

TITLE 3

BUSINESS AND LICENSE REGULATIONS

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CHAPTER 1

GENERAL LICENSING AND PERMIT PROVISIONS

SECTION:

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

- A. General Rule: Except as otherwise provided in this Code, all licenses and permits granted by the City shall be governed by the provisions of this Chapter.
- B. License, Permit Required: No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use. Violation of this Section is a misdemeanor and punishable by law. (1981 Code § 501.01)

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

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

- A. Fee Established: License fees are in the amounts established in the governing chapters of this Title or as otherwise provided in this Code. The license and permit fees as set forth in the various chapters of this Title are the official controlling provisions.
- B. Prorated Fees: License fees shall not be prorated unless otherwise specified by this Code or by law.
- C. Refunds: License fees shall not be refunded in whole or in part unless otherwise specified by this Code or by law. (1981 Code § 501.02)

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

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

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

- A. Authorized Personnel: Any City official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine any licensee, licensee's business or premises to enforce compliance with applicable provisions of this Code. Subject to the provisions of subsection B of this Section, such City official or employee may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code.
- B. Search Warrants: If the licensee objects to the inspection of his/her premises, the City official or employee charged with the duty of enforcing the provisions of this Code shall procure a valid search warrant before conducting the inspection. (1981 Code § 501.05)

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

- A. Inspection: Licensee shall permit, at reasonable times, inspections of licensee's business and examination of licensee's books and records by authorized officers or employees. Failure to comply with this Section shall be grounds for suspension under Section 3-1-8 of this Chapter.
- B. Compliance With Law: Licensee shall comply with laws, ordinances and regulations applicable to the licensed business, activity or property.
- C. Display Of License: Licensee shall display the license or other insignia given licensee as evidence of the license in a conspicuous place on the premises, vehicle or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever licensee is carrying on the licensed activity.
- D. Unlawful Disposition: The licensee shall not lend or give to any other person his/her license or license insignia. (1981 Code § 501.06)

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

CHAPTER 2

LIQUOR CONTROL

SECTION:

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

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

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

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

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

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

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

- C. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 29(B).

3-2-5: RESERVED

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

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

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

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

3-2-8: KINDS OF LIQUOR LICENSES:

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

- A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- B. 3.2 percent malt liquor off-sale license.
- C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, Or nonprofit organization.
- D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994.

- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 9 of this ordinance shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.
- F. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 9 of this ordinance, shall not exceed the maximum amount provided by M.S. § 340A.504, subd. 3c, as it may be amended from time to time.
- G. RESERVED
- H. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.
- I. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time; to licensed bed and breakfast facilities which meet the criteria in M. S. § 340.401, subd. 1, as it may be amended from time to time and to theaters that meet

the criteria of M.S. § 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 9 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

- J. One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.
- K. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 9 of this ordinance shall not exceed the maximum amount permitted by M.S. § 340A.14, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
- L. Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.
- M. Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 9.
- N. Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 8 (M) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

- O. Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 8 (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at M.S. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time, Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the Manner required by M.S. § 340A.301 subd, 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 8 (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.
- P. Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

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

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

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

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

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

In addition, the following restrictions apply to licenses:

- H. Each license shall be issued only to the applicant for the premises described in the application.
- I. Not more than one license shall be directly or indirectly issued within the city to any one person.
- J. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

K.No license shall be issued for any place or any business ineligible for a license under state law.

L.No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school/church to the closest side of the structure on the premises within which liquor is to be sold.

3-2-11: APPLICATION FOR LICENSE:

A. **Form** Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

B. **Financial responsibility.** Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

3-2-12: DESCRIPTION OF THE PREMISES

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

3-2-13: APPLICATIONS FOR RENEWAL:

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

3-2-14: **TRANSFER OF LICENSE:**

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

3-2-15: **INVESTIGATION:**

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

3-2-16: **HEARING AND ISSUANCE**

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

3-2-17: SEASONAL OUTDOOR SALES

The sale of liquors pursuant to any of the licenses issued with this chapter shall be limited to sale and consumption inside of a structure on the licensed premises, unless the licensee applies for and receives permission from the City for sale and consumption outside of the structure on the licensed premises as indicated by receipt of a license to conduct "Seasonal Outdoor Sales". An on-sale license holder which is a restaurant as defined in this chapter may include in the application or re-application the additional request to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of liquor in such contiguous area that is not wholly within a completely enclosed building. The contiguous area shall not be part of a public grounds and such area must be specified as included on the liquor liability insurance certificate.

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

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

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

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

3-2-18: CONDITIONS OF LICENSE:

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

- A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
- B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

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

- A. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3,2 percent malt liquor in an on-sale licensed premises more than 20 minutes after the time when a sale can legally occur.

- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 20 minutes after the time when a sale can legally occur,
- D. Employees: All employees of the licensed premise whose primary duties include the sale or service of intoxicating liquor or 3.2 percent malt liquor must vacate the premises of an on-sale intoxicating liquor establishment or a 3.2 percent malt liquor establishment within 1 hour of the legal termination of the sales and may not return to the establishment until 2 hours before the legal sales may again be tendered.
- E. Every room, place or premises wherein intoxicating liquor and 3.2 percent malt liquor is permitted to be sold under on-sale license, including any cafe, restaurant, dining room or any other enterprise operated in connection therewith, shall be closed to the public during the time the sale of liquor is prohibited by State law, unless all liquor serving facilities, liquor displays and liquor storage areas are secured by lock and key.
- F. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

3-2-20 MINORS ON PREMISES

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

3-2-21: RESTRICTIONS ON PURCHASE AND CONSUMPTION

- A. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
- B. Age misrepresentation: No minor shall misrepresent his or her age for the purposes of obtaining intoxicating liquor and/or 3.2 percent malt liquor.

- C. No person shall induce a person under the age of 21 years of age to purchase or procure and intoxicating liquor and/or 3.2 percent malt liquor.
- D. Procurement: No person, other than the parent or legal guardian, shall procure intoxicating liquor and 3.2 percent malt liquor for any person under the age of 21 years of age.
- E. Possession: No person under the age of 21 years of age shall have intoxicating liquor and/or 3.2 percent malt liquor in his/her possession at a place other than at the household of, and with the permission of his/her parent or guardian.
- F. Consumption: No person under the age of 21 years of age shall consume intoxicating liquor and/or 3.2 percent malt liquor unless in the company of a parent or guardian at the household of such parent or guardian.
- G. Consumption in public places: No person shall consume intoxicating liquor and/or 3.2 percent malt liquor on a public highway, public street, public alley or other public place. Consumption is permitted in public parks when the park is open if the person is of legal age.
- H. Liquor on license premises: No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquor or does not hold a consumption and display permit.

3-2-22: **SUSPENSION AND REVOCATION:**

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

- (a) For the first, second, or third violation within any three-year period, up to a one day suspension, in addition to any criminal or civil penalties which may be imposed.
- (b) For a fourth violation within any 3-year period, at least a three day suspension, in addition to any criminal or civil penalties which may be imposed.
- (c) For a fifth violation within any 3-year period, at least a ten day suspension; in addition to any criminal or civil penalties which may be imposed.
- (d) For a sixth violation within any 3-year period, a license shall be revoked.

3. The Council shall select the day or days during which the license will be suspended.

C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

D. The provisions of Section 29 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

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

3-2-29: PENALTIES:

- A. Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- B. The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the

proposed violation and the proposed penalty and hear any person who wishes to speak. Nonpayment of the penalty within 30 days of invoicing is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (1) For the first violation within any three-year period, \$250.
- (2) For the second violation within any three-year period, \$500.
- (3) For the third and subsequent violations within any three-year period, \$1,000 for each violation.

- C. The term "violation" as used in Section 22 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

3-2-30. **EFFECTIVE DATE**

This ordinance becomes effective on January 1, 2007.

3-2-31 **SUMMARY APPROVED**

The Council hereby determines that the text of the summary of this ordinance marked "Official Summary of Ordinance No. 06-20," and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The Clerk shall file a copy of this ordinance and the summary in the Clerk's office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the council designates.

