contents.

B. In addition, garbage, refuse and rubbish containers for residential dwellings must be:

1. Equipped with suitable handles and tight fitting covers;
2. A size and weight that can be handled by one person;
3. Only those containers supplied by the City contractor in such volumes and weight as specified in the City contract;
4. Provided in sufficient number to hold all garbage and refuse accumulating between collections;
5. Washed and treated with disinfectant as often as necessary to prevent a nuisance;
6. Be vendor approved containers; and
7. All special containers must meet with the approval of the collector based on sanitation safety, weight limitations and ease of handling.

C. In addition, waste containers for multiple dwellings and commercial establishments must be:

1. At least one cubic yard in capacity;
2. Conveniently located with respect to the residential units or establishment; and
3. Placed in an enclosure complying with the requirements of paragraph D below.
4. Kept in an enclosure that conceals them from public view. The enclosure must have a raised concrete floor and be kept in good repair at all times. The enclosure must be constructed, or the containers must be located in the enclosure, so that the contents of the containers are inaccessible for at least three feet about the base of the enclosure.
5. In compliance with applicable provisions of the City Zoning Ordinance.



- D. Containers not complying with the requirements of this Section must be promptly repaired or replaced with ones that do comply. Whenever a container is in poor condition, the collector may tag the container with a notice of the defects and the requirement to repair or replace the container. A copy of the notice must be given to the City, and if on the next collection date the container has not been repaired or replaced, the collector may notify the City and discontinue collections from the premises.
- E. The property owner or occupant shall have the garbage, refuse and rubbish removed at regular intervals, being at least once each week, or as often as deemed necessary by the City health officer. Pickup and removal of recyclable materials shall be at regular intervals.

**Subd. 4. Collection of Garbage, Refuse, Rubbish and Recyclables.**

- A. The City may provide for on-site collection once each week of all garbage, refuse, rubbish and recyclables from all City residences connected with the City water system and from City trash containers on streets and parks. The City may also provide for on-site collection of recyclables from all City residences and apartment units connected with the City water system.
- B. Property owners and occupants shall make containers easily accessible to the collector for on-site pickup on the days designated for collection.
- C. The property owner or occupant of a restaurant, hotel, tavern or other commercial, industrial or manufacturing establishment shall control the garbage, refuse, rubbish and industrial waste on the premises. Furthermore, the property owner or occupant shall provide for collection of the garbage, refuse, rubbish and industrial waste on the premises as often as necessary to keep the premises in a clean and sanitary condition, but in no event less frequently than one pickup per week, or as often as deemed necessary by the City health officer.
- D. All garbage, refuse and rubbish collected under City contract shall be transported on the streets and alleys in the City only in leak-proof, packer trucks. All other garbage, refuse, rubbish and industrial waste shall be transported on the streets and alleys in the City only in vehicles with leak-proof bodies of easily cleanable construction designed not to transmit odor, attract insects or rodents, or otherwise create a nuisance. Vehicles carrying recyclable materials shall be so operated that contents do not spill or drip onto streets or alleys or otherwise create a nuisance.

**Subd. 5. Collection Contract.**

- A. The Council may contract for collection of garbage, refuse, rubbish and recyclables from residences and apartment buildings in the City on such terms and for such periods as the Council may determine. The Council may solicit proposals and award a contract based

on the amount of the proposal submitted as well as considerations of overall cost, general safety, as well as the number and level of services offered.

- B. Collectors shall have a registered office and notify the Clerk of any change in the office address.
- C. Collectors shall furnish the equipment and personnel necessary for the collection of garbage, refuse, rubbish and recyclables.
- D. If the City has entered into a collection contract under this Subdivision, only collectors under contract with the City may collect the garbage, refuse, rubbish and recyclables from residences and apartment buildings within the City, and no other person shall make a business or collect a fee for collection of garbage, refuse, rubbish and recyclables from residences and apartments within the City.
- E. The garbage, refuse and recyclables collected by the collectors shall be transported and disposed of in the manner provided by law.
- F. Collectors shall furnish a performance bond or certificate of deposit in an amount determined by the City, conditioned upon the satisfactory performance of the contract, which designates the City as beneficiary and deposit the same with the Clerk.
- G. Collectors shall maintain such insurance in such amounts as is determined by the Council, and shall name the City and its elected and appointed officials and employees as additional insureds under such insurance.
- H. Collectors shall at all times maintain Worker's Compensation insurance.
- I. Collectors shall protect, defend, hold harmless and release the City, its elected and appointed officials and employees from any and all claims, demands, judgments, fines, penalties, assessments, settlements, costs and expenses, including attorney fees and costs, arising out of, or relating to the contract and the performance of the contract and collection activities.

**Subd. 6. Service Charge.**

- A. The contract between the City and the collector shall specify whether the City or the collector will send bills to the premises served. The City, or the City's contractor, shall charge each dwelling served on the basis of service rendered, as determined by the Council. The bill for such charges shall be sent to the persons served.
- B. Following 30 days notice to the property owner and/or occupant, any charge for collection service not remitted in a timely manner may be collected by the Council as an assessment against the property or pursuant to civil litigation.

**Subd. 7          Licensing of Collectors.**

- A.      No person shall collect garbage, refuse, rubbish, recyclables, or industrial waste from any person, property, or business located within the City of Delano, unless a license therefor shall first have been obtained from the City.
- B.      The Council shall consider any application for a collector's license. If the Council finds that the applicant is responsible, has a good record of operations, is in compliance with applicable legal requirements, and has the proper equipment, facilities, resources and personnel to provide good quality collection service, and that it would be in the public interest to do so, it may direct the Clerk to issue the permit to the applicant.
- C.      The applicant shall submit to the Clerk a certificate of insurance containing such terms and in such an amount as shall be determined by the Council.

**Subd. 8          Composting.** The contractor for residential and apartment garbage, refuse, and rubbish collection shall provide no fewer than four annual collections of composting materials; two collections shall occur in the spring and two in the fall.

**Subd. 9.          Recycling.** In addition to the recycling which may be provided pursuant to City contract, the City encourages collection of recyclable materials at restaurants, hotels, taverns, commercial, industrial, religious, educational and health care facilities.

**SECTION 405.01.    PROPERTY MAINTENANCE CODE.**

**Subd. 1.          Purpose.** The purpose of this Section is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the use and occupancy, construction and maintenance of all buildings, property and structures within the City. The provisions contained herein are in addition to other applicable provisions of the code and not in lieu thereof. Any provisions contained herein which are inconsistent or in conflict with any other provision of the code shall supersede such other provisions. This Section shall be referred to as the Delano Property Maintenance Code.

**Subd. 2          Scope.** The provisions of this Section shall apply to all buildings, structures and property within the City.

**Subd. 3.          Enforcement.**

- A.      Authority. The Building Official and the Council are hereby authorized to enforce all of the provisions of this Section.
- B.      Right of Entry. The Building Official or an authorized representative may enter, examine and survey all buildings at all reasonable times. In the event the owner or occupant of the building does not consent to entry by the Building Official or an authorized representative of the Building Official, and if there is probable cause to believe that a violation of the Delano Property Maintenance Code exists in the building, then

application may be made for a warrant or Court order allowing for inspection of the building. No person shall refuse entrance or impede the Building Official, chief of the fire department, officer of the peace, or a designated representative, in the performance of emergency duties. In the case of emergency, every such official or officer shall have the right to enter, inspect, examine, survey and perform emergency operations in all buildings without a warrant or court order.

- C. Substandard Buildings. All buildings or portions thereof which are determined to be substandard as defined in this Section constitute a violation of this Section and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this Section.
- D. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this Section, the Building Official may grant modifications for individual cases, provided that the modification is in conformity with the intent and purpose of this Section, does not differ from the requirements of the Minnesota State Building Code or this Section and that such modification does not reduce the level of any safety protection requirements or structural integrity. The details of any action granting modifications shall be recorded and entered in the files of the building official.
- E. Violations. No person shall construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, rent or let to another, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Section.

**Subd. 4. Definitions.** For the purpose of this Section, certain terms, phrases, words and their derivatives shall be construed as specified in either this Section or as specified in the Minnesota State Building Code or this Section.

- A. “Apartment House” is any building which is intended or designed to be occupied or which is occupied as the home or residence of four or more families living independently in separate dwelling units and doing their own cooking in the rental building.
- B. “Building Code” is the Minnesota State Building Code adopted by the City.
- C. “Component” is a constituent part of a building.
- D. “Dwelling,” is any building which is not an apartment house, lodging house or a hotel and which contains one or more dwelling units.
- E. “Dwelling unit” is a single unit situated within a building providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
- F. “Efficiency dwelling unit” is a dwelling unit containing only one habitable room and meeting the requirements of the Building Code.

- G. “Family” is an individual or two (2) or more persons related by blood, marriage or adoption, including foster children.
- H. “Guest room” is a habitable space in a hotel or lodging house designed or intended to be used or occupied or which is used for sleeping purposes by guests.
- I. “Habitable space” is a space or room in a rental building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.
- J. “Hotel” is any rental building or portion thereof containing six or more guest rooms.
- K. “Hot water” is water supplied to plumbing fixtures at a temperature of not less than 110 degrees Fahrenheit.
- L. “Lodging house” is any rental building containing not more than five guest rooms.
- M. “Rental building” is any building or structure or portion thereof used, designed, or intended to be used for human habitation and for which use the owner receives, is entitled to receive or will receive consideration from an occupant or from someone on the occupant’s behalf in the form of money, goods, labor, or otherwise. Consideration does not include compensation received by a family member from another family member living in the same dwelling unit.
- N. “System” is a regularly interacting or interdependent group of items forming a unified whole or a group of devices or artificial objects or an organization forming a network especially for distributing something or serving a common purpose.

**Subd. 5. Owner and Occupant Responsibilities and Responsibilities of Others.**

- A. Owner.
  - 1. Owners of all buildings shall construct and maintain buildings in accordance with the requirements of the Building Code and this Section.
  - 2. It shall be the responsibility of the owner to restore the exterior and interior surface of the owner’s building to a state of good maintenance and repair.
  - 3. No person shall let to another for occupancy any building or dwelling unit which does not comply with the Minnesota State Fire Code and Building Code, as adopted by the City, this Section, or any other federal, state or local law or regulation.

B. Occupants.

1. Each occupant of a building shall keep in a clean and sanitary condition that part of the dwelling unit and premises thereof which that person occupies or controls.
2. Every occupant of a building shall dispose of garbage, refuse and rubbish in a clean and sanitary manner by placing it in appropriate disposal facilities.
3. No person shall occupy any building or dwelling unit which does not comply with the Minnesota State Fire Code, Building Code, as adopted by the City, this Section or any other federal, state or local law or regulation.

C. Defacement of Property.

1. No person shall willfully or wantonly damage, mutilate or deface any exterior or interior surface of any building by placing thereon any marking, carving or graffiti.

**Subd. 6. Components and Systems.** The components and systems of buildings shall comply with the Minnesota State Building Code.

**Subd. 7. International Property Maintenance Code Adopted.**

A. Adoption. The International Property Maintenance Code, 2006 Edition, published by the International Code Council, Inc., is hereby adopted as if set out in full in this Section, with the additions, insertions, deletions and changes as set forth in Subpart B below.

B. Revisions. The following Sections of the International Property Maintenance Code, 2006 addition are revised as follows:

1. Section 101.1: This Subsection is amended to read: **Title.** The regulations set forth in this Code shall be known, cited, and referred to as the Delano Property Maintenance Code.
2. Section 102.3: This Subsection is amended to read: **Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the Minnesota State Building Code and this Code.
3. Section 102.7: This Subsection is amended to read: **Referenced codes and standards.** All references to other codes or standards within this Property Maintenance Code shall mean the applicable provisions of the Delano City Code or Minnesota State Building Code, whichever is the most restrictive requirement permitted under statute or applicable law.
4. Section 103.1: This Subsection shall be deleted in its entirety and substituted with the following: **General.** The Department of Building Inspections is hereby

charged with the administration and enforcement of the Property Maintenance Code. The “Code Official” as that term is used in this Code, is the Director of Building Inspections or the Director’s designee.

5. Section 103.2: Delete this Subsection in its entirety.
6. Section 103.3: Delete this Subsection in its entirety.
7. Section 103.5: This Subsection is amended to read: **Fees/continuing violations**. A fee shall be payable for every inspection required by this Code. A single fee shall be due and payable for the initial inspection and one re-inspection related to the code compliance action.
  - a) Additional Fees. An additional fee as prescribed by Council shall be due and payable for every required re-inspection subsequent to the first re-inspection provided for in this Section.
  - b) Continuing Violation a Separate Misdemeanor. In addition to the additional inspection fee for additional inspections for continuing violations, each period of 10 days after the initial 60 day period of the violation shall constitute a misdemeanor violation of this Code.
8. Section 104.5: **Identification**. This Subsection shall be amended as follows: Insert after “Code Official”: “and employees of the Department of Building Inspections.”
9. Section 106.1: Delete this Subsection and substitute the following: **Unlawful Acts**. An owner, occupant or tenant may not erect, construct, alter, extend, repair, remove, demolition, maintain, fail to maintain, provide, fail to provide, occupy, permit another person to occupy any dwelling unit or structure regulated by this Code or cause the same to be done in violation of any provision of this Code; or fail to obey a lawful order of the Code Official.
10. Section 106.3: Delete this Subsection, rename, and substitute the following:

**Enforcement of Penalties**. Violation of any provision of this Code is hereby deemed a municipal infraction punishable by a fine not to exceed \$1,000.00. Each day a violation continues is a separate offense. In addition to the foregoing, the City may seek any other remedy available to it by law or equity to abate, restrain or correct the violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code order or direction made pursuant thereto. Any costs incurred in connection with any action taken by the City to abate, restrain or correct the violation on the premises in violation of this Code shall be charged to the owner of the property. Until the expenses are paid by the owner, they will constitute a lien upon the property to be collected in the same manner as other City taxes.

11. Section 106.4: Delete this Subsection in its entirety.
12. Section 106.5: Delete this Subsection in its entirety.
13. Section 107.1: Delete this Subsection, rename and substitute the following:

**Notice of Violation.** When a Code Official or his/her designee has grounds to believe that this Code has been violated, the Code Official or his/her designee shall serve upon the person responsible a written notice of the violation.

14. Section 107.4: Delete this Section in its entirety.
15. Section 109.5: Delete this Subsection and replace with the following:

**Costs of Emergency Repairs.** Any cost incurred by the City in connection with the emergency repairs performed pursuant to this Section shall be charged to the owner of the property where the unsafe structure is located. Until the expenses are paid by owner, they will constitute a lien on the property to be collected in the same manner as other City taxes.

16. Section 111: Delete this Section in its entirety and substitute with the following:

**Appeals.** A person directly aggrieved by a notice of violation issued under this Code is entitled to a full hearing before the City Administrator upon serving a written request therefore upon the City Administrator within 30 days of receipt of a notice of violation.

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a) **Request for hearing and hearing.** The written request shall include documents and written arguments serving as a basis for the applicant's position. At such hearing the applicant may present any evidence he deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. If a request for hearing is timely received by the City Administrator, the City Administrator or City Administrator's designee shall set a hearing date within 14 days from the date of the applicant's request. At such hearing the applicant may present any evidence he deems pertinent to the appeal. The City Administrator or the City Administrator's designee shall issue a written decision, setting forth the reasons therefore within a reasonable period, in no case later than 10 days from the date of the hearing. The decision of the City Administrator or the City Administrator's designee shall be mailed to the applicant at the address provided in the request for the hearing.

b) **Penalties.** Any person who fails to comply with the correction or compliance order after the right of appeal has expired, and any person who fails to comply with the modified correction or compliance order within the time set forth therein, and any person who violated any provisions of this Property Maintenance Code by doing any act or admitting to doing any act which constitutes a breach of any Section shall be guilty of a misdemeanor.



c) **Alternative Sanctions.** In the case of commercial facilities which require licensing and multiple dwellings which require registration, said licensing or registration may be revoked or renewal withheld until compliance with this Property Maintenance Code.

d) **Execution of Correction or Compliance Order by Public Authority.** Upon failure to comply with the correction or compliance order within the time set forth therein and no appeal having been taken, or upon failure to comply with a modified correction or compliance order within the time set forth therein, the criminal penalty established herein notwithstanding, the Council may by resolution cause the cited deficiency to be remedied as set forth in the correction or compliance order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in a manner provided by Minnesota Statutes.

17. **Section 202. General Definitions.** This Section is amended by adding the following definitions:

a) *Insanitary* as applied to a structure means failure to maintain healthy conditions and liable to be a danger or hazard to health of persons occupying or frequenting it, or to the public if such danger arises from the methods or materials of construction or from equipment installed therein for the purposes of lighting, heating, ventilation, or plumbing or from existing conditions liable to cause rat infestation, vermin infestation, accumulation of trash and debris in the building, yards or accessory structure on the premises or from mold, causing conditions (same as unsanitary).

b) *Occupied.* Occupied for dwelling units means occupied areas will include those areas designated and utilized as habitable space as well and non-habitable spaces which are easily accessible and normally utilized by the occupants. For non-residential facilities, occupied areas will include all areas utilized in the operation in whatever use occupies the building.

18. Section 302.4: Weeds. Insert “10 inches”.

19. Section 302: Exterior Property Areas. This section is amended by adding Sections 302.10, 302.11 and 302.12 to read:

a) **Section 302.10: Removal of Snow and Ice.** The owner of a multiple family residential or commercial building shall be responsible for the removal of snow and ice from private parking lots, driveways, steps and walkways on the premises within 48 hours of the cessation of snow fall causing the accumulation. Snow and ice removal from public sidewalks shall be in accordance with City Code Section 716.01(D).

