

## SUB-ANALYSIS

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## CHAPTER 6

### OTHER BUSINESS REGULATION AND LICENSING

**SECTION 6.01. DEFINITIONS.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of this Chapter, shall have the following meanings:

**Subd. 1.** The term "applicant" means any person making an application for a license under this Chapter.

**Subd. 2.** The term "application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his/her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

**Subd. 3.** The term "bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

**Subd. 4.** The term "business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

**Subd. 5.** The term "license" means a document issued by the City to an applicant permitting him/her to carry on and transact a business.

**Subd. 6.** The term "licensee" means an applicant who, pursuant to his/her application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

**Subd. 7.** The term "license fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

**Subd. 8.** The terms "sale", "sell" and "sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

**SEC. 6.02. APPLICATIONS.** All applications shall be made as follows:

**Subd. 1.** All applications shall be made at the office of the City Clerk-Treasurer upon forms that have been formulated by the City for such purposes.

Source: City Code  
Effective Date: 9-1-75

**Subd. 2.** All initial applications shall be accompanied by the payment of a fee as set by the Council to cover the cost of investigation as herein provided.

Source: Ordinance No. 233, 2nd Series  
Effective Date: 2-28-97

**Subd. 3.** All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

- A. Applicant's name and citizenship.
- B. Applicant's present address and length of time he/she has lived at that address.
- C. Applicant's occupation and length of time so engaged.
- D. Applicant's addresses and occupations for the three (3) years next preceding the date of application.
- E. Names and addresses of applicant's employers, if any, for the three (3) years next preceding the date of application.
- F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense.
- G. Type of license and location of premises for which application is made.
- H. At least four character references if applicant has not resided in the City for two (2) years next preceding the date of application.
- I. Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

**Subd. 4.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.

Source: City Code  
Effective Date: 9-1-75

**Subd. 5.** The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character, business reputation and a criminal background check of each applicant for license to such extent as he/she deems necessary. For such investigation the City Administrator may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

Source: Ordinance No. 223, 2nd Series  
Effective Date: 11-15-95

**Subd. 6.** Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

Source: City Code  
Effective Date: 9-1-75

**Subd. 7. Applicants - Business Organization - Agent for Service of Process.**

**A.** If an applicant is a corporation, partnership, or any other type of business organization, or the agent for such organization, the application shall be made in the name of the business organization.

**B.** If an applicant is a foreign corporation, proof of holding a certificate of authority to transact business in the State of Minnesota, which certificate is valid, current, and neither revoked nor withdrawn, shall be required as a condition precedent to issuance of a license.

**C.** If an applicant is a foreign limited partnership, proof of valid and current registration to transact business in the State of Minnesota shall be required as a condition precedent to issuance of a license.

**D.** If an applicant is an individual or a business organization other than a domestic or foreign corporation or limited partnership, and which individual resides or which business organization has its principal office without the State of Minnesota, such applicant shall irrevocably appoint the City Clerk-Treasurer agent for service of process many action arising out of a transaction consummated pursuant to a license issued under this Chapter. Such applicant shall also agree that the District or County Court has jurisdiction in such action and that St. Louis County, Minnesota, is the proper venue.

Source: Ordinance No. 149, 2nd Series  
Effective Date: 12-30-86

**SEC. 6.03. ACTION ON APPLICATION FOR LICENSE.**

**Subd. 1. Granting.** The Council may grant any application for the period of the remainder of the then current calendar year or fiscal year, which is applicable to the said license, or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this Chapter.

**Subd. 2. Issuing.** If an application is granted, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. Licenses shall be on a calendar year basis beginning January 1 and ending December 31, unless a fiscal year basis is specifically required by State Statute or provisions in this Chapter.

Source: Ordinance No. 233, 2nd Series  
Effective Date: 2-28-97

**Subd. 3. Transfer.** No license shall be transferable between persons. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Subdivision.