CHAPTER 3

AMUSEMENTS

SECTION:

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

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

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

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

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

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

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

- A. Proximity To Schools: No license hereunder shall be issued for any game of skill within three hundred feet (300') of any school building.
- B. Gambling; Lottery Prohibited: No person shall use any device licensed under this Chapter as a gambling device, and no licensee shall permit any person or persons to use any game licensed hereunder for gambling purposes. The operation of lottery or gambling device is declared to be contrary to this Chapter.
- C. Use By Minors During School Hours: No minor under the age of eighteen (18) years or any minor enrolled in a public school shall be permitted to play any such device during normal school hours. (1981 Code § 508.04)

CHAPTER 4

BINGO

SECTION:

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

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

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

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

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

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

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

PROFIT: The gross receipts collected from one or more bingo occasions less

reasonable sums necessarily and actually expended on bingo supplies and equipment, prizes, rent and utilities used during the bingo occasions, bingo license fees and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion. (1981 Code § 510.02; 1997 Code)

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

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

- A. Form: Every application for a bingo license shall be made to the Clerk-Treasurer on a form supplied by the City and containing such information as the Clerk-Treasurer or the Council may require. No person shall make a false statement in an application. (1981 Code § 510.04)
- B. Refer To Police Chief: Copies of each application shall be referred to the City Police Chief for his/her recommendation. (1981 Code § 510.04; 1997 Code)
- C. Council Action: A license application shall be acted upon by the Council no sooner than thirty (30) days and no later than one hundred eighty (180) days after the date of application. Failure of the Council to act on said application shall be deemed a denial of such license. (1981 Code § 510.03)

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

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

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

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

A. Bingo Manager:

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

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

3. Fidelity Bond:

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

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

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

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

B. Checkers:

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

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

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

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

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

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

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

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

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

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

B. Rental:

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

2. Report To Council: Not less than once each year the lessor organization shall report to the City Council the disposition of all receipts which it has received during the reporting period from the

rental of its facilities to other organizations for purposes including the conduct of bingo occasions.

C. Written Lease:

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

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

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

A. Value Of Prizes:

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

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

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

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

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

A. Receipts And Profits:

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

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

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

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

B. Gross Receipts/Checkers' Records:

1. Comparison: Gross receipts shall be compared to the checkers' records for the bingo occasion by a person who did not sell cards for the bingo occasion. (1981 Code § 510.09)
2. Discrepancies: If a discrepancy exceeding twenty dollars (\$20.00) is found between the amount of gross receipts for a bingo occasion as determined by the checkers' records, and the amount of gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the Council.

C. Separate Records: Bingo gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its bingo operations. The person who accounts for bingo gross receipts and profits shall not be the same person who accounts for other revenues of the licensed organization. (1981 Code § 510.09; 1997Code)

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

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

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

1. Return Of Organization Exempt From Income Tax: The most recently filed Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, form 990, or a comparable form if the organization is required to file the form with the of the Department Treasury.
2. Exempt Organization Business Income Tax: The most recently filed Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, form 990-T, or a comparable form if the organization is required to file the form with the Department of the Treasury.
3. Charitable Organization Annual Report: The most recently filed annual report required of charitable organizations by Minnesota Statutes section 309.53; provided, that an organization that is licensed to conduct bingo but is exempt from submitting this report to the Department of Commerce under Minnesota Statutes section 309.53, subdivision 1A, shall nevertheless submit such a report under this subsection.
4. Statement Of Bingo Operations: The most recently filed Minnesota Department of Commerce Statement of Bingo Operations. All information contained in the statement shall be true, correct and complete to the best of the knowledge of the person or persons signing the statement.
5. Lease Agreements: Any lease agreements required by this Chapter, executed by the organization in regard to premises leased for the conduct of bingo.

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

3-4-13: **INSPECTION, INVESTIGATION:** Any City official or employee having a duty to perform with reference to a bingo license and any police officer may inspect and examine the bingo records of any

licensed organization upon twenty four (24) hours' notice. (1981 Code § 510,11; 1997 Code)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the hearing and the nature of the charges against the licensee. (1981 Code § 510.0S)

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

CHAPTER 5

GAMBLING

SECTION:

3-5-1:	Definitions; Prohibition
3-5-2:	License Required
3-5-3:	Application For License; Bond
3-5-4:	License Fees
3-5-5:	Term Of License
3-5-6:	Eligibility For License
3-5-7:	Granting Of License
3-5-8:	Transfer Of License
3-5-9:	Location Of Operation
3-5-10:	Gambling Manager
3-5-11:	Compensation; Participation
3-5-12:	Profits
3-5-13:	Prizes
3-5-14:	Records, Reports
3-5-15:	Suspension Or Revocation Of License
3-5-1 6:	Penalty

3-5-1: **DEFINITIONS; PROHIBITION:**

- A. Meanings: For the purpose of this Chapter, the terms defined in this Section have the meanings given them.

ACTIVE MEMBER: A member who has paid all his/her dues to the organization and has been a member of the organization for at least six (6) months.

GAMBLING DEVICES: Those gambling devices known as paddle-wheels or tip boards or apparatus used in conducting raffles.

LAWFUL PURPOSE: One or more of the following:

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

B. Initiating, performing or fostering worthwhile public works or enabling or furthering the erection or maintenance of public structures;

C. Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or

D. The improving, expanding, maintaining or repairing of real property owned or leased by an organization.

- PADDLEWHEEL:** A wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.
- PROFIT:** The gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prizes, local licensing fees and taxes and maintenance costs for the devices.
- RAFFLE:** The game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing.
- TIPBOARD:** A board, playcard or other device measuring at least twelve inches (12") square, marked off in a grid or similar pattern, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

B. Prohibition: Nothing in this Chapter shall be construed to authorize any use, possession or operation of:

1. Any gambling device which is activated by the insertion of a coin or token; or
2. Any gambling game or device in which the winning numbers, tickets or chances are in any way determined by the outcome of any athletic contest or sporting event. (1981 Code § 511.01)

3-5-2: LICENSE REQUIRED: No gambling devices may be operated nor raffles conducted except by an eligible organization which has secured a license for the purpose in accordance with this Chapter. (1981 Code § 511.02)

3-5-3: APPLICATION FOR LICENSE; BOND:

A. Form:

1. **Required Information:** Every application for a gambling device license shall state the name, location, purpose, number of members and length of existence of the applying organization.
2. **Required Signatures; Designation Of Manager:** Application forms shall be completed and signed by an authorized officer of the organization and shall name a manager who shall be designated by resolution or other official action of the organization and who shall be responsible for supervision of gambling device occasions.
3. **Verification; Filing:** In addition to containing such information, the application shall be in the form prescribed by the Clerk-Treasurer and shall be verified and filed with the Clerk-Treasurer.
4. **False Information:** No person shall make a false statement on the application. (1981 Code § 511.04)

B. Bond:

1. **Amount; Form:** Each application for license shall be accompanied by a fidelity bond given by the manager in the sum of ten thousand dollars (\$10,000.00) in favor of the organization. Notice of cancellation of such bond shall be given in writing to the City not less than thirty (30) days prior to cancellation. (1981 Code § 511.04; 1997 Code)

2. Waiver: The City Council may waive the bond requirement; provided, that a license containing such waiver provisions shall be granted only upon unanimous vote of the Council. (1981 Code § 511.04)

3-5-4: LICENSE FEES:

- A. Amount: The fee schedule for gambling devices shall be established by Council resolution. (Ord. 81-2, 5-11-1981)
- B. Receipt For Payment: Each application for a gambling devices license shall be accompanied by a receipt from the Clerk-Treasurer for payment in full of the license fee.
- C. Allocation: All fees shall be paid into the General Fund except that twenty five percent (25%) of gambling devices license fees shall be directly allocated and expended for the supervision, regulation and inspection of the conduct of gambling devices.
- D. Pro Rata Allowance: The full annual fee shall be paid with each application and no pro rata allowance shall be made for any fraction or part less than a full year. (1981 Code § 511.03)

3-5-5: TERM OF LICENSE: No gambling devices license shall be issued for more than one year and all licenses shall expire on December 31 of the year in which issued. (1981 Code § 511.02)

3-5-6: ELIGIBILITY FOR LICENSE: Licenses shall be issued to fraternal, religious, veterans or other nonprofit organizations covered by the following:

- A. Any corporation, fund, foundation, trust or association organized for exclusively scientific, literary, religious, charitable, educational or artistic purposes, or for the purpose of making contributions to or for the use of the United States of America, the State of Minnesota or any of its political subdivisions for exclusively public purposes, or for any combination of the above enumerated purposes if no part of the net income of any such corporation, fund, foundation, trust or association inures to the benefit of any private member, stockholder or individual;
- B. Clubs organized and operated exclusively for pleasure, recreation or other non-profitable purposes, no part of the net income of which injures to the benefit of any private member, stockholder or individual; which organization has been in existence for at least three (3) years and has at least thirty (30) active members. (1981 Code § 511.06)

3-5-7: GRANTING OF LICENSE:

- A. Investigation Of Facts: The City Council shall cause to be investigated all facts set out in the license application.
- B. Action By Council: The Council shall act upon all license applications within one hundred eighty (180) days of the date of application, but no license shall issue until at least thirty (30) days after the date of application.
- C. Council's Failure To Act: Failure of the Council to act on any application shall be deemed a denial of the license. (1981 Code § 511.05)