- b) Section 302.11: **Illumination.** The owner of a multiple occupancy building shall be responsible for providing and maintaining all illumination in all exterior parking lots and walkways with provisions to control glare affecting surrounding properties.
- c) Section 302.12: **Landscaping in yards and setbacks.** The owner of any building shall be responsible for providing and maintaining landscaping in all yards and/or setbacks and all areas not designed for buildings, circulation, parking or storage on the premises.
20. Section 304.30: Delete this Subsection and replace it with the following:
- Premises Identification.** Premises Identification shall be in accordance with Section 410.01 of the City Code.
21. Section 304.13: This Subsection is amended by adding Section 303.13.3 which shall read as follows: **Storm windows.** All openable windows with a single layer of glass must be provided with tight fitting storm windows. Storm windows may be temporarily removed to allow for installation of screens during periods of warm weather.
22. Section 304.15: This Subsection is amended by adding Section 303.15.1 which shall read as follows: **Multi-family dwelling security system.** For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multi-family an approved security system shall be maintained for each multi-family building to control access. The security system shall consist of locked building entrance or foyer doors and mock doors leading from hallways into individual dwelling units. Lead-latch type door locks shall be provided with levered knobs (or door knobs) on the inside building entrance doors and with key cylinders on the outside of building entrance doors. Building entrance door latches shall be of the type that are permanently locked from the outside and permanently unlocked on the inside.
23. Section 304.18: This Subsection is deleted and replaced with the following: **Building Security.** Doors, windows or hatchways for dwelling units or room units shall be provided with devices that design to provide security for the occupants of the property within.
24. Section 304.18.1: This Subsection is deleted and replaced with the following: **Doors.** Doors providing access to a dwelling unit or rooming unit that is rented, leased or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by turning a knob or key and shall have a lock throw of not less than 1" (one inch). For purposes of this Section a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt lock shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this Section

shall be designed and installed in such a manner so as to be operable inside of the dwelling unit or rooming unit without the use of a key, tool, combination thereof or any special knowledge or effort.

25. Section 304.18.2: This Subsection is deleted and replaced with the following: **Windows**. Operable windows located in whole or in part within in 6' above ground level or a walking surface below that provides access to a dwelling unit or rooming unit that is rented, leased or let shall be equipped with a window sash locking device.
26. Section 304.18.3: This Subsection is deleted and replaced with the following: **Basement hatchways**. Basement hatchways that provide access to a dwelling unit or rooming unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.
27. Section 306: **Handrails and guardrails**. This Subsection shall be amended to read as follows:

Section 306.1: General. Every interior and exterior flight of stairs having more than 4 riser shall have a handrail on each side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30" above the ground or grate below shall have guards. Handrails shall not be less than 30" high or more than 42" high measured vertically across the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30" high above the floor of the landing, balcony, porch, deck, ramp or other walking surface. Exceptions: Guards shall not be required where exempted by the Minnesota State Building Code.
28. Section 402: **Light**. This Section is amended by adding Subsection 402.4 which shall read as follows: **Convenience switches**. A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the points of entrance to such unit.
29. Section 505.1: **General**. Delete the reference to the "International Plumbing Code" and replace with "Minnesota State Building Code."
30. Section 602.2: **Residential occupancy**. Delete the reference to Appendix D of the "International Plumbing Code" and replace with the "Minnesota State Building Code." Also delete 65 degrees Fahrenheit (18 degree Celsius) and replace with 68 degrees Fahrenheit (20 degrees Celsius).
31. Section 602.3: **Heat supply**. Insert "September 1 to June 1" and delete 65 degrees Fahrenheit (18 degrees Celsius) and replace with 68 degrees Fahrenheit (20 degree Celsius). Delete the reference to Appendix D of the "International Plumbing Code" and replace with the "Minnesota State Building Code."
32. Section 602.4: **Occupiable work spaces**. Insert "September 1 to June 1."

33. Section 604.2: Service. Delete the reference to the “ICC Electrical Code” and replace with “Minnesota State Building Code.”
34. Section 702: Means of egress. Delete references to the “International Building Code” and replace with the “Minnesota Building Code.”
35. Section 704. Fire Protection Systems. Delete all references to the “International Fire Code” and replace with “Minnesota State Fire Code.”
36. Chapter 8. Referenced Standards. This Chapter shall be amended to read: “all references to other code standards within this Code shall mean the applicable provision of the Delano City Code or Minnesota State Building Code, whichever has the most restrictive requirement permitted by law.

**Subd. 8. Sanitation.**

- A. Hotels. Where private water closets, lavatories and baths are not provided in a hotel, there shall be provided on each floor at least one water closet and lavatory and one bath accessible from a public hallway for each sex. Additional water closets, lavatories and baths shall be provided on each floor for each sex at the rate of one for every additional 10 guests, or fractional number thereof in excess of 10. Such facilities shall be clearly marked for “Men” or “Women.”
- B. Plumbing Fixtures. Plumbing Fixtures in all buildings shall be connected to the City sanitary sewer system. All plumbing fixtures shall be connected to the City water system and provided with hot and cold running water necessary for their normal operation. Said plumbing fixtures shall be made of an approved nonabsorbent material that meets all health, safety and the Minnesota State building code.

**Subd. 9. Substandard Buildings.**

- A. General. Any rental building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions in this Subdivision 9, B through J, to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard rental building in violation of this Section and a “hazardous building condition” as that term is defined in Minnesota Statutes Chapter 463.
- B. Inadequate Light and Ventilation. Inadequate light and ventilation shall include but not be limited to the following:
  1. Lack of required ventilating equipment or improper operation or maintenance of the same.
  2. Lack of required minimum amounts of natural light and ventilation or improper operation or maintenance of the same.

3. Lack of required electrical lighting or improper operation or maintenance of the same.
- C. Inadequate Sanitation. Inadequate sanitation shall include but not be limited to the following:
1. Lack of required water closet, lavatory, bathtub or shower or improper operation or maintenance of the same.
  2. Lack of or improper operation or maintenance of the same.
  3. Lack of required hot and cold running water to plumbing fixtures or improper operation or maintenance of the same.
  4. Lack of required adequate heating facilities or improper operation or maintenance of the same.
  5. Dampness of habitable space.
  6. Infestation of insects, vermin or rodents.
  7. General dilapidation or improper maintenance of a rental building.
  8. Lack of connection to required sewage disposal system or improper operation or maintenance of the same.
  9. Lack of adequate garbage and rubbish storage and removal facilities as determined by the building official.
- D. Structural Hazards. Structural hazards shall include but not be limited to the following:
1. Deteriorated or inadequate foundations.
  2. Defective or deteriorated flooring or floor supports.
  3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
  4. Members of wall, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
  5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
  6. Members of ceilings, roofs, ceiling, and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
  7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
  8. Fireplaces or chimneys which list, bulge or settle, due to defective material or deterioration.
  9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- E. Hazardous Electrical Wiring. Electrical wiring hazards include but shall not be limited to the following: Electrical wiring which was installed in violation of laws in effect at the time of installation, not installed in accordance with generally accepted construction practices in areas where no laws were in effect, has not been maintained in good condition, or is not being used in a safe manner.

- F. Hazardous Plumbing. Hazardous plumbing includes but shall not be limited to the following: Plumbing which was installed in violation of laws in effect at the time of installation, not installed in accordance with generally accepted construction practices in areas where no laws were in effect, has not been maintained in good condition, is not free of cross-connections or siphonage between fixtures, or is not being used in a safe manner.
- G. Hazardous Mechanical Equipment. Hazardous mechanical equipment includes but shall not be limited to the following: Mechanical equipment which does not comply with the mechanical requirements of this Section, installed in violation of laws in effect at the time of installation, not installed in accordance with generally accepted construction practices in areas where no laws were in effect, or has not been maintained in good condition or is not being used in a safe manner.

Faulty Weather Protection includes but shall not be limited to the following:

1. Deteriorated, crumbling or loose plaster.
  2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
  3. Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
  4. Broken, rotted, split or buckled exterior wall coverings or roof coverings.
- H. Faulty Materials of Construction includes but shall not be limited to all materials of construction except those which are specifically allowed or approved under applicable laws and which have been adequately maintained in good and safe condition.
- I. Hazardous or Unsanitary Premises includes but shall not be limited to premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborage, stagnant water, combustible materials and similar materials or other conditions exist.
- J. Improper Occupancy includes but shall not be limited to all buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies or which are not being adequately maintained for such purposes.

**Subd. 10. Notices and Orders of Building Official.**

- A. Notice. Whenever the Building Official determines that a building is a substandard building, or that any other violation exists under this Section, or that there are reasonable grounds to believe that a violation exists, notice shall be given to the person or persons responsible therefore or to the occupant or owner of the premises. Such notice shall:
1. Be in writing;

2. Include a description of the real estate sufficient for identification;
  3. Describe the conditions found to constitute the violation;
  4. Specify the remedial action required;
  5. Require that any permits necessary to effectuate remedial action be secured and the work physically commenced within 20 days and completed within such time as the building official shall determine is reasonable under the circumstances;
  6. State that a motion for summary enforcement of the order will be made to the District Court unless, within 20 days, work is physically commenced or an answer is filed as provided for in Minnesota Statute § 463.18.
- B. Emergency Orders. Whenever the Building Official finds that an emergency exists in relation to the enforcement of the provisions of this Section which requires immediate action to protect the health, safety or welfare of occupants of any building, the Building Official or the Building Official's designee may enter the premises in accordance with Section 405.01, Subd. 3 and may issue an order reciting the existence of such emergency and requiring that such action be taken as deemed necessary to meet the emergency, notwithstanding any other provision of this Section. When any such emergency shall be declared to exist the Building Official immediately shall report the same in writing to the Council. Every notice of emergency shall include the following language:
- “If you do not comply with this Order by the above date, the City may remedy the violation and assess the costs to you or, if applicable, allow the occupants to make the repairs and deduct the expense from the occupant's rent.”
- Subd. 11. Appeal.**
- A. Right to Appeal. Any person entitled to service under this Section may appeal from any notice and order served by the Building Official. The appeal shall constitute an answer to the notice and order as provided for in Minnesota Statute § 463.18.
- B. Procedure. Appeal shall be made to the Building Official within 15 days after the notice and order is served. The appeal shall be made in writing and contain a brief statement of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
- C. Scheduling and Noticing of Appeal Hearing. As soon as practicable after receiving the written appeal, the Building Official shall fix a date, time and place for hearing of the appeal by the Council. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the Council either by causing a copy of such notice to be delivered to the appellant personally or by mailing copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

- D. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this Section shall constitute a waiver of the right to an administrative hearing and administrative adjudication of the notice and order or to any portion thereof.

**Subd. 12. Enforcement of the Order of the Building Official or the Council.**

- A. Compliance. After any order of the Building Official or Council made pursuant to this Section shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.
- B. Failure to Obey Order. If, after any order of the Building Official or Council made pursuant to this Section has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the Building Official may (1) cause such person to be prosecuted under subsection 1 of this Subdivision or (2) commence an appropriate action in District Court.

**SECTION 406.01. ANIMAL REGULATIONS AND LICENSES.**

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

- A. “Dog” means both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.
- B. “Owner” means any person owning, keeping or harboring a dog.
- C. “Tag” means a license tag required hereunder to be procured by every owner of each dog.
- D. “At large” means off the premises of the owner and not under the custody and control of the owner or other person, either by lease, cord, chain, or otherwise restrained or confined.

**Subd. 2. License Required.** All dogs over the age of 6 months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by the Clerk upon payment of the license fee. The owner shall state, at the time application is made for the license, the owner’s name and address and the name, breed, color, and sex of each dog owned or kept by the owner.

**Subd. 3. Tag and Collar.**

- A. Upon presentment of the required certification and payment of the license fee, the Clerk shall provide and furnish to the owner of each licensed dog a metallic tag. Every owner shall provide each dog with a collar to which the license tag must be affixed and shall see that the collar and tag are worn constantly. In case a dog tag is lost or destroyed, a



duplicate or new tag will be issued by the Clerk upon proof that such dog was licensed. Dog tags shall not be transferable from one dog to another and no refunds shall be made.

- B. It is unlawful for any person, except the owner or authorized agent, to remove a collar from a dog in the City, except under circumstances where it is necessary to free a dog from an entanglement which threatens its health and life or by a licensed veterinarian to whom the dog has been brought for care and treatment.

**Subd. 4. Barking and Running at Large.**

- A. Running at Large. It shall be unlawful for the dog of any person who owns, harbors, or keeps the dog, or the parents or the guardians of any such person under 18 years of age, to run at large.
- B. Habitual Barking. It shall be unlawful for any person to own, keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least 3 minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises.
- C. Damage to Property. It shall be unlawful for any person to own, keep or harbor a dog that damages any lawn, garden, or any other property, whether or not such person has knowledge of the damage.
- D. Cleaning Up Litter. The owner or person having the custody or control of any dog shall be responsible for cleaning up the feces of the dog and disposing of such feces in a sanitary manner whether on their own property, on the property of others, or on public property.
- E. Any animals kept contrary to this Subdivision are subject to impoundment as provided in this Section.

**Subd. 5. Confinement in Motor Vehicle.**

- A. It is unlawful for any person to cause or allow a dog to be placed or confined in a motor vehicle without adequate ventilation when the atmospheric temperature, humidity, and sun rays can be reasonably expected to cause suffering, disability or death to the dog. Evidence that the dog is suffering from heat is prima facie evidence of a violation of this Section.
- B. Authorized City personnel who find a dog in a motor vehicle in violation of this Section may break and enter into the vehicle if necessary to remove the dog. Neither the personnel nor the City will be liable for vehicle damage that results. Any dog removed may be taken immediately to the animal impounding facility to be evaluated by a licensed veterinarian. The personnel must leave with the vehicle a written notice giving their name and position and the address where the dog may be redeemed. The owner of the dog is responsible for all medical and boarding expenses incurred.

**Subd. 6. Wild/Exotic Animals Prohibited.** No person shall keep, maintain or harbor within the City any of the following animals:

- A. Any animal or species prohibited by Minnesota or Federal law;
- B. Any non-domesticated animal or species including, but not limited to, the following:
  - 1. Any skunk, whether captured in the wild, domestically raised, de-scented, vaccinated against rabies or not vaccinated against rabies;
  - 2. Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats;
  - 3. Any member of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except commonly accepted domesticated dogs;
  - 4. Any crossbreed, such as the crossbreeds between dogs and coyotes and coyotes or dogs and wolves, not including crossbred domesticated animals;
  - 5. Any poisonous pit viper, such as a rattlesnake, coral snake, water moccasin or cobra;
  - 6. Any raccoon;
  - 7. Any other animal not listed above, but which is not naturally tame or gentle, but is a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property. Included herein are animals for which no rabies vaccination has been approved by the State Health Department. Provided, however, that this Section shall not apply to falconers or bird banders licensed by the Department of Natural Resources and the U.S. Fish and Wildlife permit.

**Subd. 7. Dog Pound.** The Council shall designate a selected facility as the City dog pound for keeping and maintaining any dogs which are seized pursuant to this Section. The selected facility shall comply with all applicable State statutes.

**Subd. 8. Impounding.** A peace officer, animal control officer, or any other duly appointed person, may take and deliver for impoundment to the selected facility designated by the City, any dog found in the City which is without a tag or running at large. The peace officer, sheriff or sheriff's deputy animal control officer or other duly appointed person may enter upon private premises in pursuit of a dog running at large. Regardless of whether the dog is claimed, the owner shall be responsible to the City for all costs relating to the seizure and impoundment of the dog.

**Subd. 9. Destruction of Dogs in Certain Circumstances.** Pursuant to the requirements under Minnesota Statute §347.56, a dog may be destroyed in a proper and humane manner by the City or its authorized agent if the dog:

1. inflicted substantial or great bodily harm on a human on public or private property without provocation;
2. inflicted multiple bites on a human on public or private property without provocation; or
3. bit a human on public or private property without provocation in an attack where more than 1 dog participated in the attack.

**Subd. 10. Muzzling Proclamation.** Whenever the prevalence of rabies renders such action necessary to protect the public health and safety, the mayor may issue a proclamation ordering every person owning or keeping a dog to confine it securely on the person's premises unless it is muzzled so that it cannot bite, or requiring a vaccination for rabies for all dogs in the City. No person shall violate such proclamation and any unmuzzled dog running at large during the time fixed in the proclamation shall be exterminated by the poundmaster or any peace officer without notice to the owner.

**Subd. 11. Animal Bite.** Whenever any person owning, possessing or harboring any dog within the corporate limits of the City learns that such dog has bitten any human being, such person shall immediately quarantine such dog for at least 10 days.

- A. If the dog owner does not show proof of current rabies vaccination, such dog shall be quarantined in a veterinary hospital or impounded by the peace officer, sheriff or sheriff's deputy, animal control officer, or other duly appointed person for a period of 10 days.
- B. If the owner cannot be advised of the dog bite within 2 hours following the bite, or if the owner fails to impound the dog as required by this Subdivision, a peace officer, sheriff, sheriff's deputy, animal control officer or other duly appointed person shall cause such dog to be impounded for the quarantine period. If the animal is found to be rabid, it shall be destroyed. If the animal is found not to be rabid, it shall be returned to the owner after payment of the impoundment and examination fee. If the owner does not pay such fee within 5 days after notification to claim or retrieve the animal, the animal may be destroyed pursuant to Minn. Stat. § 35.71, Subd. 3.