**Subd. 4. Termination.** Licenses shall terminate only by expiration or revocation.

**Subd. 5. Refusal and Revocation.** The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

**Subd. 6. Duplicate License.** Duplicates of all original licenses may be issued by the City Clerk-Treasurer, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

**SEC. 6.04. CARRYING OR POSTING.** All transient merchants, peddlers and solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device licensing, the City shall provide a sticker for the current license

year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

**SEC. 6.05. PENALTY FOR PROPERTY OWNERS.** It is unlawful for any person to knowingly permit any real property owned or controlled by him/her to be used, without a license, for any business for which a license is required by this Chapter.

**SEC. 6.06. RESPONSIBILITY OF LICENSEE.** The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee himself.

**SEC. 6.07. CONDITIONAL LICENSES.** Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

Source: City Code  
Effective Date: 9-1-75

**SEC. 6.08. INSURANCE REQUIREMENTS.** Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk-Treasurer a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty (30) days' written notice served upon the City Clerk-Treasurer. Cancellation or termination of such coverage shall be grounds for license revocation.

**SEC. 6.09. LICENSE DENIAL AND FIXING RATES - HEARING.**

**Subd. 1. Right to Deny.** The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making such determination. Provided, however, that before making such determination, the Council shall hold a public hearing thereon pursuant to such notice to interested parties and the public as it may deem necessary or proper in action calling for such hearing.

**Subd. 2. Rates.** Where, under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business,



such rates shall be uniform for each category or class. of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

**Subd. 3. Hearing.** Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of such hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.

Source: Ordinance No. 85, 2nd Series  
Effective Date: 5-23-81

**SEC. 6.10. WORKER'S COMPENSATION.** No license to operate a business shall be issued by the City until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of Minnesota Statutes by providing the name of the insurance company, the policy number, and dates of coverage, or the permit to self-insure.

Source: Ordinance No. 170, 2nd Series  
Effective Date: 9-2-89

(Sections 6.11 through 6.19, inclusive, reserved for future expansion.)

(Pages 239 through 243 reserved)

Licenses and Regulations

**SEC. 6.20. MECHANICAL AMUSEMENT DEVICES.**

**Subd. 1. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

Source: Ordinance No. 91, 2nd Series  
Effective Date: 11-25-81

**A.** The term "mechanical amusement device" means a coin-operated phonograph, pinball machine, bowling machine, pool table, electronic or video game, or other coin-operated amusement device.

Source: Ordinance No. 276, 2nd Series  
Effective Date: 5-9-02

**B.** The term "operator" means the person who keeps, or allows to be kept, ten (10), or less, mechanical amusement devices on premises owned by him/her, or under his/her control, which may be played or used by the public generally at a price paid either directly or indirectly for this purpose.

**C.** The term "distributor" means the person who places mechanical amusement devices in any number on premises not owned by him/her or under his/her control, which devices may be played or used by the public generally at a price paid either directly or indirectly for this purpose.

**D.** The term "arcade" means a contiguous area in which more than ten (10) mechanical amusement devices are kept for use by the public generally.

**Subd. 2. License Required.** It is unlawful for any operator to keep or maintain a mechanical amusement device for use by the public without first having obtained a license therefor from the City. It is also unlawful for any person to operate an arcade or be a distributor without a license therefor from the City.

Source: Ordinance No. 91, 2nd Series  
Effective Date: 11-25-81

**Subd. 3. License Fee.** The annual license fee is \$15 for each mechanical amusement device plus \$15 for each location.

Source: Ordinance No. 276, 2nd Series  
Effective Date: 5-9-02

**Subd. 4. Unlawful Acts.** It is unlawful to keep or distribute a mechanical amusement device equipped with an automatic pay-off mechanism whether built in or attached. It is also unlawful to give or award, as a prize or otherwise, cash, merchandise or anything else of value to anyone playing or using a mechanical amusement device.