3-5-8: TRANSFER OF LICENSE: No gambling devices license shall be transferred or sold. All licenses are deemed issued for the specific premises designated in the application and shall not be transferred to any other location. (1981 Code § 511.05)

3-5-9: LOCATION OF OPERATION:

- A. Operation Limited To Premises; Exception: Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases except that tickets for raffles conducted in accordance with this Section may be sold off the premises.
- B. Lease Requirements: Leases, unless authorized in another location by the City Council, shall be for a period of not less than one year and shall be in writing. Copies of all leases shall be provided to the Clerk-Treasurer.
- C. Rental Payments: No lease shall provide for rental payments based on a percentage of receipts or profits from gambling devices or raffles. (1981 Code § 511.11)

3-5-10: GAMBLING MANAGER:

- A. Designation: All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager designated by the organization.
- B. Responsibilities: The gambling manager shall be responsible for the gross receipts and profits from gambling devices and raffles and for their operation. (1981 Code § 511.08)
- C. Gambling Manager/Bingo Manager: A person may act as both gambling manager and bingo manager of a single organization but shall not act as either a gambling manager or bingo manager for any other organization. (1997 Code)
- D. Active Member: A gambling manager for an organization shall be an active member of the organization. (1981 Code § 511.08)

3-5-11: COMPENSATION; PARTICIPATION:

- A. Compensation: No compensation shall be paid to any person in connection with the operation of a gambling device or the conduct of a raffle by a licensed organization.
- B. Participation: No person who is not an active member of an organization or its auxiliary, or the spouse or surviving spouse of an active member may participate in the organization's operation of a gambling device or conduct a raffle. (1981 Code § 511.09)

3-5-12: PROFITS: Profits from the operation of gambling devices or the conduct of the raffles shall be used solely for lawful purposes as defined in this Chapter and as authorized at a regular meeting of the organization. (1981 Code § 511.07)

3-5-13: PRIZES:

- A. Daily Total: Total prizes from the operation of paddlewheels and tipboards awarded in any single day in which they are operated shall not exceed five hundred dollars (\$500.00).
- B. Single Chance Total: Total prizes resulting from any single spin of a paddlewheel or from any single tipboard shall not exceed one hundred dollars (\$100.00).
- C. Yearly Total: Total prizes awarded in any calendar year by any organization from the operation of paddlewheels and tipboards and the conduct of raffles shall not exceed fifteen thousand dollars (\$15,000.00).

D. Prize Value: Merchandise prizes shall be valued at fair market retail value. (1981 Code § 511.12)

3-5-14: RECORDS, REPORTS:

- A. Gross Receipts, Expenses, Profits: Each organization licensed to operate gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted.
- B. Deductions: All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient.
- C. Distribution Of Profits: The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.
- D. Separate Accounts, Records: Gross receipts shall be segregated from other revenues of the organization, including bingo receipts, and placed in a separate account. Each organization shall have separate records of its gambling operations.
- E. Separate Accounting Personnel: The person who accounts for gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles shall not be the same person who accounts for bingo gross receipts, expenses and profits.
- F. Monthly Reports: Each organization licensed to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the City Council, its gross receipts and profits itemized as required in this Section.
- G. Preservation Of Records; Public Inspection: Records required by this Section shall be preserved for three (3) years, and organizations shall make available their records relating to operation of gambling devices and the conduct of raffles for public inspection at reasonable times and places. (1981 Code § 511.10)

3-5-15: SUSPENSION OR REVOCATION OF LICENSE:

- A. Violation: The Council may suspend, for a period not exceeding sixty (60) days, or revoke a gambling devices license, for violation of any provision of applicable Minnesota Statutes or of this Chapter.
- B. Notice; Hearing: The holder of the license shall be granted a hearing upon at least ten (10) days' notice before revocation or suspension is ordered. The notice shall state the time and place of hearing and the nature of the charges. (1981 Code § 511.05)

3-5-16: PENALTY: Violation of any provision of this Chapter is a misdemeanor. (1981 Code § 511.13)

TOBACCO AND ELECTRONIC DELIVERY DEVICES

SECTION:

- 3-6-1: Purpose
- 3-6-2: Definitions and Interpretations
- 3-6-3: License
- 3-6-4: Fees
- 3-6-5: Basis for Denial of License
- 3-6-6: Prohibited Sales
- 3-6-7: Self-Service Sales
- 3-6-8: Responsibility
- 3-6-9: Compliance Checks and Inspections
- 3-6-10: Other Illegal Acts
- 3-6-11: Violations
- 3-6-12: Administrative Penalties
- 3-6-13: Exceptions and Defenses
- 3-6-14: Severability and Savings Clause

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

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

TOBACCO OR TOBACCO PRODUCTS: "Tobacco" or "Tobacco products" shall mean any substance or item that can be chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any means or any component, part or accessory of a tobacco product, containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco, cheroots, stogies; perigue; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff flour, cavendish; shorts plug and twist tobaccos; dipping

tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product or for other medical purposes and is being marketed and sold solely for such an approved purpose.

TOBACCO RELATED DEVICES:

"Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

ELECTRONIC DELIVERY DEVICE:

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

NICOTINE OR LOBELIA DELIVERY DEVICES:

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

SMOKING:

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

VAPING:

The word vaping shall mean the act of inhaling or exhaling vapor from liquid or solid nicotine.

SELF-SERVICE MERCHANDISING:

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

VENDING MACHING:

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

INDIVIDUALLY PACKAGED:

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

LOOSIES:

"Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

MINOR:

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

RETAIL ESTABLISHMENT:

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

MOVEABLE PLACE OF BUSINESS:

"Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a

fixed address store front or other permanent type of structure authorized for sales transactions.

SALE:

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

COMPLIANCE CHECKS:

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

CITY:

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

INDOOR AREA:

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

TOBACCO SHOP:

The words "Tobacco Shop" mean a self-contained, independent retail facility, as opposed to a department within a larger retail establishment, that is not more than 1,500 gross square feet in area, in which tobacco is offered for sale, with or without non-tobacco products, which includes open air display of individual products for inspection and selection by patrons, and which is continuously staffed by an employee from which persons under 18 years of age are prohibited from entering, and which otherwise complies with the requirements of Minnesota State Statute Section 461.18, Subd. 1. Signage for the business shall comply with the city sign ordinance including, but not limited to 10-11-7 Signage in Business District and 10-11-10 Temporary Signs.

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

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

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

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

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

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

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

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

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

9. **Proximity to youth-orientated facilities.** No license shall be granted pursuant to this ordinance to any person for any retail sales of tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices within 1,000 feet of any school, playground, house of worship, or youth-orientated facility, as measured direct line from the nearest corner of the school's playground's, house of worship, or youth orientated facility's property line to the main entrance of the

premise proposed for licensing. This 1,000 foot restriction does not apply to any retail sales of tobacco product related devices, electronic delivery devices or nicotine or lobelia delivery devices which have been doing business within 1,000 feet of any school, playground, house of worship, or youth-oriented facility for one year prior to the enactment of this ordinance. If such business moves its current location or seeks to license another location within the City, the 1,000 foot restriction will apply to the new location. For the purpose of this ordinance, a youth-orientated facility is defined to include any facility with residents, customers, visitors or inhabitants of which 25 percent or more are regularly under the age of 21 or which primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21.

10. **Sampling.** Vaping for the purpose of sampling tobacco and tobacco related products is prohibited other than in a tobacco shop as defined in section 3-6-2

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

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

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

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

1. To any person under the age of eighteen (18) years.
2. By means of any type of vending machine.
3. By means of any type of kiosk.

4. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device, electronic delivery devices or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the licensee or the licensee's employee and the customer. This section shall not apply to a tobacco shop. (ord.03-02, 3-24-03)
5. Any E-Cigarette liquid that is not in a child resistant package, to prevent poisonings.
6. By means of loosies as defined in Section 3-6-2 of this ordinance. This section shall not apply to a tobacco shop. (ord. 03-02, 3-24-03)
7. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
8. By any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

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

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

3-6-9: **COMPLIANCE CHECKS AND INSPECTIONS:** All licensed premises shall be open to inspection by the City Police Department or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices electronic delivery devices or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco related devices, electronic delivery devices or nicotine or lobelia devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall

attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

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

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

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

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

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

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

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

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

3 -6-11: **VIOLATIONS:**

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

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

The City Attorney's Office shall set the time and place for the hearing. Written notice of the hearing time and place shall be mailed or delivered to the accused violator at least ten (10) business days prior to the hearing.

3. **Hearing Officer.** The city attorney's office shall provide a hearing officer.

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

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

6. **Misdemeanor Prosecution.** Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for alleged violation of this ordinance.