**Subd. 12. Rabies Vaccination.** No license shall be granted for a dog which has not been vaccinated against rabies during the 90-day period preceding the making of an application for such license, unless applicant furnishes a certificate of a veterinarian that the dog is effectively vaccinated, except that when a dog is first licensed for an entire year hereafter, the license may be issued if the dog has been vaccinated within a period of 6 months preceding the application for a license. Vaccination shall be performed and written certificates executed only by a doctor licensed to practice veterinary medicine in the state in which the dog is vaccinated.

**Subd. 13. Seizure of Dogs.** Any peace officer, sheriff or sheriff's deputy, animal control officer or any other duly appointed person may enter upon private property and seize any dog provided that the following exist:

- A. There is an identified complainant making a contemporaneous complaint about the animal;
- B. The peace officer, sheriff or sheriff's deputy, animal control officer, or other duly appointed person reasonably believes that the dog meets either the barking dog criteria set out in Subd. 4; the criteria for an at large dog set out in Subd. 1; or is not receiving the basic care or is being mistreated as provided in Subd. 18;
- C. The peace officer, sheriff or sheriff's deputy, animal control officer, or other duly appointed person has made a reasonable attempt to contact the owner of the dog and those attempts have been unsuccessful;
- D. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
- E. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is unsuccessful.

**Subd. 14. Diseased Animals.**

- A. Keeping of Diseased Animals. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased, rabid or exposed to rabies so as to be a danger to the health and safety of the City, even if the animal is properly licensed under this Section.
- B. Dogs Bitten By A Rabid Animal. The following rules shall apply in the case of dogs known to have been bitten by rabid animals. For the purposes of this Subdivision, any bat, skunk, civet cat, raccoon or fox that bites a dog shall be deemed a rabid animal, unless proven otherwise.
  - 1. If the bitten (exposed) dog has not been vaccinated in accordance with the provisions of this Section, said bitten exposed dog shall be destroyed immediately. If the owner is unwilling to destroy the bitten (exposed) dog, said dog shall be placed in strict isolation in a veterinary hospital under veterinary supervision for a minimum period of 6 months at the owner's expense. Before release of the dog, it shall be vaccinated against rabies 1 month prior to its release at the owner's expense.
  - 2. If the bitten (exposed) dog has been vaccinated in accordance with the provisions of this Section, said bitten dog shall be revaccinated immediately and shall be placed in strict isolation in a veterinary hospital under veterinary supervision for a minimum period of 40 days following revaccination at the owner's expense. If the bitten (exposed) dog is not revaccinated immediately, it shall be placed in strict isolation in a veterinary hospital under veterinary supervision for a minimum period of 6 months at the owner's expense.

- C. **Disposition of Certain Animals.** If any animal in the City is diseased, rabid or exposed to rabies, vicious, dangerous or believed to be mortally wounded, and if such animal cannot be impounded after reasonable effort, or cannot be impounded without serious risk to the person attempting to impound such animal, it may be immediately killed by an animal control officer, sheriff or sheriff's deputy, peace officer or other duly appointed person without notice to the owner..

**Subd. 15. Dangerous and Potentially Dangerous Dogs.**

- A. Attack by A Dog. It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This Section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

B. Definitions.

1. A dangerous dog is a dog that has:
  - i) without provocation, inflicted substantial bodily harm on a human being on public or private property;
  - ii) killed a domestic animal without provocation while off the owner's property; or
  - (iii) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.
2. A potentially dangerous dog means any dog that:
  - i) when unprovoked, inflicts bites on a human or domestic animal on public or private property;
  - (ii) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
  - (iii) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

3. Provocation. Provocation means an act that an adult could reasonably expect may cause a dog to attack or bite.

- C. Designation as Potentially Dangerous Dog. The animal control officer, sheriff or sheriff's deputy, or other duly appointed person shall designate any dog as a potentially dangerous dog upon receiving evidence that such dog has met 1 or more of the conditions stated in Subpart B(2) of this Subdivision. When a dog is declared potentially dangerous, the Clerk or his/her designee shall cause the owner of the potentially dangerous dog to be notified in writing pursuant to Subpart E. Every owner of a potentially dangerous dog shall also be required to meet the criteria set forth in Subpart F(1)(a), (d), (g), (h) and (i) of this Subdivision. The owner of a dog declared potentially dangerous may appeal the declaration in accordance with and subject to the requirements of Subpart E. The owner must request the appeal hearing within 14 days of the date of the notice or the owner's right to appeal is waived.
- D. Designation as a Dangerous Dog. The animal control officer, sheriff or sheriff's deputy, or other duly appointed person shall designate any dog as a dangerous dog upon receiving evidence that the dog has met 1 or more of the conditions stated in Subpart B(1) if this Subdivision. When a dog is declared dangerous, the Clerk or his/her designee shall cause the owner of the dangerous dog to be notified in writing pursuant to Subpart E. The owner of a dog declared dangerous may appeal the declaration in accordance with and subject to the requirements of Subpart E. The owner must request the appeal hearing within 14 days of the date of the notice or the owner's right to appeal is waived.
- E. Notice and Appeal Procedures for Determination of Potentially Dangerous and Dangerous Dogs.
1. When the animal control officer, sheriff, sheriff's deputy or other duly appointed person has determined that a dog is a dangerous or potentially dangerous dog, the Clerk or his/her designee shall notify the owner in writing of that determination. The notice shall include:
    - (i) a description of the dog; the authority for and purpose of the potentially dangerous or dangerous dog declaration and seizure, if applicable; the time, place, and circumstances under which the dog was declared potentially dangerous or dangerous; and, if the dog has been seized, the telephone number and contact person where the dog is kept;
    - (ii) a statement that the owner of the dog may request a hearing concerning the potentially dangerous or dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations unless a hearing was previously held on a prior potentially dangerous dog declaration or waived either by the owner or by operation of law, and that failure to do so within

14 days of the date of the notice will terminate the owner's right to a hearing;

- (iii) a statement that if a request for a hearing to appeal a dangerous dog declaration is made within 14 days of the notice, the owner must immediately comply with the requirements of Minnesota Statute § 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;
- (iv) a statement that if the hearing officer affirms the potentially dangerous or dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other applicable requirements under this Section and Minnesota Statutes §§ 347.51, 347.515, and 347.52;
- (v) a statement that in the event the potentially dangerous or dangerous dog declaration is upheld by the hearing officer, the actual expenses of the hearing, up to the maximum of \$1,000 will be the responsibility of the owner;
- (vi) a form to request a hearing under this Subpart; and
- (vii) a statement, when applicable, that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the animal, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

2. If the owner requests a hearing, the date for the hearing shall be set not more than 14 days after receipt of the request for hearing. The hearing shall be held by a hearing officer, who shall be appointed by the City Administrator. The hearing officer shall be an impartial employee of the City, or an impartial third party chosen by the City Administrator. Upon conclusion of the hearing, the hearing officer shall, within ten (10) days, make his/her decision which reverses or affirms the determination that the dog is potentially dangerous or dangerous. The City shall notify the owner in writing of the hearing officer's decision ("hearing officer's Notice of Decision") by either hand delivery or registered mail. If the hearing officer's decision is to affirm the determination, he/she shall include in the hearing officer's Notice of Decision his/her findings and conclusions supporting his/her decision. The decision of the hearing officer shall be final. In the event the potentially dangerous or dangerous animal declaration is upheld, actual expenses of the hearing up to \$1,000.00 will be the responsibility of the owner. The City shall within 30 days of delivery of the hearing officer's Notice of Decision mail an invoice to the owner outlining the actual expenses of the hearing.

3. No person shall harbor a dog after it has been found to be potentially dangerous or dangerous and ordered into custody until the requirements of this Section are met.
4. Beginning 6 months after a dog is declared potentially dangerous or dangerous hereunder, an owner may request annually that the Council review the designation by serving upon it a written request for review that includes the full name, address and telephone number of the requestor, a list of names and addresses of all owners of the dog, the requestor's ownership interest in the dog, and a summary of the basis for the claimed change in the dog's behavior. The request for review shall be accompanied by all documents in support of the contention that the dog's aggressive behavior has been modified. If the declaration is rescinded, the Council may impose other limitations or conditions on the dog or dog owner as it sees fit.

F. Dangerous Dog Requirements. Owners of dogs declared dangerous by the City shall comply with the following requirements:

- a. Requirements as set forth in Minnesota Statute § 347.52, et al.;
- b. Post the front and rear of the owner's premises with clearly visible warning signs, including a warning symbol to warn children, that there is a dangerous animal on the property as specified in Minnesota Statute § 347.51;
- c. Provide and show proof annually of a surety bond issued by a surety company authorized to conduct business in Minnesota in a form acceptable to the City in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in Minnesota in the amount of at least \$300,000.00, insuring the owner of any personal injuries inflicted by the dangerous dog;
- d. If the animal is a dog and is outside the proper dog enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed 6' in length) and the under the physical restraint of a person 16 years of age or older. The muzzle must be of such a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
- e. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute § 347.51;
- f. All animals deemed dangerous by the City shall be registered and specifically licensed as a dangerous dog along with payment of an appropriate fee established by the City. The animal shall be registered and



licensed within 14 days after the date the animal is so deemed and provide statutory proof thereof to the Clerk. Animals declared dangerous by another jurisdiction must be registered and licensed with the City prior to the animal being brought into the City.

- g. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination.
- h. The owner of a dangerous or potentially dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and the identification number. The microchip must be provided to the Clerk as required under Minnesota Statute § 347.515.
- i. The dog must be kept in a proper dog enclosure as defined in Subdivision 23 of this Section.

G. Seizure. The animal control officer, sheriff or sheriff's deputy or other duly appointed person shall immediately seize any dangerous animal if the owner does not appeal the City's dangerous dog declaration or meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Any dangerous animal being relocated to the City that has been declared in another jurisdiction may be seized immediately if the owner has not complied with the standard set forth in this Section prior to the animal being brought into the City. Seizure may be appealed pursuant to Subpart E.

H. Reclaiming Animals. A dangerous animal seized under Subpart G may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof that each of the requirements under Subpart F are fulfilled. An animal not reclaimed under this Subpart within 14 days may be disposed of as provided under Minnesota Statute § 35.71, Subd. 3, and the owner shall be liable to the City for costs incurred in confining the animal.

I. Subsequent Offenses.

- 1. If a person has been convicted of a misdemeanor for violating a provision of Minnesota Statute §§ 347.51, 347.515 or 347.52, and the person who is charged with the subsequent violation relating to the same dog, the City shall seize the dog and the provisions of Minnesota Statute § 347.54, Subd. 3 shall apply.
- 2. If an owner of an animal other than a dog has subsequently violated the provisions under Subpart B with the same animal, the animal must be seized by the City. The owner may request a hearing as defined in Subpart E. If the owner is found to have violated the provisions for which the animal was seized, the City shall order the animal destroyed in a proper and humane manner and the owner shall pay the cost of confining the animal. The persons found not to have violated the

provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Subpart H. If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed the animal may be disposed of pursuant to Minnesota Statute § 35.71, Subd. 3, and the owner shall be liable to the City for costs incurred in confining, impounding and disposing of the animal.

- J. Exemption. An animal may not be declared dangerous if the threat, injury, or damage was sustained by a person;
1. Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the animal;
  2. Who was provoking, tormenting, abusing or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the animal; or
  3. Who is committing or attempting to commit a crime.

**Subd. 17. Restrictions on Dog Ownership.**

- A. Except as provided in Subpart C of this Subdivision no person may own a dog if the person has:
1. Been convicted of a third or subsequent violation of Minnesota Statute §§ 347.51, 347.515, or 347.52;
  2. Been convicted of a violation under Minnesota Statute § 609.205, clause (4);
  3. Been convicted of a gross misdemeanor under Minnesota Statute § 609.226, Subdivision 1;
  4. Been convicted of a violation under Section 609.226, Subdivision 2; or
  5. Had a dog ordered destroyed under Section 247.56 and been convicted of one or more violations of Minnesota Statute §§ 347.51, 346.515, 347.52, or 609.226, Subdivision 2.
- B. If any member of a household is prohibited from owning a dog in Subpart A above, unless specifically approved by the Council, no person in the household is permitted to own a dog.
- C. Beginning 3 years after a conviction under Subpart A, that prohibits a person from owning a dog, and annually thereafter, the person may request that the Council review the prohibition. The Council may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Council deems appropriate. The Council may rescind the prohibition entirely or rescind

it with limitations. The Council also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Council rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the Council or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Council may permanently prohibit the person from owning a dog in this state.

**Subd. 18. Basic Care.** All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. No person shall permit feces, urine or food scraps to remain in an area for a period that is longer than reasonable and inconsistent with health and sanitation and the prevention of odors. No person shall beat, treat cruelly, torment or otherwise abuse any animal or permit any animal fights. No owner of an animal shall abandon such animal. Any person not treating animals in a humane manner will be subject to the penalties provided in this Section.

**Subd. 19. Breeding Moratorium.** Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

**Subd. 20. Enforcing Officer.** The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this Section. In the officer's duty of enforcing the provisions of this Section, he or she may from time to time, with the consent of the Council, designate assistants.

**Subd. 21. Pound.** Every year the Council shall designate an official pound to which animals found in violation of this Section shall be taken for safe treatment, and if necessary, for destruction.

**Subd. 22. Interference with Officers.** No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs, cats or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Section, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Section.

**Subd. 23. Dog Enclosures.**

- A. As used in this Subdivision, the term "dog enclosure" means any enclosure constructed for shutting in or enclosing dogs and having an area less than 2,000 square feet.
- B. Dog enclosures must be screened from view of adjacent property. Screening must consist of a solid fence, or equivalent, as approved by the Building Official or his/her designee, not less than 5 feet in height. The screening must include in its design provision for air to circulate under and through the screening material. Such screening must be constructed in

a structurally sound and physically attractive manner, and the screening must be maintained so as not to create a blighting influence to the neighborhood.

- C. A dog enclosure shall not be placed closer than 10 feet to any lot line, except no dog enclosure shall be placed in a front yard, and in no event shall a dog enclosure be placed closer than 50 feet of any dwelling unit other than the owner's property.
- D. No person shall permit feces, urine, or food scraps to remain in an enclosure for a period that is longer than reasonable and consistent with health and sanitation and the prevention of odors.
- E. This Subdivision shall be applicable to all dog enclosures constructed after the effective date hereof. Any owner of an existing dog enclosure which is a nuisance or source of filth may be required to comply with this Section by notice of compliance given by the Clerk or his/her designee. Failure to comply with such a notice within 30 days of issuance shall be a violation of this Subdivision.

#### **SECTION 407.01. KENNELS.**

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

- A. "Private kennel" means a place where 3 or more dogs over 6 months of age are kept by their owner for no commercial purpose.
- B. "Commercial kennel" means a place where any number of dogs of any age are kept, confined, or congregated for the purpose of selling, boarding, breeding, training, treating or grooming.

**Subd. 2. License Required.** No person shall operate or maintain either a private or commercial kennel without a license therefor from the City.

**Subd. 3. License Restriction.** Kennel licenses shall be granted by the Council in only those instances where it finds the location and operation of the kennel will not adversely affect the public health, safety and general welfare. No commercial kennel shall be established or maintained on any residentially zoned property nor shall any private kennel be established or maintained in any area where the lot is less than one acre.

#### **SECTION 408.01. PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS.**

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

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

- A. “Peddler” means any person, whether a resident of the City or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales where payment is received immediately for future delivery to purchasers. It does not include vendors of milk, bakery products or groceries who distribute their products to regular customers on established routes.
- B. “Peddling” means the act of being a peddler.
- C. “Solicitor” means any person, whether a resident of the City or not, who goes from house to house, from place to place, or from street to street with the intention of taking immediate orders for services or goods for future delivery and payment. All solicitors dealing with merchandise of any kind to be delivered to customers directly from points outside the State shall be exempt from payment of the license fee.
- D. “Transient merchant” includes any person, firm, individual, corporation, limited liability company, and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient selling and delivering of goods, wares and merchandise within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad car, boat, public room in hotels, lodging houses, apartments, shops, or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition does not include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples or the purpose of securing orders for future delivery only.

**Subd. 3. Permit Required.** It is unlawful for any peddler, solicitor or transient merchant to engage in any such business within the City without first obtaining a permit therefor from the City in compliance with the provisions of this Section.

**Subd. 4. Exemptions.** The terms of this ordinance do not include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newspaper carriers, nor to the acts of merchants or their employees in delivering goods already sold in the regular course of business, nor to the sale of farm or garden products by the person producing the same, which production shall be proven by the vendor, nor sales of admissions by local school students to a school function, nor a seller or exhibiter in a firearms collector show involving 2 or more sellers or exhibitors. Nothing contained in this ordinance prohibits any sale required by statute or by order of any court, or prevents any person conducting a bona fide auction sale pursuant to law. Nor shall Subd. 5 apply to solicitations by any organization for philanthropic, religious or educational causes if the following procedure has been accomplished: the requesting entity must file a sworn application in writing on a form to be furnished by the Clerk which shall give the following information:

- A. Name and purpose of the cause for which exemption is sought;
- B. Names and addresses of the officers and directors of the organization;
- C. Period during which solicitation is to be carried on;
- D. Whether or not any commission, fee or wages are to be expended in connection with such solicitation and the amount thereof.

Upon being satisfied of the philanthropic, religious or educational cause of such organization, the Clerk shall issue a permit without charge to such organization, association or corporation to solicit in the City. Such organization, shall furnish all of its members, agents, or representatives conducting solicitation credentials in writing stating the name of the organization, name of agent and purpose of solicitation.