Source: Ordinance No. 91, 2nd Series  
Effective Date: 11-25-81

**Subd. 5. Exception.** This Section shall not apply to video games of chance under the control of the Charitable Gambling Control Board.

Source: Ordinance No. 138, 2nd Series  
Effective Date: 11-22-85

**SEC. 6.21. BILLIARD HALLS.**

**Subd. 1. License Required.** It is unlawful for any person to keep or maintain a billiard table available for public use and for which a fee is charged without first having obtained a license therefor from the City.

**Subd. 2. License Fee.** The annual license fee for each licensee at each location is \$30.00.

Source: City Code  
Effective Date: 9-1-75

**SEC. 6.22. DANCES.** (Repealed by Ordinance No. 175, 2nd Series, adopted 3-19-90.)

**SEC. 6.23. SHOWS.**

**Subd. 1. License Required.** It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license therefor from the City.

Source: City Code  
Effective Date: 9-1-75

**Subd. 2. License Fee.**

**A.** The annual license fee for each local theater presenting only films is \$40.00.

**B.** The license fee for any circus, carnival, menagerie, carnival, or like exhibition is \$60.00 for the first day and \$12.00 for each additional day.

**C.** The daily license fee for any performance other than those set forth above is \$10.00.

Source: Ordinance No. 282, 2nd Series  
Effective Date: 04-03-2003

**Subd. 3. Exceptions.** No license shall be required in the following instances:

**A.** Performances presented in the local schools and colleges, under the sponsorship of such schools and colleges, and primarily for the students thereof only.

**B.** Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only.

**C.** Any performance or event in, or sponsored by, bona fide local church and non-profit organizations, provided that such organization shall be incorporated.

Source: City Code  
Effective Date: 9-1-75

**Subd. 4. Obscenity Prohibited.**

**A. Definitions.** As used in this Subdivision, the following words and terms shall have the meanings stated:

**1.** The term "nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

2. The term "obscene performance" means a performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct, and if all of the following elements are also present:

(a) Considered as a whole, by the average person, applying the contemporary community standards of the City, it appeals to the prurient interest;

(b) The obscene performance depicts, describes, or represents any of the above mentioned sexual activities in a patently offensive way;

(c) It lacks serious literary, artistic, political or scientific value.

3. The term "obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

4. The term "performance" means any play, motion picture film, dance or other exhibition pictured, animated or live, performed before an audience.

5. The term "sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume, or the condition of such person being fettered, bound or otherwise physically restrained, in an apparent act of sexual stimulation or gratification.

6. The term "sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

7. The term "sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

B. It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to:

1. Exhibit an obscene performance; or,

2. Directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance; or,

3. Directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.

Source: Ordinance No. 37, 2nd Series  
Effective Date: 6-22-77

C. (Repealed by Ordinance No. 78, 2nd Series, adopted 9-17-80.)

D. (Repealed by Ordinance No. 78, 2nd Series, adopted 9-17-80.)

**Subd. 5. Special Requirements for Drive-in Theaters.**

**A. Definition.** The term "drive-in theater" means any premises in which motion pictures are projected upon a screen or theatrical performance given for viewing by patrons seated in or upon motor vehicles, and for which an admission charge is made.

**B. Beer, Wine and Liquor.** It is unlawful for any person upon the premises of a drive-in theater, whether in or out of a motor vehicle, to have in his/her possession or under his/her control any "controlled substance", as defined by statute, or any beer, wine or liquor, as defined in City Code Chapter 5, or to offer to give to another to drink or use the same. It is also unlawful for a licensee hereunder to permit such giving, consumption or use thereof, or fail to strictly enforce this Subdivision.

Source: Ordinance No. 94, 2nd Series  
Effective Date: 8-21-82

**SEC. 6.24. TOBACCO.**

**Subd. 1. Purpose.** Because the City recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Section shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco related devices, and to further

the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statute Section 144.391.