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

3-6-12: **ADMINISTRATIVE PENALTIES:**

1. **Licensees.** Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75.00 for a first violation of this ordinance; \$200.00 for a second offence at the same licensed premises within a twenty-four month period; and \$250.00 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

2. **Other Individuals.** Other individuals, other than minors regulated by subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee of \$50.00.

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

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

5. **Statutory penalties.** If the administrative penalties authorized to be imposed by MN Stat. SS461.12, as it may be amended from time to time, differ from those established in this ordinance, then the statutory penalties shall prevail.

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

3-6-14: **SEVERABILITY AND SAVINGS CLAUSE:** If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, such finding shall not serve as an invalidation or effect the validity and enforceability of any other section or provision of this ordinance.

CHAPTER 7

FOOD VENDING MACHINES

SECTION:

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

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

- FOOD:** All articles of food, confection, drink or condiments for human consumption, and all substances or ingredients used in the preparation thereof, and shall include, among other things, candy, chocolates, confectionery, nuts, chewing gum, fruit, sandwiches, ice, pop or water, and the enumeration herein of specific items shall not be deemed a limitation upon the meaning of the word "food".
- PERSON:** Any natural individual, firm, partnership, association or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations, the term includes the officers, agents or employees.
- VENDING MACHINE** Any and all types of mechanical devices which operate by the insertion of a coin of one cent (\$0.01) or more, or other token, and which deliver or permit the removal from such machine of any food. (Ord. 86-3, 7-28-1986)

3-7-2: LICENSE REQUIRED; EXCEPTION:

- A. License Required: It shall be unlawful for any person to engage in the business of selling food by vending machines without a vending machine license as herein provided and complying with all the provisions of this Chapter.
- B. Exception: A license need not be obtained for vending machines that dispense bottled or canned soft drinks still in their original containers and which are bottled by a licensed bottling company. (Ord. 86-3, 7-28-1986)

3-7-3: APPLICATION FOR LICENSE:

- A. Written Application: Any person desiring to engage in and/or continue in and/or to carry on the business of the selling of food by vending machine shall first make application to the Clerk-Treasurer in writing.
- B. Required Information: Said application shall include a list of the addresses wherein the vending machines will be installed, the kind and number thereof, and the kind and general description of food to be vended.
- C. Permits For Additional Machines:
 - 1. Application For Additional Permits: After a license has been issued and payment received in the amount set by Council resolution, the licensee may receive from time to time written permits for additional machines over and above the number stated in the original application.
 - 2. Required Information: The application for such permit shall state the desired additional number, the date and number of the original license, the street address of the property or place wherein applicant proposes to install the additional machines and shall be signed in the manner required for an original application. (Ord. 86-3, 7-28-1986)

3-7-4: LICENSE FEE:

- A. Annual License: The license fee shall be fixed in an amount as established by Council resolution per year per vending machine.
- B. Refunds: In no case shall license fees be refunded in whole or in part. (Ord. 86-3, 7-28-1986)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 8

PORTABLE CONFECTIONERY STORES AND MOBILE FOOD VENDORS

SECTION:

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

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

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

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

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

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

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

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

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

information the Clerk-Treasurer may require.

- C. Submission: Each application for a permit required hereunder shall be submitted to the Clerk-Treasurer.
- D. Each mobile food vendors/food truck shall not receive a permit under this section who has not first received a license from the State and/or County Health Department authorizing such food preparation and sales. Any conditions of the State Health Department shall be incorporated into the license issued under this Section, in addition to any other conditions imposed by the City of Sartell.
- E. Issuance: Permits shall not be issued if the administration finds that the health, welfare or safety of the public will be endangered by the operation of a portable confectionery store or mobile food vendors/food truck. (Ord. 82-9, 8-23-1982)

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

3-8-4: PERMIT FEES; TRANSFERABILITY:

- A. Fee: The fee for each permit shall be as established by Council resolution.
- B. Proration; Refund; Transferability: There shall be no prorating or refunding of permit fees, nor shall a permit be transferable.
- C. Separate Permit Required: A separate permit shall be required of each portable confectionery store or mobile food vendors/food truck regardless of the ownership. (Ord, 82-9, 8-23-1982)

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

3-8-6: INSURANCE:

- A. Liability insurance Required: The applicant shall carry a general policy of liability insurance in which the City is named coinsured which shall provide a limit of coverage of not less than three hundred thousand dollars/one hundred thousand dollars (\$300,000.00/ \$100,000.00) for bodily injury and twenty five thousand dollars (\$25,000.00) for property damage.
- B. Notice Of Cancellation: The insurance policy required by this Section shall further provide that no cancellation of said insurance policy, for any cause, may be made by the insured or the insurance company without first giving thirty (30) days' notice to the City, in writing, of the intention to cancel. Such notice shall be addressed to the Clerk-Treasurer by registered mail or shall be delivered to the Clerk-Treasurer personally. (Ord. 82-9, 8-23-1982)

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

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

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

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

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

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

CHAPTER 9

PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS

SECTION:

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

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

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

PEDDLER

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

SOLICITOR

The term "solicitor" shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or

services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term canvasser.

TRANSIENT MERCHANT

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

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

3-9-4: CITY LICENSE REQUIRED: Except as otherwise provided for by this ordinance, no person shall conduct business within the City limits of this municipality, as either a peddler or a transient merchant without first having obtained a license therefore in compliance with the provisions of this Ordinance. (Minnesota case law does not allow solicitors to be licensed. See e.g. City of Waseca V. Braun, 288 N.W. 229 (Minn. 19.9). Solicitors are still required to be licensed pursuant to section 3-9-12 of this Ordinance).

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

- A. Applicant's full legal name;
- B. All other names under which the applicant conducts business or to which Applicant officially answers;
- C. Names and descriptions of all the persons proposed to be used in this City during the

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

3-9-6: FEE:

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

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

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

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

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

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

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

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

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

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

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

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

E. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaint(s) against the applicant with the Better Business Bureau, the Attorney General's Office, and other similar business or consumer rights office or agency, or the City of Sartell, within the preceding twelve (12) months, or five (5) such complaints filed against the applicant within the preceding five (5) years.

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

A. Fraud, misrepresentation, or incorrect statements on the application form.

B. Fraud, misrepresentation, or false statements made during the course of the licensed activity.

C. Conviction of any offense for which granting of a license could have been denied under Section 3-9-10 of this Ordinance.

D. Violation of any provision of this Ordinance. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

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

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

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

A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be measurably audible within an enclosed structure.

B. Obstruction the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.

C. Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.

D. Conducting business before eight o'clock in the morning (8:00 a.m.), or after eight o'clock at night (8:00 p.m.)

E. Failing to provide proof of license registration, and identification, when requested; or using the license or registration of another person.

- F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

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

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

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

CHAPTER 10

JUNK DEALERS

SECTION:

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

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

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

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

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

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

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

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

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

CHAPTER 11

PLUMBERS

SECTION:

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

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

- A. Master/Journeyman Plumbers: Except as specifically provided herein, no person shall engage in or work at the business of a master plumber or journeyman plumber within the City unless the work is performed by or under the supervision of a person licensed by the State Board of Health.
- B. Plumbing Materials and Supplies; Dealing, Selling: No person shall engage in the business of installing plumbing in connection with the dealing and selling of plumbing material and supplies unless at all times a licensed plumber who shall be responsible for proper installation is in charge of the plumbing work of such person.
- C. Single-Family Residence Owner Exempt From Licensing; Permit Required: The owner of a single-family residential dwelling unit doing plumbing work on the dwelling unit is exempt from the licensing requirements of this Chapter; provided, however, the owner shall be required to obtain a permit as herein provided prior to the commencement of the work and shall specify on the application that the person doing the plumbing work is the owner of the dwelling unit and exempt from the license requirements of this Chapter. (Ord. 91-2, 8-26-1991)

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

- A. Written Application: The application for a license verification certificate shall be made in writing.
- B. Required Information: The application shall set forth the name and place of business of the applicant. The applicant may be required to furnish evidence satisfactory to the City Council that applicant or the licensed personnel of the applicant is of good moral character and competent to do plumbing of all kinds in a skillful and workmanlike manner.
- C. State License And Bond: The applicant shall execute and deliver to the Clerk-Treasurer a copy of their State license including the required State bond, as provided for in Section 3-11-6 of this Chapter. (ord. 91-2, 8-26-1991)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 12

GAS INSTALLERS

SECTION:

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

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

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

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

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

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

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

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

B. Bond Provisions: Such bond shall provide that:

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

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

3-12-4: **INSURANCE REQUIREMENTS:** The applicant shall also furnish, before the license is granted, a policy of liability and property damage insurance, together with a policy of products liability insurance and completed operations insurance, each of which shall provide for the payment of not less than two hundred thousand dollars (\$200,000.00) for injuries to or death of one person, and not less than six hundred thousand dollars (\$600,000.00) on account of one accident, and not less than two hundred thousand dollars (\$200,000.00) for property damage. Evidence of workers' compensation insurance coverage shall also be provided should applicant have one or more employees. (Ord. 91-3, 8-26-1991)