**Subd. 5. Application.** Applicants for a permit under this ordinance shall file with the City Clerk a sworn application in writing on a form to be furnished by the Clerk. The applicant shall furnish the following information:

- A. Name and physical description of applicant;
- B. Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;
- C. A brief description of the nature of the business and the goods to be sold;
- D. The name and address of the employer, principal or supplier of the applicant, together with credentials therefrom establishing the exact relationship;
- E. The length of time for which the right to do business is desired;
- F. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- G. A recent photograph of the applicant which picture shall be approximately 2" by 2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
- H. A statement as to whether the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, other than petty misdemeanor traffic violations, the nature of the offense and the punishment or penalty assessed therefor.
- I. The most recent 3 municipalities where applicant carried on business and the addresses from which such business was conducted in those municipalities.

**Subd. 6. Investigation and Issuance.**

- A. Upon receipt, each application shall be referred to the Council which shall institute such investigation of the applicant as is deemed necessary for the protection of the public good. An applicant may be found to be unsatisfactory for reasons including, but not limited to:
1. Fraud, misrepresentation or an incorrect statement contained in the application for permit;
  2. Past fraud, misrepresentation or an incorrect statement made in the course of carrying on business as a solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor;
  3. Past conviction of any crime or misdemeanor involving fraud, theft or moral turpitude;
  4. Conducting the business of a peddler, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may have been, in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to health, safety or general welfare of the public.
- B. Each peddler, solicitor, or transient merchant must secure a personal permit. No permit shall be used at any time by any person other than the one to whom it is issued. The Clerk shall keep a permanent record of all permits issued.

**Subd. 7. Restrictions.**

- A. Loud Noises and Speaking Devices. No permittee, nor any person on behalf of the permittee, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the City or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell.
- B. Signs. Any resident of the City who wishes to exclude peddlers or solicitors from premises occupied by him/her may place upon or near the usual entrance to such premises a printed placard or sign bearing the notice: "Peddlers and Solicitors Prohibited." Such placard shall be at least 3-3/4 inches long and 3-3/4 inches wide and the printing thereon shall not be smaller than 48-point type. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.
- C. Use of Streets. No permittee, nor any person on behalf of the permittee, shall have any exclusive right to any location in the public streets, nor shall any be permitted in a

stationary location in the public streets or public right-of-way, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience public use of such streets. For the purpose of this Section, the judgment of a county sheriff's deputy, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

- D. Exhibition of Permit. Permittees are required to exhibit their permit at the request of any person.

**Subd. 8. Revocation of License.**

- A. Permits issued under the provisions of this ordinance may be revoked by the Council of the City after notice and hearing, for any of the following causes:
1. Fraud, misrepresentation or incorrect statement contained in the application for permit;
  2. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor;
  3. Any violation of this Section;
  4. Conviction of any crime;
  5. Conducting the business of a peddler, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner of in such a manner as to constitute a breach of peace or to constitute a menace to health, safety or general welfare of the public.
- B. Notice of the hearing for revocation of a permit shall be given by the Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee to his last known address at least five days prior to the date set for hearing, or shall be delivered by a peace officer in the same manner as a summons at least three days prior to the date set for hearing.
- C. No permittee whose license has been revoked shall make further application until at least 6 months have elapsed since the last previous revocation.

**Subd. 9. Expiration of Permit.** All annual permits issued under the provisions of this Section shall expire at midnight on December 31 in the year when issued. Permits that are not issued on an annual basis, shall expire at midnight on the dates specified in the license.

**SECTION 409.01. MOVING BUILDINGS.**

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



- A. “Building” means any permanent structure that is at least 16 feet wide or 20 feet long designed, built or occupied primarily as a shelter for persons or property, and generally used or intended to be used for residential, business, mercantile, storage, religious, recreational or educational purposes.
- B. “Street” means all streets, highways, roads, alleys, and right-of-ways in the City.

**Subd. 2. Moving Permit.**

- A. No person shall move a building on any street unless and until the owner of said building obtains a moving permit from the City. No such permit shall be granted to the owner unless it is endorsed by a building mover licensed by the State, acknowledging that the building mover knows the contents of this Chapter and agrees to be bound hereby and by all conditions placed upon the permit.
- B. Application for a moving permit shall be made in writing upon a form provided by the City, and shall be accompanied by a copy of the building mover’s State license. The Building Official shall review the application and make a recommendation as to whether to grant or deny the permit and, if granted, what conditions shall attach to the granting of the permit. The Clerk shall then submit the application, along with the Building Official’s recommendations, to the Planning Commission, or, in the Clerk’s discretion, directly to the Council. If the application is first submitted to the Planning Commission, the Planning Commission shall review the application and make a recommendation on the application to the Council.

**Subd. 3. Submissions to Accompany Permit Application.** The application for a moving permit shall include the following:

- A. State the approximate size and weight of the building proposed to be moved, the street address and legal description the place from which and to the building is proposed to be moved; the proposed route to be followed; the proposed dates and time of moving and parking; the name and address of the proposed mover; the municipal utility, street, and public property repairs or alterations that will be required by reason of such movement; and a site plan illustrating that the proposed location to which the building will be moved is in conformance with City zoning standards.
- B. Written evidence from the owner of the building that the applicant is entitled to move the building.
- C. Written evidence of arrangements with all public utility companies whose wires, lamps, poles or the like are required to be removed or otherwise altered in order to move the building.
- D. If the building is to be moved over any state, county or township roadways located within the City, written evidence of permission to so move issued by the appropriate state, county or township department, or the issuance of a permit if required.

- E. If the building is to be moved over any railroad tracks within the City, written evidence of permission to so move issued by proper railroad officials, or the issuance of a permit if so required, the specific time during which the buildings may be transported across any railroad tracks, the and location of said crossing.
- F. Written evidence of adequate insurance for all risks related to moving the building.
- G. The issuance of a permit hereunder shall be conditioned on applicant's filing with the City a performance surety bond or cash deposit in the sum to be fixed by the Council, which bond or deposit shall guarantee the performance of all of the conditions of the permit and the conditions provided in this ordinance.
- H. Written evidence that all taxes, assessments and any other charges against the building and lot from which a building located within the City is to be removed are paid in full.

**Subd. 4. Duties of the Building Mover.** In every case where a building is to be moved on or over City streets, the building mover shall:

- A. Notify the Council in writing of damage caused to property belonging to the City or any public utility within 24 hours after the damage or injury has occurred.
- B. Cause such lights to be displayed and such barriers to be erected as are required by law, or by law enforcement officers.
- C. Not park the building on any City street at any time during the moving process, unless specifically permitted in the permit application and approved by the City.
- D. Pay the expense of any traffic officer ordered by the City to accompany the movement of the building to protect the public from injury.
- E. Comply with the State Building Code, all provisions of the City Code, all conditions of the permit issued hereunder, and any other applicable law or permit.
- F. Notify the Building Official within 24 hours after the move is completed.

**Subd. 5. Duties of the Owner.** The owner of the building to be moved shall comply with the following requirements:

- A. If the original or final location of the building to be moved is located within the City, the owner shall provide proof of ownership of the land and the building prior to issuance of the permit.
- B. The owner shall remove all rubbish and materials at the original building site, if within the City, so that the premises are left in a safe and sanitary condition. In addition, the owner shall remove foundation structures, fill excavations, and grade the premises in accordance with a plan approved by the Building Official.

- C. The owner shall seal all utilities, including but not limited to causing any sewer lines to be plugged with a concrete stopper, and the water to be shut off at the originating site of the building if it is located within the City. The owner shall notify gas, electric and other utilities to remove their services.
- D. The owner shall take all reasonable precautions to secure the building and to reduce danger to members of the public until the building is set on its foundation and any remodeling, additions or repairs described in the application have been completed, including but not limited to, (1) locking all doors and windows; (2) providing sufficient support or bracing so as to stabilize the building to prevent it or any part thereof from sliding, slipping, falling or moving, and (3) adequately preventing access to any excavation or hole.
- E. The owner shall obtain an inspection from the Building Official for any buildings being moved into the City.

**Subd. 6. Liability.**

- A. The holder or holders of a permit shall be liable, jointly and severally, for any expenses, damages, fines, penalties, attorney fees and costs, injunctions, settlements or other costs paid or incurred by the City as a result of the issuance of a permit or the taking or failure to take any action by the holder or holders of the permit, or as a result of moving the building.
- B. Upon completion of the moving of a building pursuant to a permit, the amount which the applicant has deposited or bonded in conjunction with the permit shall be returned to the applicant, less all amounts for which any holder of a permit shall or may become liable to the City, which the City may retain under any provision of this Section. The permit fee paid upon filing of the application shall not be returned.

**Subd. 7. Denial of a Permit.** Any permit under this Section may be denied or revoked upon a finding of any one of the following:

- A. Applicant has not complied with any requirement of this Section;
- B. Persons or property in the City would be endangered by moving the building, because of shape, size, route, stability, equipment or for any other reason;
- C. The building or its use would not be in compliance with zoning, building codes or other law.
- D. Any other reasonable cause.

**SECTION 410.01. NUMBERING OF HOMES AND BUSINESS PLACES.**

**Subd. 1. Display.** The current addresses of all homes, other buildings occupied for living purposes, and business buildings shall be displayed on the exterior of the structure facing the

street. The display of the address shall be located on the side of the building for which its address is assigned.

**Subd. 2. Size of Numbers.** Each number of the address attached to the home or business shall be plainly visible and legible from the street or road fronting the property. For residential properties, the numbers shall be a minimum of 4 inches high and a minimum stroke width of 0.5 inch. For commercial properties, the numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inch. The number shall be of a color that contrasts to the color of the building to which it is attached. The number of the address shall be in Arabic numbers, Roman numerals, or numbers written in English.

**Subd. 3. Location.** All numbers attached to a home or business place shall be located in a position near the front door of said building so it may be seen from the street or road clearly at night with a spotlight or a porch light attached to the building.

## **SECTION 411.01. PARADES.**

**Subd. 1. Definition.** The term “parade” means any movement of vehicles, persons or animals, or any combination thereof, which either moves together so as to impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulations, if such movement is without a permit hereunder.

**Subd. 2. Permit Required.** No person shall sponsor or participate in a parade for which no permit has been obtained from the City.

### **Subd. 3. Permit Procedure.**

- A. **Application.** Application for a parade permit shall be made to the Clerk at least 30 days in advance of the date on which it is to occur and shall state the sponsoring organization or individual, the route, the length, the estimated time of commencement and termination, the appropriate number of individuals participating, the number and types of vehicles participating, and anticipated safety and security issues, a description of any amplified sound to be used, and the general composition. Such application shall be executed by the individuals applying therefor or the duly authorized agent or representative of the sponsoring organization. The application shall be accompanied by proof of adequate insurance applicable to the parade, a security/safety plan, and a certification by the Wright County Sheriff that the proposed parade will not present undue risks to the safety of parade participants or the general public.
- B. **Investigation.** The Clerk shall forthwith refer all applications for parades to the Council for its consideration. The Council, in conjunction with the appropriate public safety authorities, shall investigate the application to determine whether the proposed parade will create a risk of harm to persons or property, cause inconvenience to the public and whether adequate arrangements have been or can be made for necessary direction and control of traffic. The Council may either (1) deny the permit, (2) grant the permit, or (3)

grant the permit on certain additional conditions, including but not limited to that the parade occurs on a date, time or route that differs from that stated in the application, or the different safety precautions be employed. The applicant shall have three days within which to communicate acceptance of any such additional terms to the Clerk.

**Subd. 4. Unlawful Acts.**

- A. No person shall hamper, obstruct, impede, or interfere with any parade, parade assembly or any person, animal or vehicle participating in a parade, for which a permit has been issued hereunder.
- B. No person shall drive a vehicle between the vehicles or persons comprising a parade when such parade is in motion, unless so directed by appropriate law enforcement authorities.
- C. No person shall enter into a parade without prior authorization from the parade chairperson.
- D. No parade participant who is riding on any vehicle, animal or other parade unit shall hand out, throw, or forcibly eject any substance or article of any kind, including but not limited to candy and other edible items, balloons, novelties and flowers. This prohibition also applies to any participant in the parade who is not riding on a vehicle, animal or parade unit, unless the participant is walking in a safe manner within five feet of the street curb. In no event shall any such substance or article be distributed in such a manner as to encourage minors or other parade viewers to leave the curb and enter the traveled portion of the roadway.

**Subd. 5. Exception.** This Section shall not apply to funeral processions, or a governmental agency acting within the scope of its functions.

**SECTION 412.01. GAMBLING.**

**Subd. 1. Purpose.** The purpose of this Section is to regulate and control the conduct of lawful gambling pursuant to the provisions of Minnesota Statutes Chapter 349.

**Subd. 2. Definitions.** For the purposes of this Section the terms used herein shall have the meanings defined or used in Minnesota Statutes Chapter 349. “Gambling organization” means an organization licensed for charitable gambling by the State or issued a permit for charitable gambling by the City.

**Subd. 3. Additional Regulations.** The following regulations shall apply to the conduct of lawful gambling within the City in addition to the provisions of Minnesota Statutes Chapter 349.

**Subd. 4. Unlicensed or Unpermitted Bingo or Lawful Gambling Prohibited.** Any organization eligible under State law to conduct lawful gambling may do so only after applying for and receiving a license from the State Charitable Gambling Control Board after approval of

the Council or, if exempt from State licensing, after applying for and receiving a permit from the Council.

**Subd. 5. Application.** Organizations exempt from State licensing under Minnesota Statute Chapter 349 that wish to conduct lawful gambling shall make application for a permit with the Clerk on a form the Clerk provides. The application shall be verified by a duly authorized officer of the organization and by the designated gambling manager. No application shall be accepted unless accompanied by the required investigation fee. The Council shall act upon a permit application within 90 days from the date of application, and the permit shall be issued not less than 30 days following approval.

**Subd. 6. Investigation Fee.** The Council by resolution may assess an investigation fee of up to \$100.00 on organizations applying for or renewing a state license for local permit to conduct lawful gambling in the City.

**Subd. 7. Conditions Governing Issuance of Permit.**

- A. Permits shall be issued only where the applicant and all of its owners, managers, employees, or agents are free of convictions for offenses which relate directly to such person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the gambling activities.
- B. No permit shall be issued to an applicant which has, within the State, during the one-year period prior to the date of application, (1) been denied a gambling permit, (2) had a gambling permit revoked, canceled or suspended, or (3) whose owners, managers, or agents have had a permit similarly denied, revoked or suspended.
- C. Permits shall be issued only to applicants who have fully and truthfully provided all of the information requested in the application, who have paid the permit fee in full as well as the fee for investigation, and who have cooperated fully and truthfully with the City in the review of the application.
- D. Permits shall be issued only to fraternal, religious, veteran or other non-profit organizations which have been in existence within the City for at least three years, and have at least 15 present, active members in good standing.
- E. Permits shall be issued only to applicants who can satisfactorily show that they either own or lease the premises where the gambling activity would be conducted. If gambling activity is to be conducted on leased premises, the applicant must satisfactorily show that the lease will exist for a term at least equal in length to the term of the anticipated permit.
- F. The permit applicant shall designate one person to be gambling manager who shall be responsible for the conduct of the business. The gambling manager shall remain responsible for the conduct of the gambling devices, raffles, pull-tabs, and their operation until any other suitable person has been designated in writing as the gambling manager, and an investigation fee and application for a change of manager has been filed, and the proposed successor to the gambling manager shall have been approved by the Council.

The gambling organization shall promptly notify the Council in writing of any such change indicating the address and name of the new gambling manager and the effective date of such change.

- G. Any permit which would result in inconsistency with the City's development plans, land use regulations, or that would otherwise have a detrimental affect upon other persons or properties in the vicinity, shall not be granted.
- H. Upon approval and issuance of a permit, the applicant shall display the permit in a prominent place on the gambling premises at all times.
- I. All permits granted herein are non-transferable with regard to persons, organizations or location.
- J. The permit fee and investigation fee must be tendered with each new application for a permit, and must also be tendered at any time when there is a proposed change of ownership, change of gambling manger or reapplication for a permit. In the event that a permit is denied, revoked, canceled, suspended or surrendered, for whatever reason, neither the annual permit fee or investigation fee will be refunded to the applicant.

**Subd. 8. Conditions Governing all Charitable Gambling.**

- A. The operation of gambling devices or conduct of gambling is not permitted between the hours of 1:00 a.m. and 8:00 a.m. The time limitations specified herein shall be prominently posted on the premises where gambling occurs.
- B. Each gambling organization shall allow all City officials to inspect the premises and gambling operations at all times when gambling operations are open and at any other reasonable times.
- C. Violation of the terms and provisions of this ordinance may be cause for the revocation, suspension or cancellation of other permits or licenses issued by the City to a gambling organization.
- D. Upon request by a City official, any person employed in or by any gambling organization shall furnish identification and correct address.
- E. No natural person under 18 years of age shall be permitted to gamble or be employed in the operation of gambling devices, pull-tabs or raffles, except that those persons under 18 years of age may sell raffle tickets but only while off the gambling premises.
- F. Gambling devices, pull-tabs, raffles and all equipment related to gambling activities shall be kept, maintained, operated or conducted only upon the premises owned or leased by gambling organizations, except that tickets for raffles may be sold off the premises.

**Subd. 9. Expenditures for Lawful Purposes.**

- A. Each organization licensed to conduct lawful gambling within the City must contribute 10% of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City, without cost to such fund, for disbursement by the City of such receipts for (1) charitable contributions as defined in Minnesota Statutes § 349.12, Subd. 7a, or (2) police, fire, and other emergency or public safety related services, equipment and training, excluding pension obligations. For purposes of this Subdivision, “net profits” means gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling.
- B. Each organization licensed to conduct lawful gambling within the City must expend 30% of its expenditures on lawful purposes conducted or located within the county’s trade area. This 30% of its expenditures shall be in addition to the 10% of its net profits contributed to the City pursuant to Subdivision 9A. The county’s trade area is hereby defined to be the geographical limits of Wright County, Minnesota. Franklin Townships, and the City of Independence.