**Subd. 2. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

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

2. **"Tobacco Related Devices"** means 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.

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

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

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



6. **"Loosies"** means the common term used to refer to a single or individually packed cigarette.

7. **"Minor"** means any natural person who has not yet reached the age of eighteen (18) years.

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

9. **"Movable Place of Business"** refers 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.

10. **"Sale"** means any transfer of goods for money, trade, barter, or other consideration.

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

**Subd. 3. License.** It is unlawful for any person to sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the City.

**A. Application.** An application for a license to sell tobacco, tobacco products or tobacco related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk-Treasurer shall forward the application to the council for action at its next regularly scheduled council meeting. If the City Clerk-Treasurer 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.

**B. Action.** The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the City Clerk-Treasurer shall issue the license to the applicant. If the 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 Council's decision.

**C. Term.** All licenses issued under this Section shall be valid for one (1) calendar year from the date of issue.

**D. Revocation or Suspension.** Any license issued under this Section may be revoked or suspended as provided in the Violations and Penalties Sections herein.

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

**F. Movable 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 Section.

**G. Displays.** All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

**H. Renewals.** The renewal of a license 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 Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Source: Ordinance No. 243, 2nd Series  
Effective Date: 9-4-97

**Subd. 4. Fees.** No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license under this Section shall be \$100.00.

Source: Ordinance No. 395, 2nd Series  
Effective Date: 01-01-2012

**Subd. 5. Basis for Denial of License.** The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law,

the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section.

A. The applicant is under the age of eighteen (18) years.

B. The applicant has been convicted within the past five years of any violation of a Federal, State or local law or City Code provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

C. The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding twelve months of the date of application.

D. The applicant fails to provide any information required on the application, or provides false or misleading information.

E. The applicant is prohibited by Federal, State, or local law, City Code provision or other regulation from holding such a license.

**Subd. 6. Prohibited Sales.** It is a violation of this Section for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

A. To any person under the age of eighteen (18) years.

B. By means of any type of vending machine, except as may otherwise be provided in this Section.

C. By means of self-service methods whereby the customer does not need to make verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco related product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or the licensee's employee and the customer.

D. By means of loosies as defined herein.

E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

F. By any other means, or to any other person, or in any other manner or form prohibited by Federal, State or other local law, City Code provision, or other regulations.

**Subd. 7. Vending Machines.**

A. **Prohibition.** It is unlawful for any person licensed under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

Source: Ordinance No. 243, 2nd Series  
Effective Date: 9-4-97

**Subd. 8. Self-Service Sales.** It is unlawful for a licensee under this Section to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public. Licensees which prohibit individuals less than 18 years of age from entering the premises and which derive at least 90 percent of their revenue from tobacco and tobacco-related products are exempt from this Subdivision.

Source: Ordinance No. 244, 2nd Series  
Effective Date: 9-17-97

**Subd. 9. Responsibility.** All licensees under this Section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premise, 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 Section, State or Federal law, or other applicable law or regulation.

**Subd. 10. Compliance Checks and Inspections.** All licensed premises shall be open to inspection by the City police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years to enter the licensed premise to

attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification or theatrical makeup misrepresenting the minor's age. All minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee and shall produce any identification for which he or she is asked. The minor shall be accompanied by the City police or an authorized City official to the location of the compliance check. 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.

**Subd. 11. Violations.**

**A. 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.

**B. Hearings.** If a person accused of violating this Section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

**C. Hearing Officer.** The Council or a person or persons designated by the Council shall serve as the hearing officer.

**D. Decision.** If the hearing officer determines that a violation of this Section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Subdivision 12 of this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

**E. Appeals.** Appeals of any decision made by the hearing officer shall be filed in the District Court for the City in which the alleged violation occurred.

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

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

**Subd. 12. Penalties.**

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

**B. Other Individuals.** Other individuals, other than minors regulated by Subparagraph C of this Subdivision, found to be in violation of this Section shall be charged an administrative fee of \$50.