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

- A. Permit Required: A permit for the installation or connection of any gas fired burner, apparatus, equipment or appliance, with the general gas distribution system of the utility company holding the franchise therefor, must be obtained from the Clerk-Treasurer before doing any work.
- B. Permit Fee: The permit fee shall be determined from time to time by City Council resolution.
- C. Materials And Methods: The installation or connection must be done using approved materials and recognized installation methods complying with the State Mechanical Code.
- D. Performance Test: The City Building Inspector shall conduct a furnace or appliance performance test, prepare a report containing the results and be present for a leakage test of the system in addition to verifying materials and methods. Such testing shall be done pursuant to State Mechanical Code chapter 1346, or any successor provision. (Ord. 91-3, 8-26-1991)

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

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

- A. Violation: Any person who commits any of the following shall be guilty of a misdemeanor:
 - 1. Commence the installation, alteration, repair or connection of any gas burning apparatus or appliance without having a City installer's license in effect.
 - 2. Install or connect any gas burner or gas burning apparatus or appliance which does not meet the requirements of this Chapter.
 - 3. Install or connect any gas burner or gas burning apparatus or appliance in violation of the provisions of this Chapter.
 - 4. Violate any other provision of this Chapter.
- B. Penalty: A violation of any provision of this Chapter or a license issued pursuant to this Chapter is a misdemeanor and upon conviction thereof shall be punished by a fine and costs of prosecution, or by imprisonment, or both, up to the maximum allowed by State law.
- C. Enforcement: Any violation of this Chapter or a license issued pursuant to this Chapter may, in addition to criminal prosecution, also be enforced by civil action, injunction, action to compel performance, restoration, abatement or other appropriate action as determined and authorized by the City Council. (Ord. 91-3,8-26-1991)

CHAPTER 13

ALARMS

SECTION:

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

3-13-1: **PURPOSE:**

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

3-13-2: **DEFINITIONS:**

For purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- ALARM SYSTEM:** Any device or system which transmits a signal visibly, audibly, electronically, mechanically or by a combination of these methods which indicates a hazard or occurrence requiring urgent attention and to which police are expected to respond. Alarm system shall not include personal, direct telephone call requesting emergency services from a person at the premises in question. Automobile alarm devices shall not be considered an alarm system under the terms of this ordinance.
- ALARM USER:** The person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.
- POLICE DISPATCH CENTER:** The facility used to receive emergency requests for service and general information from the public to be dispatched to Police patrol units.
- INDIRECT ALARM TRANSMITTAL:** Any security alarm system which does not directly terminate in the Police dispatch center, but which causes a third party, answering services or central station to notify the Police dispatch center of the alarm activation.

FALSE ALARM: An alarm signal eliciting a response by Police personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system or of his/her employees or agents. False alarms do not include alarms caused by climatic conditions or as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature of any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

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

3-13-3: FEES, CORRECTIVE ACTION, NO RESPONSE LIST.

For police response to any false alarm, the City shall charge and collect from the alarm user such fees as established herein. During a one-year period of time, commencing with the first response, the following police response police and penalty structure will apply:

- A. For response to premises, at which no other false alarm has occurred within the preceding one-year period, hereinafter referred to as a "first response," no civil penalty shall be charged. Upon first response, notice of conditions and requirements of this chapter shall be given to the alarm user or occupant of the premises on which the false alarm occurred and upon which the alarm system is located.
- B. For a second response to premises a civil penalty of \$75.00 shall be charged. The alarm user shall, within five working days after notice to do so, to make a written report to the Chief of Police, or his/her designee, setting forth:
 - 1. The cause for such false alarm;
 - 2. The corrective action taken;
 - 3. Whether and when such alarm has been inspected by authorized service personnel;
 - 4. Such other information as the Chief of Police, or his/her designee, may reasonably require to determine the cause of such false alarm, and any mitigating circumstances and corrective action necessary.
- C. For a third response to premises a civil penalty of \$150.00 shall be charged.
- D. For a fourth response to premises a civil penalty of \$150.00 shall be charged and the Police Department will inform the alarm user that **THE POLICE DEPARTMENT WILL NO LONGER RESPOND TO THEIR ALARM SYSTEM.** The "restricted response" status will last a period of 6 months from the date of the 4th response.

Any alarm user which is required by the Police Department to pay a user fee as the result of a false alarm or alarms may make a written appeal of the false alarm charge to the Chief of Police, or his/her designee, within ten (10) days of the notice by the Police Department of the false alarm charge. Following review and determination by the Chief of Police, or his/her designee, such decision may be appealed to the City Administrator who will have the authority to make a final determination as to whether the appellant is to be charged with a false alarm or alarms.

3-13-4: PAYMENT OF FEES.

Payment of penalties provided for under Section 3-13-3 must be paid to the City cashier within 30 days from the date of the notice by the City to alarm user. Failure to pay the penalty within 30 days' notice will cause the alarm user to be considered delinquent and subject to a late penalty equal to the original user fee.

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

3-13-5: DUTIES OF SECURITY ALARM USERS.

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

3-13-6: DELIBERATE FALSE ALARMS.

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

3-13-7: CONFIDENTIALITY.

All information submitted in compliance with this ordinance shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law.

Subject to requirements of confidentiality, the Chief of Police, or his/her designee, may develop and maintain statistics for the purpose of ongoing alarm system evaluation.

3-13-8: POLICE DISPATCH CENTER.

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

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

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

CHAPTER 14

BODY ART ESTABLISHMENTS

SECTION:

14-1:	Purpose and Applicability
14-2:	Definitions
14-3:	Prohibited Activities
14-4:	Exemptions
14-5:	Administration
14-6:	License Procedures
14-7:	Apprenticeship and Guest Artists
14-8:	Inspection and Construction
14-9:	Grounds for Emergency Closure
14-10:	Standards for Health and Safety
14-11:	Information Requirements and Professional Standards
14-12:	Fees
14-13:	Separability
14-14:	Violations
14-15:	Effective Date

14-1. PURPOSE AND APPLICABILITY

14-1.1 This ordinance is enacted to establish standards to prevent the transmission of communicable diseases and to protect the health and safety of the people of the City of Sartell through regulation of the persons owning body art establishments, the individuals performing body art procedures, and the establishments where body art procedures are performed.

14-1.2 This ordinance applies to all individuals performing body art procedures within the City of Sartell and to all body art establishments located in the City of Sartell where any tattooing or body piercing activities are conducted; it does not preempt any local zoning ordinances that may be applicable to a body art establishment.

14-2. DEFINITIONS

For purposes of this Ordinance, the following definitions apply.

14-2.1 **Aftercare** means written instructions given to the client, specific to the procedure(s) rendered, on caring for the body art and surrounding area.

14-2.1.1 These instructions must include information on when to seek medical treatment.

14-2.2 **Antiseptic** means an agent that destroys disease-causing microorganisms on human skin or mucosa.

14-2.3 **Apprentice** means an individual working under the direct supervision of a licensed technician(s) in a licensed body art establishment to learn the skills of the trade.

14-2.4 **Apprenticeship** means an agreement an apprentice has with a licensed technician(s) to learn the skills of tattooing or body piercing while working under the direct supervision of the licensed technician(s) in a licensed establishment.

14-2.5 **Body Art** means physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, and cosmetic tattooing.

14-2.5.1 This definition of Body Art does not include piercing of the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing system.

14-2.5.2 This definition of Body Art does not include practices that are considered part of a medical procedure performed by board-certified medical or dental personnel, such as, but not limited to, implants under the skin; these medical procedures must not be performed in a licensed body art establishment.

14-2.6 **Body Art Establishment** means any place or premise, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit, are performed.

14-2.7 **Body Piercing** means the penetration or puncturing of human skin by any method, for the purpose of inserting jewelry or other objects, in or through the human body.

14-2.7.1 This definition of Body Piercing does not include the puncturing of the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear-piercing system.

14-2.7.2 This definition of Body Piercing does not include any medical procedure performed by board-certified medical or dental personnel.

14-2.8 **Branding** means any method using heat, cold, or any chemical compound to apply a scar to the body for the purpose of creating a permanent mark or design on the skin.

14-2.9 **Contaminated Waste** means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in Code 29 of Federal Regulations Part 1910.1030, known as "Occupational Exposure to Blood Borne Pathogens."

14-2.10 **Cutting** means the practice of cutting the skin, mucosa or part of the body to create a permanent scar or division of tissue for the purpose of body art.

14.10.1 This definition of Cutting does not include any medical procedure performed by board - certified medical or dental personnel.