**SECTION 413.01. ADULT USES.**

**Subd. 1. Definitions.** When used in this Section, the following words and terms shall have the meanings stated:

- A. “Adult uses” includes adult bookstores, adult motion picture theaters, adult DVD or CD sales or rentals, adult on-line web services, adult motion picture sales or rentals, adult mini-motion pictures theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes § 617.241 are not included.
- B. “Specified anatomical areas” includes:
  - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and
  - 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- C. “Specified sexual activities” includes:



1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
  2. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
  3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
  5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
  6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
  7. Human excretion, urination, menstruation, vaginal or anal irrigation.
- D. “Accessory adult uses” includes the offering of goods and/or services which are classified as adult uses on a limited scale, as defined in City zoning provisions, and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines and the sale or rental of adult motion pictures, DVDs or CDs.
- E. “Principal adult uses” includes the offering of goods and/or services which are classified as adult uses and which do not meet the definition of accessory adult uses, including but are not limited to the following:
1. Adult Use – Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas.”
  2. Adult Use – Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, DVD’s, CD’s, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age and if a substantial or significant

portion of such items are distinguished and characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas.”

3. Adult Use – Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age and if such dancing or other live entertainment is distinguished and characterized by an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas.”
4. Adult Use – Companionship Establishment. A companionship establishing which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
5. Adult Use – Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk, or discussion, if such services is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
6. Adult Use – Health/Sport Club. A health/sport club which excludes minors by reason of age, if such club is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
7. Adult Use – Hotel or Motel. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished and characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
8. Adult Use – Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
9. Adult Use – Mini-Motion Picture Theater. A building or portion of a building with a capacity for fewer than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age, and if such material is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
10. Adult Use – Modeling Studio. An establishment, if such establishment excludes minors by reason of age, which provides to customers, figure models who are so

provided with the intent of providing sexual stimulation of sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

11. Adult Use – Motion Picture Arcade. Any place, which excludes minors by reason of age, to which the public is permitted or invited wherein credit or debit card, coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, DVDs or CDs projectors or other image-producing devices are maintained to show images to five or fewer person per machine at any one time, and where the images so displayed are distinguished and characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
12. Adult Use – Motion Picture Theater. A building or portion of a building with a capacity of 50 more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age and if such material is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
13. Adult Use – Novelty Business. A Business, which excludes minors by reason of age, which has, as a principal activity, the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
14. Adult Use – Sauna. A sauna which excludes minors by reason of age, and which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
15. Adult Use – Steam Room/Bathhouse/Whirl Pool/Hot Tub Facility. A building or portion of a building used for providing a steam bath, heat bathing room, whirl pool or hot tub, used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air or water if such building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished and characterized by an emphasis on “specific sexual activities” or “specified anatomical areas.”

**Subd. 2. License Required.** No person, firm, or corporation shall operate a principal or accessory adult use without having first secured a license.

**Subd. 3. Applications.** In addition to such information as the City may require, the application shall also include:

- A. The name, residence, phone number and birthdate of the applicant, if an individual; and if a corporation, partnership or other business entity, the names, residences, phone number and birthdates of those owners holding more than five percent of the equity interest in the corporation, partnership or other business entity;
- B. The name, address, phone number and birthdate of the manager of such operation, if different from the owners;
- C. The location of the premises where the adult use is to be located;
- D. A statement detailing each misdemeanor, gross misdemeanor and felony relating to a sex offense and/or the operation of adult uses, the keeping of a disorderly house or disorderly conduct, prostitution, or nuisance and related activities of which the applicant or, in the case of a corporation, partnership or business entity, the owners of more than five percent of the equity has been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;
- E. The activities and types of business to be conducted; Applicant shall provide a description of product line on sale in the premises;
- F. The hours of operation;
- G. The provisions made to restrict access by minors;
- H. A building plan of the premises detailing all internal operations and activities.

**Subd. 4. Granting of License.**

- A. The Council shall investigate all information supplied by the applicant. Opportunity shall be given to any person to be heard supporting or opposing the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application. Criteria for evaluating a license shall include the following:
  - 1. The Application is completed in full and accurate in all respect;
  - 2. The Applicant is in all respects eligible for license;
  - 3. the Location is eligible for license;
  - 4. The Applicant has proven that it can restrict access by minors and will not employ minors on the adult use premises;
  - 5. The Applicant has provided property owner's name and address and business owner's name and address;
  - 6. The Applicant has proven that the use is in compliance with all applicable code regulations;

7. Guarantying the license will not create a risk of harm to the health, safety or welfare of the residents of Delano.
- B. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without Council approval.

**Subd. 5. Persons Ineligible for License.** No license shall be granted to or held by any person or entity:

- A. Under 21 years of age.
- B. Convicted of violating any federal, state or local law or ordinance relating to sex offenses and/or adult uses, prostitution, nuisance, the keeping of a disorderly house or disorderly conduct.
- C. Who is not the proprietor of the establishment for which the license is issued.
- D. Where the owner, manager, or employee have been convicted of a sex crime, as identified in Minnesota Statute §§ 609.293 through 609.352, 609.746 through 609.749, 609.79, 518B.01, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic assault within the past five years, or of any federal, state or local law or ordinance relating to sex offenses and/or adult uses, prostitution, nuisance, the keeping of a disorderly house or disorderly conduct.
- E. Any other person or entity determined to be not in compliance with the Chapter or unsuitable to hold such a license because of legitimate concerns for the health, safety or welfare of Delano residents.

**Subd. 6. Places Ineligible for License.**

- A. No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this Chapter, or where any license hereunder has been revoked for cause, until one 1 year has elapsed after such conviction or revocation.
- B. No license shall be granted for any adult use which is not in compliance with the City's zoning regulations.
- C. No license shall be granted for any premises not in compliance with this Chapter or that is determined by the Council to be unsuitable based upon legitimate health, safety or welfare concerns.
- D. No licensed premises may exceed 10,000 square feet in gross floor area.

**Subd. 7.        Conditions of License.**

- A. All licensed premises shall be operated in compliance with this Code and all other applicable city or state laws and regulations.
- B. All licensed premises shall have the license posted in a conspicuous place at all times.
- C. No person under the age of 18 shall be permitted on the licensed premises for any purpose.
- D. Any designated inspection officer of the City shall have the unqualified right to enter, inspect and search the premises of a licensee during business hours.
- E. Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of order.
- F. No owner, manager, or employee of a licensed premises may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- G. No owner, manager, or employee may allow a patron, employee, or other person on the premises to physically contact a specified anatomical area of himself or herself, or of another person, except that a live performer may touch himself or herself if the performance is otherwise in compliance with law.
- H. A live performer must remain at all times a minimum distance of 10 feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item or article from a member of the audience.
- I. No licensed premises may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
  - 1. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rest rooms, and there are no chairs, benches or reclining surfaces in the rest room; and
  - 2. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the administrative functions of the business and no person other than the owner, manager, and employees is allowed in them.
- J. A licensee must not be open for business to the public:
  - 1. Between 1:00 a.m. and 8:00 a.m., on the days of Monday through Saturday; and

2. Between 1:00 a.m. and 12:00 noon, on Sundays.

## **SECTION 414.01. SWIMMING POOLS.**

**Subd. 1. Definition.** For purposes of this Section a swimming pool is defined as any structure, basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing and having a depth of more than 24 inches at any point and a surface area exceeding 150 square feet.

### **Subd. 2. Fencing Required Around Outdoor Residential Swimming Pools.**

- A. All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four, but not more than six, feet high and located at least four feet from the edge of the pool. The bottom of the fence or wall shall be no higher than four inches above the surface of the ground. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.
- B. The enclosure for outdoor swimming pools may utilize a wall or walls of a house or building as a part thereof provided the wall or walls are at least six feet high and the enclosure is completed by a fence or wall conforming to the provisions of subparagraph A hereof.
- C. This Subdivision and the fencing requirements contained herein do not apply to: (1) above-ground outdoor swimming pools having at least four foot high, vertical or outward inclined sidewalls, provided sole access is by means of a removable ladder, ramp, or stairs which must be removed when the pool is not in use; (2) swimming pools which are wholly enclosed within a building or structure.

### **Subd. 3. Electrical Requirements.**

- A. All electrical installations provided for, installed and used in conjunction with residential swimming pools shall be in conformance with this code.
- B. No electrical conductors carrying current shall cross residential swimming pools, or be installed underground within 15 feet of such pools.
- C. All metal fences, enclosures, or railings near or adjacent to residential swimming pools, which might become electrically alive as a result of contact with broken overhead conductors, or from any other cause, shall be effectively grounded.
- D. Lighting for the pool shall be directed toward the pool and not toward adjacent property.

**Subd. 4. Location.** No portion of a swimming pool or appurtenances thereto shall be located at a distance less than 10 feet from any side or rear property line, nor in front of the building line, nor in a location that does not conform with applicable setback standards, whichever is more restrictive.

**Subd. 5. Heaters.** Electric, oil burning or gas fired heaters and heating equipment shall be underwriter's laboratory (UL) approved and must be installed pursuant to the manufacturer's installation instructions.

**Subd. 6. Water Supply.** Water supplies serving swimming pools shall be of a safe, sanitary quality. The installation of the pool water, supply piping and connection to the source of the supply shall be under the supervision of a licensed plumber. Disposal of water from swimming pools shall take place in accordance with applicable law.

**Subd. 7. Chemical Treatment.** Gaseous chlorination systems may not be used as a disinfection method of pool water. Residential swimming pools shall meet the following standards:

- A. Free chlorine. A free chlorine content shall be maintained between five-tenths and one parts per million. (High-free residual chlorine may be used.)
- B. Alkalinity. A pH level of between seven and one-tenth and seven and eight-tenths shall be maintained. (A higher pH is permitted if high-free residual chlorination is used.)
- C. Bacteriological quality. A sample of swimming pool water shall be considered satisfactory when the total bacteria count at 35 degrees centigrade does not exceed 200 colonies per milliliter and no organism of the E. coli group are present in a 10 milliliter portion or 100 milliliter portion as determined by the membrane filter method. If more than one such sample out of seven collected on different dates is unsatisfactory, the bacterial quality of the pool water will be considered unsatisfactory. Procedures and interpretations relating to bacteriological quality shall be done in accordance with the Standard Methods for the Examination of Water, Sewage and Industrial Waste, 11<sup>th</sup> Edition (1960).

**Subd. 8. Operation.** The pumps, filter, disinfectant and chemical feeders and related appurtenances shall be kept in operation at all times the swimming pool is in use and for such additional periods as needed to keep the pool water clear and of satisfactory bacterial quality.

**Subd. 9. Inspection.** The Building Official and a representative of the Water, Light and Power Commission are authorized to conduct inspections of swimming pools as they deem necessary to insure compliance with all provisions of this Section.

**Subd. 10. Public Swimming Pools.** All public swimming pools within the City shall comply with the Minnesota Pool Code pursuant to Minnesota Rules, Parts 4717.0150 to 4717.3975.

## **SECTION 415.01. FIRE CODE AND OTHER FIRE REGULATIONS.**

**Subd. 1. Adoption.** The Minnesota State Fire Code, hereinafter "MSFC," as adopted pursuant to Minnesota Statutes Chapter 299F.011, including all amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Public Safety, through the Fire Marshall Division, is hereby adopted by



reference. When used in this Section, words and phrases shall have the same meaning as defined in the Minnesota State Fire Code unless it is apparent from the context that a different meaning is intended.

**Subd. 2. Enforcement.**

- A. The MSFC and any State statutes pertaining to fire and fire safety shall be enforced by the Fire Department of the City which shall be operated under the supervision of the City Fire Chief, the Council, and the Building Official under the supervision of the Council.
- B. The City may employ inspectors in order to provide additional enforcement support.

**Subd. 3. Storage of Flammable or Combustible Liquids in Outside, Above Ground Tanks.**

- A. Pursuant to the MSFC, storage of flammable or combustible liquids in outside, above ground tanks is prohibited in all districts except where allowed as permitted by the Chapter 34, Flammable and Combustible Liquids, of the MSFC.
- B. Temporary installations of flammable or combustible liquid tanks, used for construction purposes, may be allowed with a permit obtained from the City Fire Chief or the Building Official.

**Subd. 4. Storage of Explosives and Blasting Agents.** Pursuant to the MSFC, storage of explosives and blasting agents is prohibited in all districts except where permitted by Chapter 33, Explosives and Fireworks, of the MSFC.

**Subd. 5. Liquified Petroleum Gases.** No liquified petroleum gases shall be stored except as follows:

- A. Where a single container or the aggregate of interconnected containers is 500 or more gallons of water capacity, the installer shall obtain a permit and plan approval from the City Fire Chief or Building Official.
- B. A single container installation with a total water storage capacity of 2,000 gallons water capacity or greater, or where the aggregate of interconnected containers is greater than 2,000 gallons, shall be protected by one or more of the following methods:
  - 1. Buried in an approved manner.
  - 2. Mounded in an approved manner.
  - 3. Protected by an approved system for application of water.
  - 4. Protected by other approved means.
- C. In accordance with Chapter 38, Liquified Petroleum Gases, of the MSFC.

**Subd. 6. Appeals.** Whenever the City Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the MSFC do not apply or that the true intent and meaning of the MSFC have been misconstrued or wrongly interpreted, the applicant may appeal from the decision to the Council within 30 days from the date of the decision.

**Subd. 7. Modifications.** The City Fire Chief, upon approval obtained from the Council, shall have the authority to modify any of the provisions of the MSFC upon application in writing by the owner or licensee or a duly authorized agent, where difficulties exist in carrying out a strict interpretation of the MSFC, provided that the spirit of the MSFC shall be observed, public safety secured, and substantial compliance achieved. The reasons for each such modification when granted or allowed, and the decision of the City thereon shall be entered upon the records of the City and a copy thereof furnished to each such applicant.

**Subd. 8. Central Fire Alarm System.** Every school building, dormitory, hospital, nursing or rest home, hotel, motel, or boarding home, and such other premises similarly used, which are designated in writing by the City Fire Chief upon notice to the owners thereof, shall install and maintain a fire alarm system which is connected directly to a central alarm station. Any such structure erected or established hereafter shall be connected to the above described system before the commencement of any such use, or uses, therein.

**Subd. 9. False Alarm.**

A. **Definitions.** The following terms as used in this Subdivision shall have the meanings stated:

1. "Alarm user" means the person, firm, partnership, association, corporation, company or organization of any kind which is in control of any alarm system.
2. "Fire communications center" is the facility used to receive emergency requests for service and general information from the public to be dispatched to respective emergency response units.
3. "Alarm System" means and includes any alarm installation designed to be used for the prevention or detection of burglary, robbery or fire on the premises which contain the alarm installation. Automobile alarm devices shall not be considered an alarm system under the terms of this ordinance.
4. "False alarm" means an audio, visual, computer-generated, or electronically transmitted alarm signal eliciting a response by fire, rescue or other emergency response personnel when a situation requiring a response does not, in fact, exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the actions of the owner or lessee of an alarm system or of his or her employees, agents, or invitees, or the actions of any person on the premises where the alarm system is located. False

alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, or violent conditions of nature.

**B. False Alarm Fees.**

1. An alarm system which reports to the fire communications center more than two false alarms within any consecutive 12 month period will cause the alarm user to be charged a user fee for each false alarm in excess of 2 per consecutive 12 month period. The user fee shall be \$250.00 per false alarm and shall be charged for the third false alarm and for each subsequent false alarm within a consecutive 12 month period.
2. Any alarm user which is required by the City to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the City Clerk through the Fire Chief within 10 days of notice by the City of the false alarm charge. The City Clerk will have authority to make a final determination as to whether the appellant is to be charged.

**C. Payment of fees.**

Payment of false alarm user fees must be paid to the City Clerk within 30 days from the date of notice by the City to the alarm user. Failure to pay the fee within 30 days will cause the alarm user to be considered delinquent and subject to a late payment charge in an amount not to exceed six percent per annum or as the Council shall determine.

**D. False Alarm Report Required.**

When an alarm user has incurred five false alarms or more within a consecutive 12 month period, the alarm user shall submit a written report to the City Clerk within ten days after being charged with the fifth false alarm, describing actions taken or to be taken to discover and eliminate the cause of the false alarms.

**E. Automatic Dialing Devices Prohibited.**

No automatic dialing devices initiating a pre-recorded emergency alarm message shall be connected to the fire communications center through any telephone, cable line or other means, except when authorized by the City Clerk or the Clerk's designee.

**F. Intentional False Alarms Prohibited.**

No person shall intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance or aid or abet in the commission of such act.

**Subd. 10. Notification of Fire Department.**

- A. The manager or person in control of any school, theater, place of worship, institutional building, hotel, public assembly unit, cafe, restaurant, factory, warehouse, mercantile

building, or any multiple dwelling capable of housing eight or more families or having 24 or more sleeping rooms above the first floor, or any other person who discovers a fire, smoke, heat or gases indicating that there is a fire in such building, shall immediately call the Fire Department upon the discovery of such fire, smoke, heat or gases in any such building.