14-2.11 **Department** means the City of Sartell Police Department or its designated employees.

14-2.12 **Disinfection (or disinfect)** means the destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering the objects safe for use or handling.

14-2.13 **Equipment** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in the operation of a body art establishment.

14-2.14 **Establishment Plan** means a to-scale drawing of the establishment's layout illustrating how the establishment complies with the requirements of this Ordinance.

14-2.15 **Guest Artist** means an individual who performs body art procedures under a current technician license and is registered in accordance with the requirements under Section 7.

14-2.16 **Hand Sink** means a lavatory equipped with hot and cold water held under pressure, used solely for washing hands, wrists, arms or other portions of the body.

14-2.17 **Hot Water** means water at a temperature of at least 110° degrees F.

14-2.18 **Implant** means to fix or set securely an object in or under tissue and includes, but is not limited to, 3-dimensional body art applications.

14-2.18.1 This definition of Implant does not include medical procedures including, but not limited to, pacemaker insertion, cosmetic surgery, and reconstructive surgery performed by board-certified medical and dental personnel.

14-2.19 **Individual** means a living human being.

14-2.20 **Jewelry** means any personal ornament inserted into a newly pierced area.

14-2.21 **Liquid Chemical Germicide** means a disinfectant or sanitizer registered with the Environmental Protection Agency.

14-2.22 **Minor** means an individual under the age of 18 years.

14-2.23 **Operator** means any individual who controls, operates, or manages body art activities at a body art establishment and who is responsible for compliance with these regulations, whether actually performing body art activities or not.

14-2.24 **Person** means any individual, partnership, corporation, or association.

14-2.25 **Procedure Area** means the physical space or room used solely for conducting body art procedures.

14-2.26 **Procedure Surface** means the surface area of furniture or accessories that may come into contact with the client's clothed or unclothed body during a body art procedure and the area of the client's skin where the body art procedure is to be performed and the surrounding area, or any other associated work area requiring sanitizing.

14-2.27 **Remodel** means any change to a licensed body art establishment requiring a building permit for the work to proceed or any other work that will result in a change to an establishment plan previously submitted to the Department, which would include any work that involves substantial changes to facilities or equipment that are regulated by this Ordinance.

14-2.27.1 This definition of Remodel does not include changes to the front desk area, waiting area, painting, wallpapering, or carpeting, even if a building permit is required.

14-2.27.2 Adding a new workstation, making plumbing changes, or expanding into an adjacent space to add workstations are examples of remodeling.

14-2.28 **Sanitization (or to sanitize)** means a process of reducing the numbers of microorganisms on clean surfaces and equipment to a safe level.

14-2.29 **Safe Level** means not more than 50 colonies of microorganisms per 4 square inches of equipment or procedure surface.

14-2.30 **Scarification or Scarring** means any method of applying a scar to the body for the purpose of creating a permanent mark or design on the skin.

14-2.31 **Sharps** means any object (sterile or contaminated) that may purposefully or accidentally, cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized single use needles, scalpel

14-2.32 **Sharps Container** means a puncture-resistant, leak proof container that is closed for handling, storage, transportation and disposal.

14-4.32.1 The Sharps Container must be labeled with the international biohazard symbol.

14-2.33 **Single Use** means products or items intended for one time use and are disposed of after use on each client.

14-2.33.1 Examples of Single Use items include cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves.

14-2.34 **Standard Precautions** means a set of guidelines and controls, published by the Center for Disease Control (CDC) as "guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "recommendation for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," in MMWR, July 12, 1991, Vol. 40, No. RR-8. T, "Recommendations for prevention and control of HVC infection and HVC related chronic disease" in MMWR , October 16, 1998, Vol. 47, No. RR-19.

14-2.34.1 This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and other blood pathogens.

14-2.34.2 Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products.

14-2.34.3 Standard Precautions include Universal Precautions.

14-2.35 **Sterilization** means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

14-2.36 **Suspension** means the piercing of human tissue with large gauge fishing hooks or other piercing apparatus to raise or lower an individual with pulleys or other apparatus.

14-2.37 **Tattooing** means any method of placing ink or other pigments into or under the skin or mucosa with needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

14-2.37.1 This definition of Tattooing includes all forms commonly referred to as cosmetic tattooing.

14-2.38 **Technician** means any individual who conducts or practices body art activities at a body art establishment and who is responsible for compliance with these regulations.

14-2.39 **Temporary Event** means any place or premise operating at a fixed location where an operator performs body art procedures for no more than 21 days in conjunction with a single event or celebration.

14-3. PROHIBITED ACTIVITIES

14-3.1 No individual may conduct branding, cutting, implantation, suspension, or scarification of another individual.

14-3.2 No individual may pierce or tattoo the genitalia or nipples of a minor.

14-3.3 No person may own or operate a body art establishment without an establishment license obtained from the City for the applicable license class and license year.

14-3.4 No individual may perform body art procedures without either a technician license obtained from the Department for the applicable license year or current registration as an apprentice or guest artist in accordance with the requirements of Section 7 of this Ordinance.

14-3.5 A technician may not perform body art procedures at any place other than a licensed body art establishment.

14-3.6 A technician may not perform body art procedures while under the influence of alcohol, controlled substances as defined in Minnesota Statutes, section 152.01, subd. 4, or hazardous substances as defined in the rules adopted under Minnesota Statutes Chapter 182.

14-3.7 Body art procedures may not be performed on any individual who appears to be under the influence of alcohol, controlled substances as defined in Minnesota Statutes Section 152.01, subd. 4, or hazardous substances as defined in rules adopted under Minnesota Statutes Chapter 182.

14-3.8 No body art establishment may be used or occupied for living or sleeping quarters.

14-3.9 No person, firm or corporation shall conduct branding, cutting, implantation, suspensions, body piercing, tattooing or scarification of any individual in a food or beverage establishment.

14-3.10 No individual may tattoo any minor except in the presence of the parent or legal guardian of such minor.

14-4. EXEMPTIONS

14-4.1 Board-certified medical or dental personnel that tattoo or pierce as part of a medical or dental procedure is exempt from the provisions of this Ordinance.

14-4.2 Individuals who are piercing only the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear-piercing system are exempt from the license requirements of this Ordinance.

14-4.3 An individual registered and conducting body art procedures as an apprentice or a guest artist under this Ordinance is exempt from the technician license requirements of this Ordinance.

14-5. ADMINISTRATION

14-5.1 This Ordinance will be administered by the Department.

14-5.2 The provisions of Title 1, Chapter 4, of the City of Sartell Code of Ordinances, as amended, apply to the administration and enforcement of this Ordinance, unless otherwise expressly provided for in this Ordinance.

14-6. LICENSE PROCEDURES

14-6.1 All applications, new and renewal, for licenses must be made on forms furnished by the Department.

14-6.2 Upon payment of the applicable license fee, the Department will review the application.

14-6.2.1 The Department will issue a license if the Department based on the requirements and conditions specified in this Ordinance approves the application.

14-6.3 Each establishment license application must describe the general nature of the business, the location, written proof that the City has considered the establishment of the business and the results of that consideration, and any other information deemed necessary by the Department.

14-6.3.1 As part of the application for a new body art establishment license, the owner or operator must submit to the Department an establishment plan in sufficient detail to ascertain compliance with the requirements and conditions specified in this Ordinance.

14-6.4 Each technician license application must include proof of training and experience as referenced below.

14-6.4.1 Proof of training and experience may include proof of a completed apprenticeship or current license issued from another health agency.

14-6.4.2 Each technician license application must include current proof of successful completion of an approved course on blood borne pathogens and prevention of disease transmission.

14-6.4.3 Approved courses include those administered by one of the following: the American Red Cross, United States Occupational Safety and Health Administration (OSHA), or the Alliance of Professional Tattooists; or any other course approved in writing by the Department.

14-6.5 Licenses issued pursuant to this Ordinance will commence and expire on the dates indicated on the license certificate.

14-6.6 Temporary body art establishments and individuals conducting body art procedures at a temporary event must meet the requirements of this Ordinance.

14-6.6.1 An application for a license for a temporary event must be made to the Department at least 30 days before the start of the event.

14-6.6.2 Temporary event licenses will be issued for the specific days and hours of operation specified on the application and approved by the Department.

14-6.7 Only a person who complies with the requirements of this Ordinance is entitled to receive a license.

14-6.7.1 A license is not transferable as to person or place.

14-6.7.2 A valid establishment license must be predominantly displayed onsite.

14-6.7.3 A technician must have the valid technician license onsite and available to the public upon request.

14-7. **APPRENTICESHIP AND GUEST ARTISTS**

14-7.1 An individual may not start an apprenticeship or conduct body art procedures as a guest artist until a licensed technician registers the apprentice or guest artist with the Department on forms provided by the Department.

14-7.2 The following information is required for registration:

- The name and address of the licensed establishment where the apprentice or guest artist will be training or working.
- The name of the apprentice or guest artist.
- The name(s) of the licensed technician(s) conducting the apprenticeship or sponsoring the guest artist; when more than one technician is conducting the apprenticeship, a lead technician must be identified on the application.
- The starting and anticipated completion dates for the apprenticeship or the dates that the guest artist will be working.

14-7.3 An apprentice must complete a minimum of 200 hours of training under the direct supervision of the licensed technician(s) before becoming eligible for a technician license.

14-7.3.1 At least one of the licensed technicians listed in the registration information must be present at all times when the apprentice is conducting body art procedures.

14-7.4 A sponsoring licensed technician is not required to be present at all times when a guest artist is conducting body art procedures if the guest artist provides to the Department, upon registration, the information required under section 6.4.

14-7.4.1 The length of time the guest artist may conduct body art procedures must not exceed 30 cumulative days per calendar year per licensed establishment.

14-7.4.2 If the length of time exceeds 30 cumulative days per calendar year per licensed establishment, the guest artist must apply for a technician license.

14-7.5 Any individual who does not comply with the apprenticeship or guest artist procedures may be subject to penalties under this Ordinance, including the apprentice, the guest artist, or the licensed technician(s) conducting the apprenticeship or sponsoring the guest artist.

14-8. INSPECTIONS AND CONSTRUCTION

14-8.1 The Department will inspect each body art establishment: before issuing a license for a new establishment; as part of a construction or remodeling plan review and approval; as part of a complaint investigation; and as frequently as deemed necessary to ensure compliance with this Ordinance.

14-8.1.1 The operator of a body art establishment must, upon request by the Department personnel and after proper identification, permit access to all parts of the establishment at any reasonable time, for the purpose of inspection.

14-8.1.2 The operator of a body art establishment must, upon request by the Department personnel and after proper identification, allow review of any records necessary for the Department to determine compliance with the requirements of this Ordinance.

14-8.1.3 No person may interfere with or hinder the Department in the performance of its duties, or refuse to permit the Department to make such inspections.

14-8.2 The operator(s) or technician(s) must correct or remove each violation upon receipt of an inspection report giving notification of one or more violations of this Ordinance in a reasonable length of time as determined by the Department.

14-8.2.1 The length of time for the correction or removal of each violation will be noted on the inspection report.

14-8.2.2 Failure to remove or correct each violation within the time period noted on the inspection report constitutes a separate violation of this Ordinance.

14-8.3 The body art establishment must be constructed or remodeled in conformance with the establishment plans approved by the Department.

14-8.3.1 The owner or operator must submit a to-scale establishment plan in sufficient detail to ascertain compliance with the requirements and conditions specified in this Ordinance to the Department and/or the City's building inspection department_for plan review and approval before construction or remodeling begins.

14-8.3.2 The Department and/or the City's building inspection department_will inspect the body art establishment as frequently as necessary during construction to ensure that the construction occurs in conformance with this Ordinance.

14-8.3.3 The Department and/or the City's building inspection department will conduct a final construction inspection before the start of operations and issuance of a license.

14-8.3.4 The Department may issue orders to halt construction or remodeling, and to take corrective measures to ensure compliance with this Ordinance.

14- 9. GROUNDS FOR EMERGENCY CLOSURE

14-9.1 If any of the following conditions exist, the operator(s) or technician(s) may be ordered by the Department to discontinue all operations of a licensed body art establishment.

14-9.1.1 Evidence of a sewage backup in an area of the body art establishment where body art activities are conducted.

14-9.1.2 Lack of potable, plumbed, hot or cold water to the extent that hand washing or toilet facilities are not operational.

14-9.1.3 Lack of electricity or gas service to he extent that hand washing, lighting, or toilet facilities are not operational.

14-9.1.4 Significant damage to the body art establishment due to tornado, fire, flood, or another disaster.

14-9.1.5 Evidence of an infestation of rodents or other vermin.

14-9.1.6 Evidence of contamination, filthy conditions, untrained staff or poor personal hygiene.

14-9.1.7 Evidence of existence of a public health nuisance.

14-9.1.8 Use of instruments or jewelry that are not sterile.

14-9.1.9 Failure to maintain required records.

14-9.1.10 Failure to use gloves as required.

14-9.1.11 Failure to properly dispose of sharps, blood or body fluids, or blood or body fluid contaminated items.

14-9.1.12 Failure to properly report complaints of potential blood borne pathogen transmission to the Department.

14-9.1.13 Evidence of violations related to prohibited activities under section 2.01 of this Ordinance.

14-9.1.14 Evidence of a positive spore test on the sterilizer.

14-9.2 Following an emergency closure, a body art establishment may not reopen without written permission from the Department.

14-9.2.1 The Department will give written permission to reopen upon submission of satisfactory proof that the problem condition(s) causing the need for the emergency closure have been corrected or removed by the operator(s).

14-10. **STANDARDS FOR HEALTH AND SAFETY**

14-10.1 The body art establishment must meet the following requirements and conditions before an operator or technician may engage in body art activities.

14-10.1.1 There must be no less than 45 square feet of floor space for each procedure area in the body art establishment.

14-10.1.1.1 The procedure area(s) must be separated from the bathroom, retail sales area, hair salon area, or any other area that may cause potential contamination of work surfaces.

14-10.1.1.2 For clients requesting privacy, there must be provision for dividers, curtains, or partitions at a minimum to separate multiple procedure areas.

14-10.1.1.3 No animals may be allowed in the procedure area(s) of the body art establishment.

14-10.1.2 In the body art establishment, all procedure surfaces must be smooth, nonabsorbent and easily cleanable.

14-10.1.2.1 Procedure surfaces must be cleaned and sanitized after each client.

14-10.1.3 Each body art establishment must have a readily accessible hand sink that is not in a public restroom and is equipped with:

- Potable hot and cold running water under pressure;
- Liquid antibacterial hand soap;
- Single use paper towels; and
- A garbage can(s).

14-10.1.4 Each body art establishment must have at least one available bathroom equipped with a toilet and a hand lavatory, which must be supplied with:

- Potable hot and cold running water under pressure;
- Liquid antibacterial hand soap;
- Single use paper towels or mechanical hand drier/blower;
- A garbage can(s);
- A self-closing door; and
- Adequate ventilation.

14-10.1.5 Each body art establishment must have an artificial light source equivalent to 20 footcandles at three feet above the floor.

14-10.1.5.1 At least 100 foot-candles of light must be provided at the level where body art procedures are performed, where sterilization takes place, and where instruments and sharps are assembled.

14-10.1.6 All ceilings in the body art establishment must be in good condition.

14-10.1.7 All walls and floors in the body art establishment must be free of open holes or cracks and in washable condition.

14-10.1.8 All facilities in the body art establishment must be maintained in a clean and sanitary condition and in good working order.

14-10.1.9 Effective measures must be taken by the operator to prevent entrance, breeding, and harborage of insects, vermin, and rodents in the body art establishment.

14-10.2 Equipment, instruments and supplies must comply with the following requirements and conditions before an operator or technician may engage in any body art activities.

14-10.2.1 Jewelry used as part of a body piercing procedure must be made of surgical implant grade stainless steel, solid 14k or 18k white or yellow gold, niobium, titanium or platinum, or a dense low-porosity plastic.

14-10.2.1.1 All jewelry used as part of a body piercing procedure must be free of nicks, scratches or irregular surfaces and must be properly sterilized before use.

14-10.2.2 All reusable instruments must be thoroughly washed to remove all organic matter, rinsed, and sterilized before and after use.

14-10.2.3 All needles must be single use needles and sterilized before use.

14-10.2.4 All sterilization must be conducted using steam heat.

14-10.2.4.1 Steam heat sterilization units must be operated according to the manufacturer's specifications.

14-10.2.4.2 At least once a month, but not to exceed 30 days between tests, a spore test must be conducted on the sterilizer to ensure that it is working properly, with results documented.

14-10.2.4.3 If a positive spore test result is received, the sterilizer cannot be used until a negative result is obtained, which may result in ceasing operation until the situation is

corrected.

14-10.2.5 All inks, dyes, and other pigments must be specifically manufactured for tattoo procedures.

14-10.2.5.1 The mixing of approved inks, dyes, or pigments, or their dilution with distilled water or alcohol is acceptable.

14-10.2.6 Immediately before applying a tattoo, the quantity of the dye used must be transferred from the dye bottle and placed into single use paper or plastic cups.

14-10.2.6.1 Upon completion of the tattoo, these single use cups and their contents must be discarded.

14-10.2.7 All tables, chairs, furniture or other procedure surfaces that may be exposed to blood or body fluids during the tattooing or body piercing procedure must be constructed of stainless steel, or other suitable material that will allow complete sanitization, and must be sanitized between uses with a liquid chemical germicide.