- B. No manager or person in control of any structure referred to in this Section shall issue any instructions directing employees not to notify the Fire Department, or instructing them to delay in calling the Fire Department immediately upon the discovery of a fire, smoke, heat or gases indicating that there is or may be a fire.
- C. Each owner, manager or person in control of any structures referred to in this Section shall post, and keep posted, in conspicuous places in the building, a notice in a form approved by the City Fire Chief directing employees and others to call the Fire Department immediately upon the discovery of fire, smoke, heat or gases indicating that there is or may be a fire.

#### **SECTION 416.01. MINNESOTA STATE BUILDING CODE.**

**Subd. 1. Building Code Adopted by Reference.** The Minnesota State Building Code, as adopted by the Minnesota Department of Labor and Industry pursuant to Minnesota Statutes § 326B.101 through 326B.194, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Department of Labor and Industry, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this Section or amendments to this Section. The Minnesota State Building Code is hereby incorporated in this Section as if fully set forth. The following optional chapters are hereby adopted and incorporated in this Section as if fully set forth in 1306: Special Fire Protection Systems: 1306.0020, Subdivision 3 – New Buildings.

**Subd. 2. Application, Administration and Enforcement.** The application, administration, and enforcement of the Code shall be in accordance with the Minnesota State Building Code. The code shall be enforced within the extra territorial limits permitted by Minnesota Statutes 16B.62, Subd. 1, but only if established by an amending ordinance.

The Code Enforcement Agency of Delano is the Delano City Council.

This Code shall be enforced by the Delano Building Official, or the Building Official's designee. The Delano Building Official is the Minnesota Certified Building Official designated by Delano to administer the Code (Minnesota Statute 326B.133).

**Subd. 3. Permits and Fees.** The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules Parts 1300.0120 and 1300.0160 and accordance with the Delano fee ordinance, No.O-05-11. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minnesota Statute 326B.148.

**Subd. 4. Building Code Optional Chapter Regarding Fire Suppression Systems.** The Minnesota State Building Code permits Delano to adopt by reference and enforce optional

chapters of the most current addition of the Minnesota State Building Code. Delano elects to adopt by reference and enforce Minnesota Rules, Chapter 1306, regarding special fire protection systems, as amended from time to time, Delano selects Subpart 3 of Minnesota Rules Section 1306.0020.

## **SECTION 417.01. TEMPORARY OUTDOOR SALES.**

**Subd. 1. Definition.** As used in this Section, the term “temporary outdoor sales” means a short-term sidewalk sale, holiday tree sale, seasonal supply sale, or special event sale, conducted by businesses, civic organizations or nonprofit organizations that does not meet the definition of a “transient merchant” under Section 409.01, Subd. 2D

**Subd. 2. License Required.** No person, business, civic organization or nonprofit group shall engage in the operation of a temporary outdoor sale without first procuring a license to engage in such business as herein provided.

**Subd. 3. Application, Fee and License Period.** Application for a temporary outdoor sale license shall be made to the Clerk of the City on a form to be provided by the Clerk. Each person or private business may be issued only two such permits per year. Civic organization or nonprofit groups are not limited in the number of permits they may receive. Should an individual or private business participate in a sale organized by a civic organization or nonprofit group, it will not count against the limit of two permits per year. Each permit shall be valid for not more than fourteen consecutive days. The fee for such license shall be established by City Resolution.

**Subd. 4. Operation.** No license shall be issued unless the applicant provides proof of the following.

- A. The temporary outdoor sale is ancillary and subordinate to the principal use of the property.
- B. The temporary outdoor sale is compatible with the principal use of the property.
- C. The sales/activity area shall be located on a single lot, and shall be geographically defined on a site plan.
- D. The Sales/activity area, including temporary structures such as tents may not be located within any easement area, and must be set at least five feet back from all property lines within all zoning districts, with the exception to the B-5 district, where there are no such setback requirements.
- E. There shall be no interference with on-site circulation, parking or loading.
- F. All signage must comply with the City Sign Ordinance.
- G. The applicant must provide proof of insurance to cover the temporary outdoor sale.

- H. The applicant must provide a plan for garbage handling.
- I. If food is served at the temporary outdoor sale it shall comply with all applicable health regulations and shall be prepared with the least possible manual contact and in such a manner as to prevent cross-contamination of products. Only suitable utensils or equipment, which prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination, shall be used in food preparation.
- J. In the event that food is served, restroom facilities must be provided.

**Subd. 5. Responsibility of Operation.** All licensees shall comply with the terms of their license and with the provisions of this Section. Any licensee hereunder shall be held responsible for nuisances emanating from the licensed operation and the licensee shall not permit waste or debris to be deposited on any public or private property or on the licensee's own property.

#### **SECTION 418.01 GARAGE AND YARD SALES**

The following rules shall apply to garage and yard sales located within City limits:

1. Each residential property is limited to 4 garage sales during any consecutive 12 month period.
2. No garage or yard sale shall exceed a period of 72 consecutive hours.
3. Garage or yard sale signs shall not be affixed to utility poles, traffic sign poles, or street signs and shall not be located on medians or in any public right-of-way.
4. The operator of any garage or yard sale shall be allowed 8 off-site signs and 1 on-site sign during the garage or yard sale which must be removed when the sale is complete.
5. Garage or yard sale signs may be up to 6 square feet and 4 feet high. Signs must be located five feet from the curb or shoulder of a road.
6. Items sold at any garage or yard sale shall not include motor vehicles, new merchandise, consignment items or resale items.

#### **SECTION 419.01. PAWNBROKERS**

**Subd. 1. Purpose.** The purpose of this Section is to prevent pawnbroking businesses from being used as facilities for the commission of crime and to assure that such businesses comply with basic consumer protection standards thereby protecting the public health, safety and general welfare of the citizens of the City. The City Council finds that consumer protection regulation is warranted in transactions involving pawnbrokers.

**Subd. 2. Definitions.** The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

A. Pawnbroker. (a) Except as provided in paragraph (b), “pawnbroker” means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

(b) The following are exempt from the definition of “pawnbroker:” any bank regulated by the State of Minnesota, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System, or any other federal or state authority and their affiliates; any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations; any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the Department of Commerce.

B. Pawnshop. “Pawnshop” means the location at which or premises upon which a pawnbroker regularly conducts business.

C. Pawn transaction. “Pawn transaction” means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for fixed price within a fixed period of time.

D. Person. “Person” means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

E. Pledged goods. “Pledged goods” means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

F. Minor. Any individual person under the age of 18 years.

**Subd. 3. License Required.** No person, firm or corporation shall conduct or operate the business of pawnbroker or own or operate a pawnshop without having first obtained a license therefor as herein provided or in violation of any of the provisions herein contained. No pawnbroker license may be transferred to a different location or a different person. A separate license is required for each place of business. The City may issue more than one license to a person if that person complies with this Section for each license.

**Subd. 4. Application for License.** Every application for a license under this Section, whether for a natural person, partnership, corporation or other organization, shall be made on a form supplied by the City and shall contain all information as required on that form by law.

**Subd. 5. Application Execution.** All applications for a license under this Section shall be signed and sworn to. Any license obtained by use of false or incomplete information shall result in the denial or revocation of a license.

**Subd. 6. Application Verification.** All applications shall be referred to the Sheriff Department for verification and investigation of the facts set forth in the application. The Sheriff Department shall make a written report and recommendation to the Council as to issuance or non-issuance of the license. The City may order and conduct such additional investigation as it deems necessary.

**Subd. 7. Application Consideration.** If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

**Subd. 8. Fees.**

A. Application Fee:

1. The application fee shall be set by resolution of the Council.
2. The application fee shall be paid in full before the application for a license shall be accepted.

B. Investigation Fee: An applicant for any license under this Section shall pay the City, at the time an original application is submitted, a nonrefundable fee at a rate set by Council resolution (or an established fee for investigation) for the following:

1. To cover the costs involved in verifying the license application and;
2. To cover the expense of any investigation needed to assure compliance with this Section.

C. License Fee:

1. The license fee shall be paid annually to be determined at the date of issuance of the annual license.
2. The annual license fee shall be set by Council resolution. The application fee shall be credited to the first annual license fee, if the application is approved.

Upon withdrawal, rejection, denial, suspension, or revocation of any application for a license only the annual license fee, or a proportionate amount thereof, shall be refunded in full, but not the investigation fee.

**Subd. 9. Bond.** A pawnbroker license will not be issued unless the applicant files with the Clerk a bond with corporate surety, cash, or a United States Government Bond in the amount of \$5,000.00. The bond must be conditioned on the licensee obeying the laws and ordinances



governing the licensed business and paying all fees, taxes, penalties and other charges associated with the business. The bond must provide that it is forfeited to the City upon violation of law or ordinance.

**Subd. 10. Application Renewal.** All licenses issued pursuant to this Section shall be effective for one year from the date of approval by the City. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in such form as the City requires. No expiration of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor.

**Subd. 11. License Refund.** The City may, in its judgment, refund a pro rata share of the license to the licensee or the licensee's estate if the licensee dies.

**Subd. 12. Death of a Licensee.** In the case of the death of a licensee, the personal representative of the licensee may continue operation of the business for not more than 90 days after the licensee's death.

**Subd. 13. Conditions for Approval of License.** To be eligible for or to maintain a pawnbroker license, a person must operate lawfully and fairly within the purposes of this Section:

- A. No license under this Section shall be issued or renewed for an applicant who is a natural person if such applicant:
  - 1. Is a minor at the time the application is filed;
  - 2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes § 364.03, Subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this Chapter as prescribed by Minnesota Statutes § 364.03, Subd. 3;
  - 3. Holds an intoxicating liquor license under this Code;
  - 4. Is not of good moral character or repute; or
  - 5. Is not in compliance with any provision of this Section.
- B. No license under this Section shall be issued or renewed for an applicant that is a partnership if such applicant has any general partner or managing partner who:
  - 1. Is a minor at the time the application is filed;
  - 2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes § 364.03, Subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker, as prescribed by Minnesota Statutes § 364.03, Subd. 3;
  - 3. Holds an intoxicating liquor license under this Code;
  - 4. Is not of good moral character or repute; or
  - 5. Is not in compliance with any provision of this Section.

- C. No license under this Section shall be issued or renewed for an applicant that is a corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business to be licensed who:
1. Is a minor at the time the application is filed;
  2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes § 364.03, Subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker, as prescribed by Minnesota Statutes § 364.03, Subd. 3;
  3. Holds an intoxicating liquor license under this Code;
  4. Is not of good moral character or repute; or
  5. Is not in compliance with any provision of this Section.
- D. Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.
- E. The following locations shall be ineligible for a license under this Section:
1. No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the State, County, School District, or City are due, delinquent or unpaid. In the event a suit has been commenced under Minnesota Statutes § 278.01-278.03, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.
  2. No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for a license under any of the requirements of this Code, except that a property owner who is a minor or who has been convicted of a crime, other than a crime involving theft or falsehood, shall not make the premises ineligible under this Sub-section so long as all other requirements for a license are met.
  3. Where operation of a licensed premise would violate zoning ordinances or other applicable land use laws.
  4. Where the applicant's present license was issued conditioned upon the applicant making specified improvements to the licensed premise or the property of the licensed premises which improvements have not been completed.
  5. Any property within 10 driving miles of any gambling casino.

**Subd. 14. General License Restrictions.**

- A. Recordkeeping. At the time of making the pawn or purchase transaction, the pawnbroker shall immediately record in English the following information by using ink or other

indelible medium or forms or in a permanent computer record approved by the City, the following information:

1. A complete and accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item.
2. The date and time of pawn or purchase transaction.
3. The full name, residence address, residence telephone number, business address, date of birth and reasonably accurate description (including approximate height, sex and race) of the pledgor or seller.
4. The identification number and state of issue from one of the following forms of identification of the seller or pledgor.
  - a. A current valid Minnesota driver's license;
  - b. A current valid Minnesota identification card; or
  - c. A current valid photo identification card issued by the state of residence or a province of Canada.
5. The amount advanced or paid.
6. The maturity date of the pawn transaction and the amount due; and
7. The monthly and annual interest rates, including all pawn fees and charges.

**B. Printed Record Keeping.** The following shall be printed on all pawn tickets:

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

4. A blank line for the pledgor's signature.
- C. Inspection of Records. The pawnbroker shall make available the information required in Subpart A of this Section during business hours for inspection by the County Sheriff Department and/or issuing authority. If the pawnbroker provides the records in a computerized format, they must be provided in the most recent current version of the Minneapolis pawn system interchange file specification format. The information required in Subpart A of this Section shall be retained by the pawnbroker for at least three years. These records shall be a correct copy of its entries made of the pawn transactions.
- D. Items for Which Weekly Reports to the Sheriff are Required. For the following items, whether sold or pawned, the pawnbroker shall complete forms approved by the Wright County Sheriff Department or issuing authority and send the forms weekly to the Wright County Sheriff Department:
1. Any item with a serial number, identification number, or "Operation Identification" number;
  2. Cameras;
  3. Electronic audio, computer or video equipment;
  4. Precious jewelry, gems and metals;
  5. Artist-signed or artist-attributed works of art;
  6. Firearms; and
  7. Any item not included in 1-6 above, except furniture and kitchen or laundry appliances, which the pawnbroker intends to sell for more than \$200.00.
- E. Weekly Report Forms. The weekly report forms submitted to the Wright County Sheriff Department, delivered by the pawn broker, shall contain the following information in a legible manner:
1. An accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;
  2. The price of the item paid by the pawnbroker, and whether the item was purchased or pawned;
  3. The date, time, and place of receipt of the item;
  4. The name, address, and date of birth of the person from whom the item was received; and
  5. The identification number from one of the following forms of photo identification of the person from whom the item was received:
    - a. a valid driver's license;
    - b. a Minnesota identification card; or
    - c. A photo identification issued by the state of residency or province of Canada of the person from whom the item was received, and current Minnesota address.

- F. County Sheriff Order to Hold Property. Whenever the Wright County Sheriff Department notifies the pawnbroker not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the Wright County Sheriff Department.
- G. Holding period for Pawnbrokers. Any item sold or pawned to a pawnbroker for which a report to the police is required under Subpart D of this Section shall not be sold or otherwise transferred for 60 days after the date of the sale or pawn. However, an individual may redeem an item pawned 72 hours after the item was received on deposit by the pawnbroker excluding Sundays and legal holidays.
- H. Receipt. The pawnbroker shall provide a receipt to the seller or pledger of any item of property received, sold or owned which shall include:
1. The name, address, and phone number of the pawnbroker business.
  2. The date on which the item was received by the pawnbroker.
  3. A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold.
  4. The signature of the pawnbroker agent.
  5. The last regular business day by which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the pawned item on that date.
  6. The annual rate of interest charged on pawned items received.
  7. The name and address of the seller or pledger.
- I. Hours of Operation. No pawnbroker shall keep the pawnbroker business open for the transaction of business on any day of the week before 7:00 a.m. or after 10:00 p.m.
- J. Minors. The pawnbroker shall not purchase or receive personal property of any nature or deposit or pledge from any minor.
- K. Inspection of Items. The pawnbroker shall, at all times during the term of the license, allow the City, county attorney, state attorney general, and any duly authorized state or federal law enforcement officer to enter the premises where the pawnbroker is located, for the purpose of inspecting such premises and inspecting the items, wares, merchandise and pawn books and records for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed.
- L. License Display. A license issued under this Section must be posted in a conspicuous place in the premises for which it is used.
- M. Maintenance of Order. A licensee under this Section shall be responsible for the conduct of the business being operated and shall maintain conditions of order.
- N. Gambling. No licensee under this Section may operate or permit the operation on the licensed premises of any gambling activities including but not limited to dice, slot machines, roulette wheels, punch boards, blackjack tables, pinball machines which

return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash, or any other gambling. No gambling equipment referred to in Minnesota Statutes § 349.11 through 349.40, may be operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes § 349A.01 through 349A.15.

- O. Prohibited Goods. No licensee under this Section shall accept any item of property which contains an altered or obliterated serial number or “Operation Identification” number or any item of property whose serial number has been removed.
- P. Proper Identification. A licensee under this Section shall not accept items of property unless the seller or pledger provides to the pawnbroker one of the following forms of photo identification:
1. A valid driver’s license;
  2. a Minnesota identification card; or
  3. a photo identification issued by the state of residency or province of Canada of the person from whom the item was received, and current Minnesota address.

No other forms of identification shall be accepted.

- Q. Redemption Period. The date by which an item of property that has been pawned must be redeemed by the pledger without risk that the item will be sold must be a day on which the pawnbroker is open for regular business.
- R. Effect of Non-Redemption.
1. A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn, transaction, renewal, or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.
  2. The pawnbroker’s right, title, and interest in the pledged goods under paragraph (1) is qualified only by the pledgor’s right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.
  3. A pawn transaction that involves holding only title to property is subject to Minnesota Chapter 168A or 336.
- S. Photograph Requirement for Pawnbrokers. A pawnbroker shall take either a photograph or a still video of each person selling or pawning any item of property. If a photograph is taken, it shall be at least 2 inches in length by 2 inches in width and shall be immediately developed and referenced with the information regarding the person and the item sold or pawned. The major portion of the photograph shall include a front facial pose. The

pawnbroker shall notify the person of the photography requirement prior to taking his or her photograph. If a still video photograph is taken a video camera shall zoom in on the person pawning or selling the merchandise so as to include a close-up of the person's face. The video photograph shall be referenced by time and date so as to correspond to the merchandise sold or pawned by the person. The pawnbroker shall, by adequate signage, inform the person that he or she is being videotaped. The photographs and videotapes shall be kept by the pawnbroker for four months.

- T. Payment by Check. When a pawnbroker accepts an item for purchase or as security for a loan, payment for any article deposited, left, pledged or pawned in excess of \$100.00, shall be made only by a check, draft or other negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution. This policy must be posted in a conspicuous place on the premises.
- U. Business Only at Licensed Location. A license under this Section authorizes the licensee to carry on its business only at a permanent place of business designated in the license. A municipality may issue more than one license to a person if that person complies with this Section for each license.
- V. Restrictions on Weapons.
  - 1. A pawnbroker may not receive as a pledge or otherwise, or accept for consignment or sale any revolver, pistol, rifle, shotgun or other similar firearms unless said dealer also maintains a federal firearms dealers license.
  - 2. A pawnbroker may not receive as a pledge or otherwise, or accept for consignment or sale, any sawed off shotgun, automatic rifle, black jack, switchblade, or other similar illegal weapons or firearms.

**Subd. 15. Restrictions Regarding License Transfer.** Each license under this Section shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.

**Subd. 16. Suspension or Revocation of License.**

- A. The Council may suspend or revoke a license issued under this Section upon a finding of a violation of:
  - 1. Any of the provisions of this Section; or
  - 2. Any state or federal law regulating pawnbrokers.

Any conviction of the pawnbroker for theft, receiving stolen property, or any other crime or violation involving stolen property shall result in the immediate suspension pending a hearing on revocation of any license issued hereunder.

- B. Except in the case of a suspension pending a hearing or revocation, a revocation or suspension by the Council shall be preceded by written notice to the licensee and a public

hearing. The written notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the pawnbroker. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the pawnbroker by the United States mail addressed to the most recent address of the business in the license application.

**Subd. 17. Permitted Charges.**

1. Notwithstanding any other ordinance, a pawnbroker may contract for and receive a pawnshop charge not to exceed 3 percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20.00 dollars if the property is not in the possession of the pawnbroker.
2. The pawnshop charge allowed under paragraph (1) shall be deemed earned, due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than 2 weeks before the next succeeding date, the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.
3. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this Section.
4. Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this Section, shall be uncollectible and the pawn transaction shall be void.
5. A schedule of charges permitted by this Section shall be posted on the pawnshop premises in a place clearly visible to the general public.

**Subd. 18. Prohibited Acts.**

- A. No pawnbroker, or clerk, agent, or employee of a pawnbroker licensed under this Section shall:
  1. Make any false entry in the records of pawn transaction;
  2. Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transaction;
  3. Refuse to allow the appropriate law enforcement agency, attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;
  4. Fail to maintain a record of each pawn transaction for three years;
  5. Accept a pledge or purchase property from a person under the age of 18 years;



6. Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Section, or providing for a maturity date less than one month after the date of the pawn transaction;
  7. Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in Subd. 19, upon payment of the full amount due to the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to Subd. 14®, or the pledged goods have been taken into custody by a court or a law enforcement office or agency.
  8. Sell or lease, or agree to sell or lease pledged or purchased goods back to the pledgor or seller in the same, or a related transaction;
  9. Sell or otherwise charge for insurance in connection with a pawn transaction; or
  10. Remove pledged goods from the pawnshop premises or other storage place approved by a municipality at any time before unredeemed, pledged goods can legally be sold pursuant to Section Subd. 14(R).
- B. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of Minnesota identification card; or a photo identification issued by the State of residency or province of Canada of the person from whom the item was received, and current Minnesota address.
- C. No licensee may receive any item of property that possess an altered or obliterated serial number or "operation identification" number or any item of property that has had its serial number removed.

**Subd. 19. Redemption; Risk of Loss.** Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or re-purchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

**Subd. 20. Motor Vehicle Title Pawn Transactions; Special Provisions.**

- A. In addition to the other requirements of the chapter, a pawnbroker who holds a title to a motor vehicle as part of the pawn transaction shall:
1. be licensed as a used motor vehicle dealer under Minnesota Statute § 168.27, and post such license on the pawnshop premises;
  2. verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety; and

3. verify that the pledgor has automobile insurance on the motor vehicle as required by law.
- B. A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

**Subd. 21. Penalty.** A violation of this Section shall be a misdemeanor under Minnesota law.

## **SECTION 420.01. FIREWORKS.**

**Subd. 1. Purpose and Findings.** Due to the inherent risks of fire and injury to persons and property associated with the sale, possession and use of fireworks, the Council has determined that it is necessary and in the interest of public health, safety and welfare to establish reasonable regulations concerning fireworks.

**Subd. 2. Definition.** For the purpose of this Section, “consumer fireworks” are defined as wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are non-explosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

### **Subd. 3. License Provisions.**

- A. Sale of Fireworks. It is unlawful for any person to sell, offer for sale, expose for sale, or sell at retail or wholesale, any consumer fireworks in the City without a license.
- B. Provisions of State Law Adopted. The sale, use and possession of all fireworks in violation of Minn. Statute § 624.20 through 624.25 inclusive, which statutory provisions are adopted herein by this reference, are prohibited.
- C. License Application. The applicant shall completely fill out and submit an application form for a consumer fireworks license prepared by the City. Information to be submitted as a part of the license application includes, but is not necessarily limited to, the following information: name, address and telephone number of the applicant; address of location where the consumer fireworks will be sold; a description of the consumer fireworks to be sold; estimated quantity of consumer fireworks that will be stored on the premises; description of the premises and facility from which the consumer fireworks are to be sold, including a floor plan designating the area for storage or display; and approval from the property owner, if different from the applicant.

Prior to the issuance of a license, the City may conduct a criminal records check. The application shall include a certification by the applicant that the location where the consumer fireworks are to be stored or sold is not hazardous to property and does not endanger any person, and that the persons in charge of selling or storing the consumer

fireworks are competent and trained to handle such fireworks. Applications must be made a minimum of 10 days prior to operating.

- D. License and License Fee. Licenses shall be issued for a calendar year. Permit fees shall not be prorated. The annual license fee for a retail seller that is in the business of selling only consumer fireworks shall be \$350.00, and for all other retail sellers, \$100.00.
- E. Revocation of License. Following written notice and an opportunity for a hearing, the City Council may revoke a license for violation of this Section or state law concerning the sale, use, or possession of consumer fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for at least 12 months.
- F. Terms and Conditions of License. A license to sell consumer fireworks shall be issued subject to the following conditions:
  - 1. The license is non-transferable, either to a different person or location.
  - 2. The license must be publicly displayed on the licensed premises.
  - 3. Neither the applicant nor the responsible party for the license shall have been convicted of a felony, or a fire/fireworks-related crime of any kind within 3 years of the date of the filing of the application.
  - 4. The applicant shall procure and maintain a policy or policies of public general liability as specified in Section 401.01 Subd. 4.
  - 5. No display or sale of consumer fireworks shall violate the National Fire Protection Association Standard 1124 (2003 edition) (the “NFPA”).
  - 6. Consumer fireworks storage or sales areas shall provide approved “no smoking” signs in red letters not less than two inches in height on white background. All signs shall be conspicuously posted at each entrance and shall be maintained in legible condition.
  - 7. Smoking shall be prohibited within 50 feet of any building, stand or non-permanent place of business in which consumer fireworks are sold at retail or stored.
  - 8. Each permit holder shall have not less than two water-type or equivalent extinguishers of not less than two and one-half gallon capacity.
  - 9. The premises must be in compliance with the State Building Code and State Fire Code. There shall be at least 2 exits from all buildings from which fireworks are manufactured, stored or sold.
  - 10. All facilities that obtain a permit shall post in a conspicuous location a list of all consumer fireworks displayed and stored on the property. The list shall document

the name, weight, and quantity of the consumer fireworks and be accompanied by the material safety data sheets. Upon request, samples of the consumer fireworks shall be made available to the City for testing.

11. No one under the age of 18 years of age may sell retail consumer fireworks.
12. Photo identification must be checked with each sale. Purchasers must be 18 years of age or older.
13. The sale of consumer fireworks shall occur only where permitted by the City's zoning ordinance and must comply with all zoning ordinance requirements including signs. No manufacturing, sales or storage of consumer fireworks shall occur on property zoned residential, and on property used for educational purposes.
14. The premises are subject to inspection by City employees, the Sheriff's office and fire and building officials during normal business hours.
15. Displays specifically permitted by State law shall be allowed so long as they otherwise comply with this Section.
16. The building, stand or other non-permanent place of business from which consumer fireworks are sold at retail or stored shall comply with all requirements found in Chapter 7 of the NFPA, as amended, which requirements are herein incorporated by reference.

**Subd. 4. Discharge Rules and Regulations.**

- A. It is unlawful to use, fire or discharge consumer fireworks along the route of and during any parade or at any place of public assembly, in any business zoning district and on any public property.
- B. It is unlawful at any time to throw or toss consumer fireworks at any person, animal, vehicle or other thing or object.
- C. Smoking shall be prohibited within 50 feet of any building, stand or other non-permanent place of business in which consumer fireworks are sold at retail or stored.
- D. The discharge of consumer fireworks shall be prohibited within 300 feet of any building, stand or other non-permanent place of business in which consumer fireworks are sold at retail or stored.
- E. Consumer fireworks may only be discharged in an area with a water source connected to a hose or other acceptable means of extinguishing a fire.
- F. The City may ban fireworks displays and the use of consumer fireworks if a drought is evident.

- G. Juveniles under the age of 18 may not possess consumer fireworks unless under the direct supervision of a responsible adult.

**Subd. 5. Public Display.** The public display of fireworks shall require a permit issued by the Fire Chief in accordance with Minnesota Statute § 624.22.

## **SECTION 421.01. CABLE ORDINANCE.**

**Subd. 1. Findings and Intent.** The City finds that the delivery of Cable Service and related communications services may contribute significantly to the communication needs and desires of residents of the City, benefit local economic development, and improve public and municipal services. The City's intent in adopting this Cable Ordinance is to encourage further development of Cable Service and related communications services in the City, and to ensure that all Cable Service providers are subject to comparable obligations and burdens.

**Subd. 2. Short Title.** This Ordinance will be known and cited as the "Cable Ordinance."

**Subd. 3. Definitions.** For the purposes of this Cable Ordinance, the following terms, phrases, words, and their derivations have the meaning given herein. Unless otherwise provided herein, terms, phrases and words contained in this Cable Ordinance shall have the meaning ascribed in the Cable Act, 47 U.S.C. Sec. 521, *et. seq.*, or if not defined herein or in the Cable Act will have their normal and customary meaning. When not inconsistent with the context, words in the singular number include the plural number. The words "must" and "will" are always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

- A. "Basic Cable Service" has the meaning ascribed in Cable Act Section 522(3) and 543(b)(7).
- B. "Cable Communications System," "Cable System" or "System" has the meaning ascribed in Cable Act Section 522(7) and Minnesota Statutes § 238.02, Subd. 3.
- C. "Cable Programming Service" has the meaning ascribed in Cable Act Section 543(1)(2).
- D. "Cable Service" has the meaning ascribed in Cable Act Section 522(6).
- E. "Channel" has the meaning ascribed in Cable Act Section 522(4).
- F. "City" means the City of Delano, Minnesota, a municipal corporation, in the State of Minnesota.
- G. "Commission" means the Sherburne/Wright Counties Cable Communications Commission, a municipal joint powers entity consisting of the following municipalities: Big Lake, Buffalo, Cokato, Dassel, Delano, Elk River, Maple Lake, Monticello, Rockford and Watertown.

- H. “Drop” means the cable that connects the ground block on the Subscriber’s Terminal Device to the nearest feeder cable of the System.
- I. “FCC” means the Federal Communications Commission, or its lawful successor.
- J. “Franchise”, “Cable Franchise” or “Franchise Agreement” means an agreement between the City and any provider of Cable Service pursuant to this Cable Ordinance granting authorization to construct, operate and maintain a System and provide Cable Service in the City.
- K. “Franchise Fee” has the meaning ascribed in Cable Act Section 542(g).
- L. “Grantee” is any recipient of a Franchise, and its agents and employees, lawful successors, transferees or assignees.
- M. “Gross Revenues” means all revenues, as determined in accordance with Generally Accepted Accounting Principles (“GAAP”), received by a Grantee or its affiliates from the operation of a Cable System to provide Cable Service in the City. By way of example and not limitation, Gross Revenues shall include any advertising revenues received by a Grantee or its affiliates in connection with the provision of Cable Service. Gross Revenues shall not include revenues received by a Grantee or its affiliates from the provision of Telecommunications Services or other non-Cable Services in the City, bad debt, credits, refunds and deposits paid to Subscribers, or any taxes, fees or assessments of general applicability collected by a Grantee which are imposed directly on a Subscriber and which are collected by a Grantee for such governmental unit including any PEG Capital Fees. A Franchise Fee is not such a tax, fee or assessment.
- N. “Installation” means the connection of a System with the Subscriber Terminal Device.
- O. “MPUC” means the Minnesota Public Utilities Commission, or its lawful successor.
- P. “Normal Business Hours” has the meaning ascribed in the FCC’s rules, 47 C.F.R. 76.309(c)(4).
- Q. “Normal Operating Conditions” has the meaning ascribed in the FCC’s rules, 47 C.F.R. 76.309(c)(4).
- R. “PEG Access Facilities” means public, educational, and governmental programming channels, or any equipment or facilities for use of such Channels.
- S. “Person” has the meaning ascribed in Cable Act Section 522(15).
- T. “Right-of-Way” or “Rights-of Way” means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units. Right-of-Way does not include

the airwaves above a Right-of-Way with regard to wireless or other nonwire telecommunications or broadcast service.

- U. “Right-of-Way Ordinance” means an ordinance of general applicability adopted by the City establishing requirements regarding regulation, management and use of Rights-of-Way, including registration and permitting requirements.
- V. “Standard Installation” means any residential installation that can be completed using a Drop of 150 feet or less.
- W. “Subscriber” means any Person who lawfully receives Cable Service via a System.
- X. “Telecommunications Services” shall have the meaning ascribed in 47 U.S.C. § 153(46).
- Y. “Terminal Device” means an electronic device that converts signals to a form accessible by the Subscriber.

**Subd. 4. Franchises.**

A. Generally.

1. No person may construct, operate, or maintain a Cable System or provide Cable Service in the City unless and until such Person is granted a Franchise. All Franchises must be granted pursuant to the provisions of this Cable Ordinance.
2. Any Franchise granted hereunder will authorize a Grantee to deliver Cable Services and construct, operate and maintain a Cable System in the Rights-of-Way in the City.
3. All Franchises shall be nonexclusive and City may grant additional Franchises at any time. The City will not grant an additional Franchise on terms and conditions more favorable or less burdensome than those in an existing Franchise. The City may impose additional terms and conditions in any additional Franchise.
4. In the event the City grants an additional Franchise that a Grantee believes is more favorable or less burdensome than its existing Franchise, the Grantee shall have a right to petition for Franchise amendments to relieve the Grantee of provisions making its Franchise less favorable or more burdensome. The Grantee shall file a petition that:
  - a. Identifies the competitor(s);
  - b. Identifies the basis for Grantee’s belief that certain provisions of the additional Franchise are more favorable or less burdensome than its existing Franchise;
  - c. Identifies the Franchise provisions to be amended.

- d. The City shall not unreasonably deny such a petition.
5. This Cable Ordinance and Franchises granted pursuant hereto are intended to comply with Minnesota Statutes Chapter 238. Any applicable requirement established by Minn. Stat. 238.084 not expressly incorporated in this Cable Ordinance or a Franchise shall be deemed incorporated by reference in the Franchise as though fully set forth therein.
6. The performance of any Grantee is subject to periodic evaluation by the City upon reasonable notice to the Grantee.

B. Use of Rights-of-Way.

1. Use of Rights-of-Way to operate a Cable System and provide Cable Service must not be inconsistent with the terms and conditions by which such Rights-of-Way were created or dedicated. Use of Rights-of-way is subject to all applicable legal requirements including any Rights-of-Way Ordinance enacted by the City, provided however that to the extent that rights, duties and obligations regarding the use of Rights-of-Way are specifically addressed in a Franchise, such Franchise terms shall prevail over any conflicting provisions of a Right-of-Way Ordinance.
2. The City may construct, maintain, repair or relocate sewers; grade, pave, maintain, repair, relocate and/or alter any Right-of-Way; construct, repair, maintain or relocate water mains; or construct, maintain, relocate, or repair any sidewalk or other public work.
3. All System facilities, lines and equipment in the City must be located so as not to obstruct or interfere with the proper use of Rights-of-Way, alleys and other public ways and places, and cause minimum interference with the rights of property owners who abut any of these Rights-of-Way, alleys and other public ways and places, and not interfere with existing public utility installations.
4. To the extent required in a Right-of-Way Ordinance, a Grantee must file with the City strand maps, plats, or other record of the location of all facilities constructed in the City, including underground facilities. A Grantee must update such maps, plats and permanent records annually if changes have been made in the System. Consistent with applicable state law, Grantee may identify such maps, plats or other records as “confidential trade secret,” and City shall comply with all state laws regarding the protection and dissemination of such materials.
5. If the City alters the grade or location of any Right-of-Way, alley or other public way, a Grantee shall, at its own expense, upon reasonable notice by City, remove and relocate poles, wires, cables, conduits, manholes and other System fixtures, and in each instance comply with the standards and specifications of City. If City reimburses other occupants of the Right-of-Way, the affected Grantee will be likewise reimbursed.



6. A Grantee shall not place poles, conduits, or other System fixtures where the same will interfere with any gas, electric, telephone, water or other utility fixtures. Any poles, conduits, or other fixtures placed in any Right-of-Way shall be so placed as to comply with all lawful requirements of City.
7. A Grantee will, on request of any Person holding a moving permit issued by the City, temporarily move wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee will be given no less than 10 business days advance notice to arrange for such temporary changes.
8. A Grantee will be liable for the failure to exercise reasonable care during construction, operation or maintenance of a System.