14-10.2.8 Single use towels or wipes must be provided to the client.

14-10.2.8.1 These towels must be dispensed in a manner that precludes contamination and disposed of in a cleanable garbage container with a liner.

14-10.2.9 All bandages and surgical dressings used must be sterile or bulk-packaged clean and stored in a clean, closed container.

14-10.2.10 All equipment and instruments must be maintained in a good working order and in a clean and sanitary condition.

14-10.2.11 All instruments and supplies must be stored clean and dry in covered containers.

14-10.2.12 For each client, single use disposable barriers must be provided on all equipment used as part of the procedure that cannot be sterilized as required under section 7.02.

14-10.2.12.1 Examples include, but are not limited to, spray bottles, procedure light fixture handles, and tattoo machines.

14-10.3 The skin area subject to a body art procedure must be thoroughly cleaned with soap and water, rinsed thoroughly, and swabbed with an antiseptic solution.

14-10.3.1 Only single use towels or wipes may be used in the skin cleaning process.

14-10.3.2 Whenever it is necessary to shave the skin, a new disposable razor must be used for each client.

14-10.3.3 No body art procedure may be performed on any area of the skin where there is an evident infection, irritation, or open wound.

14-10.4 Each technician must scrub his or her hands and wrists thoroughly for 20 seconds before and after performing a body art procedure.

14-10.4.1 The technician also must wash his or her hands after contact with the client receiving the procedure or after contact with potentially contaminated articles.

14-10.4.2 A technician with any skin infection on the hand must not perform body art procedures.

14-10.5 Each technician must wear clean clothing and use a disposable barrier such as a lap cloth when performing body art procedures.

14-10.6 A technician may not smoke, eat, or drink while performing body art procedures.

14-10.7 Single use gloves of adequate size and quality as to preserve dexterity must be used for touching clients, for handling sterile instruments, or for handling blood or body fluids.

14-10.7.1 Non-latex gloves must be provided for use with clients or employees that request them.

14-10.7.2 Gloves must be changed if a glove becomes damaged or comes in contact with any non-clean surface or objects or with a third person.

14-10.7.3 At minimum, gloves must be discarded after the completion of a procedure on a client.

14-10.7.4 Hands and wrists must be washed before putting on a clean pair of gloves and after removing a pair of gloves.

14-10.7.5 Gloves must not be reused.

14-10.8 Infectious waste and sharps, must be managed in accordance with Minnesota Statutes, Sections 116.76 to 116.83 and must be disposed of by an approved infectious waste hauler at a site permitted to accept the waste, in accordance with Minnesota Rules Parts 7035.9100 to 7035.9150.

14-10.8.1 Sharps ready for disposal must be disposed of in an approved sharps container.

14-10.9 Contaminated waste that may release liquid blood or body fluids when compressed or that may release dried blood or body fluids when handled must be placed in an approved "red" bag that is marked with the international bio-hazard symbol.

14-10.10 Contaminated waste that does not release liquid blood or body fluids when compressed or handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods.

14-10.11 Storage of contaminated waste on-site must not exceed the period specified by 29 CFR Part 1910.1030, Occupational Exposure to Blood Borne Pathogens.

14-10.12 The Licensee must utilize Standard Precautions as part of the operation of the establishment.

14-11. **INFORMATION REQUIREMENTS AND PROFESSIONAL STANDARDS**

14-11.1 The following information must be kept on file on the body art establishment premises and available for inspection by the Department for each technician or apprentice while he or she is conducting or practicing body arts at the establishment and for an additional two years:

- Full name;
- Home address;
- Home phone number;
- Date of birth;
- Identification photo;
- Exact duties; and
- Proof of technician license or apprenticeship registration.

14-11.2 The following information must be kept on file on the body art establishment premises and available for inspection by the Department:

- A description of all body art procedures performed.
- An inventory of instruments, body jewelry, sharps, and inks or pigments used for all procedures.

- Copies of spore tests conducted on the sterilizer.
- A copy of this Ordinance.

14-11.2.1 The inventory information must include the names of manufacturers, serial and lot numbers, which may be satisfied by copies of invoices or orders.

14-11.3 Before performing any body art procedure on any client, the technician must request proof of age, which must be established by one of the following forms of identification:

- A valid driver's license or identification card issued by the State of Minnesota, or other state, and including the photograph and date of birth of the person;
- A valid military identification card issued by the United States Department of Defense;
- A valid passport; or
- A valid resident alien card.

14-11.3.1 No technician may tattoo a minor except with the written permission of both parents, including custodial and non-custodial parents, in accordance with Minnesota Statutes Section 609.2246.

14-11.3.2 No technician may pierce a minor without written permission from a custodial parent given in person at the establishment.

14-11.3.3 Nipple and genital piercing or tattooing on minors is prohibited regardless of parental consent.

14-11.4 In order to aid in proper healing following the procedure, the technician must provide a release form to the client for the client to indicate if he or she has:

- Diabetes;
- A history of hemophilia;
- A history of skin diseases, skin lesions, or skin sensitivities to soap, disinfectants, etc.;
- A history of allergies to metals;
- A history of epilepsy, seizures, fainting or narcolepsy;
- A condition where the client takes medications, such as anticoagulants, that thin the blood and may interfere with blood clotting; or
- Any other information that could aid the technician in evaluating the body art procedure process and necessary aftercare.

14-11.4.1 The technician must ask the client to sign and date the release form confirming that the listed information was obtained or was attempted to be obtained.

14-11.5 Before the technician administers a body art procedure, the client must sign and date a consent form, which must disclose that: any tattoo should be considered permanent, may only be removed with a surgical procedure, and any effective removal may leave scarring; or any body piercing may leave scarring.

14-11.6 For at least two years following the body art procedure performed for a client, the body art establishment operator must maintain records, which must be available for inspection by the Department upon request and must include the following:

- The date of the procedure.
- Record of information on picture identification showing name, age, and current address of the client.
- Copy of the release form signed and dated by the client.

- Copy of the consent form signed and dated by the client.
- The nature of the body art procedure performed.
- The name and license number of the technician performing the procedure.
- If applicable, copy of the signed written permission to perform the body art procedure on a minor

14-11.7 The operator of a body art establishment licensed under this Ordinance is required to maintain the records required under this Ordinance for at least two years after the last body art procedure is performed by the establishment even though the establishment is no longer licensed.

14-11.7.1 After closure, an operator must keep the Department informed about the current location where the records are maintained.

14-11.8 Technicians must provide each client with printed instructions on recommended aftercare for the body art during the healing process.

14-11.9 Operators and technicians must notify the Department immediately about any report that they receive of a potential blood borne pathogen transmission.

14-11.10 Each body art establishment must arrange for and maintain a program of sanitation self inspection conducted by the owner, operator, technician, or apprentice and approved by the Department.

14-11.10.1 The self-inspection program must include written policies, appropriate forms for logging self-inspections, and evidence that routine self-inspection of all aspects of the body art establishment takes place.

14-11.10.2 A description of the body art establishment self-inspection program must be available for review by the Department upon request.

14-12. **FEES**

14-12.1 Fees for licenses and for plan review and approval will be established from time to time by the Sartell City Council.

14-12.1.1 An additional fee is charged for each additional service or operation that is separate, distinct or unique from the central or main body art establishment, as determined by the Department.

14-12.2 If work has commenced before Department approval of construction or remodeling plans, late fees may be assessed in accordance with the fee ordinance.

14-12.3 License late fees also may be charged in accordance with the City of Sartell Fee Ordinance, as amended.

14-12.4 When a license application is for a period of less than the applicable license year for the activity or facility being licensed, the Department may prorate the applicable fee on a quarterly basis.

14-13. **SEPARABILITY**

14-13.1 If any provision or application of this Ordinance is held invalid, the invalidity will not affect other provisions or applications of this Ordinance.

14-14. **VIOLATIONS**

14-14.1 Any person who violates or fails to comply with any provision of this Ordinance is guilty of a misdemeanor.

14-14.1.1 A separate offense is deemed committed on each day during, or on which, a violation occurs or continues.

14-14.2 Any person who permits a violation of any provision of this Ordinance to exist on the premises under the person's control is guilty of a misdemeanor.

14-14.3 Any person who fails to take corrective action to abate the existence of any violation(s) within the specified time period when ordered to do so by the Department is guilty of a misdemeanor.

14-14.4 The Department, in consultation with the City Attorney, may institute appropriate civil actions or proceedings, including injunctive relief to prevent, restrain, correct, or abate a violation or threatened violation of this Ordinance.

14-15. **EFFECTIVE DATE**

14-15.1 This Ordinance is effective immediately upon its passage and publication.