C. Tree Trimming. A Grantee is authorized to trim any trees upon and overhanging the Rights-of-Way, alleys, sidewalks, or public easements of City so as to prevent the branches of such trees from coming in contact with wires and cables of a System. The City may supervise tree trimming activities and condition the authority to trim trees as it deems appropriate.

D. Franchise Term. Franchises will be granted for a term established in the Franchise Agreement. No Franchise may be granted for a period exceeding 15 years from the date of acceptance by Grantee.

E. Regulation of Cable Service. Any Franchise Agreement adopted pursuant to this Cable Ordinance will define the contractual rights and obligations of the City and Grantee, provided however that a Grantee remains subject to the lawful exercise of the City's police power, ordinance-making authority, and power of eminent domain.

F. Initial Franchise Applications.

1. Upon request or its own initiative, the City may initiate the cable franchise application process required by Minnesota Statutes § 238.081. Any Person desiring an initial Franchise must file an application with the City.
2. The City will establish an application fee in an amount to offset the costs of processing applications and awarding an initial Franchise. Such application fees will not constitute a Franchise Fee.
3. Upon receipt of any application for an initial Franchise, City staff will prepare a report and recommendations to the City Council regarding the application(s).
4. A public hearing concerning applications will be held prior to rejection or acceptance of applications, and award of any initial Franchises.

G. Franchise Renewal. Franchise renewals will be conducted in accordance with applicable laws. To the extent authorized by applicable laws, the City may require reimbursement of its expenses incurred in processing the renewal.

**Subd. 5. CONSTRUCTION STANDARDS.**

**A. Registration, Permits and Construction Codes.**

1. Within 90 days of acceptance of an initial Franchise, a Grantee shall apply for any necessary governmental permits, licenses, certificates, and authorizations to construct, repair, replace, relocate, operate, maintain or reconstruct a System. A Grantee may submit permit applications as construction progresses, as agreed upon with the City. A Grantee must strictly adhere to all state and local laws and building and zoning codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the facilities used to provide Cable Service in the City.
2. The City may inspect any construction or installation work performed pursuant to the provisions of a Franchise. The City may make such tests as it must find reasonably necessary to ensure compliance with the terms of this Cable Ordinance, the Franchise, and applicable provisions of local, state and federal law.

**B. Repair of Rights-of-Way and Property.**

1. Any Rights-of-Way or other property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of a Cable System shall be promptly and fully restored by the Grantee performing such work, at its expense, to a condition as good as that prevailing prior to such work.
2. If a Grantee fails to promptly perform the restoration required herein, the City shall have the right, following 10 business days written notice to Grantee, to restore Rights-of-Way and other public property to a condition as good as that prevailing prior to the Grantee's work. The City shall be fully reimbursed by the Grantee for its actual costs relating to such restoration.

**C. Undergrounding of Facilities.**

1. In all areas of the City where utility facilities are required to be placed underground, or where all other utility lines are underground, a Grantee must construct and install System facilities underground.
2. A Grantee must bury new Drops within a reasonable time period, subject to weather conditions. In the event the ground is frozen, a Grantee will be permitted to delay burial until the ground is suitable for burial which in no event must be later than June 30<sup>th</sup>.

D. Erection, Removal and Joint Use of Poles.

1. In any area of the City where facilities may be located above ground, a Grantee must make use of existing poles and other facilities to the extent technically and economically feasible.
2. No poles, above-ground conduits, amplifier boxes, similar structures, or other wire-holding structures may be erected or installed by the Grantee on public property without prior approval of the City with regard to location, height, type and other pertinent aspects.
3. All facilities are subject to applicable zoning and other land use regulations.

E. Safety Requirements.

1. A Grantee must at all times employ ordinary and reasonable care in the construction, installation and maintenance of System facilities and must use ordinary and reasonable methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. All System facilities must at all times be kept and maintained in good condition, order and repair so that the same must not menace or endanger the life or property of the City or any Person.
2. A Grantee must install and maintain equipment and facilities in accordance with all applicable federal and state laws and regulations, any Right-of-Way Ordinance, and the requirements of the National Electric Safety Code and in such manner that they will not interfere with private radio, police and fire communications or any installations of City or of any public utility serving City.

**Subd. 6. System Design and Extension Provisions.**

A. System Capacity and Channels. At a minimum, any Franchise granted hereunder shall describe the Grantee's network in terms of the total System capacity such as the total number of analog and digital video channels that can be provided.

B. Cable Service Availability.

1. Each Franchise will identify a required service area in which a Grantee will be required to offer Cable Service to all dwellings, homes and businesses, subject to a reasonable density threshold. Any additional Franchise will include a service area that is no more favorable or less burdensome than the service area in an existing Franchise.
2. Any Franchise granted hereunder may establish requirements for the extension of the System and provision of Cable Service to areas that may be annexed by the City beyond the initially required service area.

3. Cable Service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides.
- C. Non-Standard Installations. A Grantee must provide Cable Service to any Person requesting other than a Standard Installation except that a Grantee may charge for the incremental increase in material and labor costs incurred above the cost of making a Standard Installation.
- D. Technical Standards. Any System offering Cable Service in the City must comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time.
- E. System Testing.
  1. A Grantee shall perform all System testing required pursuant to the FCC's technical standards and requirements. In the event the City identifies signal or System performance difficulties which may constitute violations of applicable FCC technical standards, the Grantee will be notified and afforded 10 days to correct problems or complaints. If the performance difficulty is not resolved within 10 days in the City's sole determination, the City may require the Grantee to demonstrate compliance via testing or other means selected by the Grantee.
  2. The City may test any System or facilities used to provide Cable Service in the City. The City will seek to arrange its testing so as to minimize hardship or inconvenience to Grantee and Subscribers. In the event that testing reveals that the source of the technical difficulty is within the Grantee's reasonable control, the cost of the testing must be borne by the Grantee. If the testing reveals the difficulties to be caused by factors that are beyond Grantee's reasonable control, the cost of the testing must be borne by the City.
- F. FCC Reports. A Grantee must, upon written request from City, file all required FCC technical reports with the City.
- G. Emergency Alert System. A Grantee must provide an emergency alert system (EAS) that complies with FCC requirements. A Grantee must further ensure that City can insert, or direct the insertion of, brief audio and video emergency messages simultaneously on all Channels or a signal Channel to which Subscribers are directed. The City shall indemnify Grantee for City's use of a Cable System for emergency messages.

**Subd. 7. Consumer Protection and Customer Service Standards.**

- A. Regulation of Cable Services Rates. The City may regulate rates for the provision of Cable Service to the extent allowed under federal or state law(s). A Grantee must file a list of current Subscriber rates and charges with the City, which will be maintained on file with City and will be available for public inspection. A Grantee must give the City

and Subscribers written notice of any change in a Cable Service rate no fewer than 30 days prior to the effective date of the change.

- B. Sales Procedures. A Grantee may not exercise deceptive sales procedures that violate state laws when marketing any of its Cable Services within City. A Grantee may conduct marketing consistent with local ordinances and other applicable laws and regulations.

- C. Telephone Inquiries and Complaints.

A Grantee must maintain local, toll-free or collect call telephone access lines which will be available to its Subscribers 24 hours a day, 7 days a week. A Grantee must comply with the FCC's customer service standards.

- D. Complaint and Other Service Records.

1. Upon written request by the City, and subject to a Grantee's obligation to maintain the privacy of certain information, a Grantee must prepare and maintain written records of all written complaints received and the resolution of such complaints, including the date of such resolution.
2. Written complaint records must be on file at the office of a Grantee. Upon written request by the City, a Grantee must provide the City with a written summary of such complaints and their resolution in a form mutually agreeable to the City and Grantee.
3. Upon written request by the City, a Grantee must provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards required in this Section. A Grantee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards contained in this Section unless a historical record of complaints indicates a failure to comply.

- E. Subscriber Contractors. A Grantee must provide to the City upon request any standard form Subscriber contract utilized.

- F. Video Programming. All Franchises will comply with 47 U.S.C. § 544(b), regarding the broad categories of video programming provided. Individual programming decisions may be made in the Grantee's sole discretion.

- G. Billing and Subscriber Communications.

1. A Grantee must give the City and Subscribers 30 days advance written notice of any changes in rates, programming services, or channel alignments.
2. Bills must be clear, concise, and understandable. Bills must clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within 30 days.

**H. Refunds and Credits.**

1. Credits must be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.
2. In the event a Subscriber establishes or terminates Cable Service and receives less than a full month's Cable Service, the Grantee must prorate the monthly rate on the basis of the number of days in the period for which Cable Service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than the next billing cycle following the return of the equipment supplied by the Grantee if Cable Service is terminated.

**I. Additional Customer Service Requirements.** The City may adopt additional or modified customer service requirements to address subscriber concerns or complaints to the extent permitted by law.

**Subd. 8. Community Services.**

- A. PEG Access Facilities.** Franchises will establish obligations to provide PEG Access Facilities to meet the community's needs and interests. The City will operate, administer and manage PEG Access programming and the City may delegate its PEG Access authority and responsibilities to the Commission. All franchises must contain equivalent PEG Access obligations on any franchised provider of Cable Services.
- B. Service to Public or Educational Institutions.**

Franchises will establish obligations for the provision of free or reduced cost Cable Services to identified public or educational institutions.

**Subd. 9. Administration Procedures.**

- A. Administration of Franchise.** The City will have continuing regulatory authority over Cable Systems, Cable Services, and Franchise compliance. The City may delegate any and all regulatory authority to the Commission. A Grantee must fully cooperate with the Commission in the exercise of regulatory authority delegated by the City.
- B. Franchise Fee.**
1. A Grantee must pay to the City a Franchise Fee in the amount established in the Franchise Agreement.
  2. Each Franchise Fee payment must be accompanied by a report certified by an authorized representative of the Grantee, in form reasonably acceptable to City, detailing the computation of the payment. All amounts paid must be subject to

audit and recomputation by the City and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount.

3. A Grantee may designate that portion of a Subscriber's bill attributable to the Franchise Fee as a separate line item on the bill.

C. Access to Records.

1. The City may, upon reasonable notice and during Normal Business Hours, and subject to the privacy provisions of 47 U.S.C. § 521 et seq., inspect at a mutually convenient location any records of System operations maintained by a Grantee that relate to a Grantee's compliance with its Franchise, including specifically Grantee's Gross Revenue records. A Grantee may identify and label documents as "confidential trade secret" in accordance with this ordinance.
2. A Grantee must prepare and furnish to the City such reports as City may reasonably request with respect to operation of the System and provision of Cable Services in the City, or any other operations, affairs, transactions or property subject to this Franchise.

**Subd. 10. Indemnification and Insurance.**

A. Indemnification of the City.

1. A Grantee must indemnify, defend and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents from and against any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of a System or other facilities used by a Grantee to deliver Cable Service.
2. A Grantee must indemnify, defend, and hold the City, its officers, boards, committees, commissions, elected officials, employees and agents, harmless from and against all lawsuits, claims, actions, liability, damages, costs, expenses or penalties incurred as a result of the award or enforcement of its Franchise.
3. A Grantee shall not be required to provide indemnification or defense for any intentional misconduct, willful neglect or negligence by an Indemnified Party, for any enforcement action taken by the City against a Grantee, or for any claim based solely on the City's operation of PEG Access Facilities, delivery of PEG Access programming, or EAS messages originated by the City. Subject to the limitations in Minnesota Statutes Chapter 466, the City shall indemnify, defend and hold a Grantee harmless from any damage resulting from any intentional misconduct, willful neglect or negligence by the City, its officers, boards, committees, commissions, elected officials, employees and agents, in utilizing PEG Access Facilities or Channels, delivering EAS messages originated by the City, or in connection with work performed on or adjacent to the System.

4. With respect to each claim for indemnification:
  - a. the City must promptly notify the Grantee in writing of any suit, claim or proceeding which gives rise to such right;
  - b. the Grantee must afford the City an opportunity to participate in any compromise, settlement or other resolution or disposition of any suit, claim or proceeding; and
  - c. the City must cooperate with reasonable requests of the Grantee, at Grantee's expense, in its participation in a suit, claim or proceeding.

**B. Insurance.**

1. A Grantee must obtain and maintain in full force and effect, at its sole expense, a comprehensive general liability insurance policy, in protection of the Grantee, and the City, its officers, elected officials, boards, commissions, agents and employees for damages which may arise as a result of operation of the System or delivery of Cable Service.
2. The policies of insurance must be in the sum of not less than \$1,000,000.00 for personal injury or death of any one Person, and \$2,000,000.00 for personal injury or death of two or more Persons in any one occurrence, \$500,000.00 for property damage to any one person and \$2,000,000.00 for property damage resulting from any one act or occurrence.
3. The insurance policy must be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance must contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after 60 days advance written notice have been provided to the City.

**Subd. 11. Franchise Transfer or Abandonment.**

- A. Abandonment of Service. A Grantee may not discontinue the provision of Cable Service without having first given three months written notice to the City.

B. System Removal After Abandonment, Termination or Forfeiture.

1. In the event of termination or forfeiture of the Franchise or abandonment of the System, the City may require the Grantee to remove all or any portion of its System from all Rights-of-Way and public property within the City; provided, however, that the Grantee will not be required to remove its System to the extent it lawfully provides Telecommunications Services over the System.



2. If the Grantee has failed to commence removal of its System, or such part thereof as was designated by the City, within 120 days after written demand for removal is given, or if the Grantee has failed to complete such removal within 12 months after written demand for removal is given, the City may apply funds secured by the Franchise toward removal.

C. Sale or Transfer of Franchise.

1. No sale or transfer of ownership of a Grantee or “fundamental corporate change” in a Grantee as defined in Minn. Stat. 238.083, nor sale or transfer of a Franchise is permitted without City approval. Any sale or transfer of stock in a Grantee creating a new controlling interest constitutes a sale or transfer of ownership. A “controlling interest” includes majority stock ownership or a lesser amount sufficient to confer actual working control in whatever manner exercised. City approval shall not be required where a Grantee grants a security interest in its Franchise or System to secure an indebtedness.
2. A Grantee must file a written request with the City prior to any transaction described above. The City will approve or deny a transfer request within 120 days of receipt of a written request. The City will not unreasonably withhold its approval.
3. In no event will a transaction be approved unless any proposed new Grantee becomes a signatory to, and assumes all rights and obligations under, the Franchise.
4. In the event of any proposed transaction described above, the City will have the right to purchase the System. In the event a Grantee has received a bona fide offer for purchase of its System, the City shall have the right to purchase for the price which the proposed assignee or transferee agreed to pay. The City will be deemed to have waived its right purchase the System in the following circumstances:
  - a. The City does not notify the Grantee in writing, within 60 days of notice, that it intends to exercise its right of purchase; or
  - b. the City approves the transaction.

**Subd. 12. Protection of Individual Rights.**

- A. Discriminatory Practices Prohibited. No Grantee may deny Cable service or otherwise discriminate against citizens or businesses on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference, or disability.
- B. Subscriber Privacy.

1. A Grantee must comply with the subscriber privacy-related requirements of 47 U.S.C. § 551.
2. No signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written authorization of the Subscriber.

**Subd. 13. Unauthorized Connections and Modifications.**

**A. Unauthorized Connections or Modifications Prohibited.**

1. It is unlawful for any Person, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a Grantee's System.
2. It is unlawful for any Person to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of a System for any purpose.
3. Any Person found guilty of violating this Section may be fined not less than Twenty Dollars (\$20.00) and the costs of the action nor more than Five Hundred Dollars (\$500.00) and the costs of the action for each and every subsequent offense.

**Subd. 14. Enforcement of the Cable Ordinance or Franchise.**

**A. Violations or Other Occurrences Giving Rise to Enforcement Action.**

1. In order to take enforcement action pursuant to this Cable Ordinance or a Franchise, the City must provide the Grantee with written notice of the violation or other occurrence giving rise to the City's action.
2. The Grantee shall have 30 days subsequent to receipt of the notice to cure the violation or occurrence giving rise to the City's action. Alternatively, the Grantee may, within 14 days of receipt of notice from the City, notify City in writing that there is a dispute as to whether a violation or failure has in fact occurred. Such written notice by the Grantee to the City shall specify with particularity the matters disputed by Grantee.
3. In the event the Grantee does not timely cure to the City's satisfaction the violation or other occurrence giving rise to the City's action, or timely disputes whether a violation has occurred, the City will schedule a public hearing affording Grantee due process. The City will endeavor to schedule the hearing for a date within 90 days of the initial violation notice. Notice of the hearing must be provided to the Grantee.

4. At the completion of the hearing, the City will issue written finding of fact and its final determination.
5. In the event City determines that no violation has taken place, the City will rescind the notice of violation in writing.

B. Franchise Revocation.

1. In addition to all other rights and remedies that the City possesses pursuant to law, equity and the terms of the Franchise Agreement, the City may revoke or terminate the Franchise, and all rights and privileges pertaining thereto. If the City determines that:
  - a. The Grantee has violated any material requirement or provision of the Cable Ordinance or a Franchise and has failed to timely cure; or
  - b. The Grantee has attempted to evade any of the material provisions of the Cable Ordinance or a Franchise; or
  - c. The Grantee has practiced fraud or deceit upon the City or a Subscriber; or
  - d. The Grantee has filed for bankruptcy.
2. During any revocation proceeding and any appeal period, the Franchise will remain in full force and effect unless the term thereof sooner expires.

C. Compliance with Federal, State and Local Laws. The City and Grantee will conform to federal and state laws and rules regarding Cable Service or the System as they become effective.