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

Source: Ordinance No. 243, 2nd Series  
Effective Date: 9-4-97

**SEC. 6.25. SOLICITORS.**

**Subd. 1. Purpose.** This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contact with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control: (1) businesses and organizations using solicitation as a means of concealing unlawful activities; and, (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and, (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices. The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

**Subd. 2. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**A. "Solicitor"** means 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 shall mean the same as the term "canvasser".

**B. "Solicitee"** means the person solicited.

**C. "Goods"** means any tangible thing of value including money if the selling price exceeds the face value thereof. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom. The term also includes the following intangibles: (1) property, casualty, health, accident and life insurance, (2) corporate, mutual fund and limited partnership shares or interests, and, (3) merchandise certificates or coupons, redeemable in cash or in exchange for goods or services, either in whole or in part, but not including such merchandise certificates or coupons as are given or distributed as a gratuity.

**D. "Services"** means work, labor, or services of any kind.

**E. "Established place"** means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

**F. "Business solicitation"** means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him/her contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he/she represents, and the identity or kinds of goods, services or things of value offered; or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor; or, (3) an attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or, (4) an attempted solicitation for the sale of products of a farm or garden occupied or

cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

**G. "Contribution solicitation"** means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or persons acting for him/her contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he/she represents, and the identity of the services performed or offered by the organization, or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him/her.

**Subd. 3. Prohibited Solicitation Practices.**

**A.** It is unlawful for any solicitor to engage in solicitation for any unlawful business or organizational purpose or activity.

**B.** It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation.

**C.** It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign at least 3-3/4 inches long and 3-3/4 inches high with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point.

**D.** It is unlawful for any solicitor to refuse to leave business premises when requested by the owner, lessee, or person in charge thereof.

**E.** It is unlawful for any person to engage in contribution solicitation without completion of registration as herein provided.

**F.** It is unlawful for any person to engage in business solicitation without a registration as herein provided.

**G.** It is unlawful for any solicitor except for an authorized manufacturer's representative to offer for sale any of the following items:

**1.** Infant formula or other food intended primarily for consumption by a child under the age of two years;

**2.** Over-the-counter drugs, medical devices and cosmetics.



**Subd. 4. Application.** Applications for registration shall contain the name and address of the solicitor, the name and address of the business or organization for which solicitations are sought and such other information as may reasonably be required by the Council as a condition to registration.

**Subd. 5. Fees for Business Solicitation Registration.** No fees will be charged to solicitors.

**Subd. 6. Duration of Contribution Solicitation Registration.** Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

**Subd. 7. Exclusions.** The City excludes from the registration provisions of this Section:

A) business solicitation for events sponsored by merchants with an established place of business in the City

B) bona fide incorporated local churches and local non-profit incorporated organizations

C) persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market and anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale.

D) any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity

E) The City may also exclude certain classes of solicitor events from compliance with registration provisions of this Section.

F) Provided, however, that the above exclusions shall not extend to the prohibited solicitation practices set forth in Subdivision 3, Subparagraphs A through D, inclusive, of this Section.

**Subd. 8. Hours of Solicitation.** The hours of solicitation for solicitors in the City shall be as follows:

May 1st to October 31st	from 9:00 a.m. to 8:00 p.m.
November 1st to April 30th	from 9:00 a.m. to 5:00 p.m.

Source: Ordinance No. 287, 2nd Series  
Effective Date: 06-15-2003

**SEC. 6.26.** (Repealed by Ordinance No. 390, 2nd Series, adopted 05-18-2011; published 06-28-2011)

**SEC. 6.27.** (Repealed by Ordinance No. 100, 2nd Series, adopted 10-19-82.)

**SEC. 6.28. TAXICABS.**

**Subd. 1. Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

**A.** The term "taxicab" means any passenger conveyance being driven, on call or traversing a scheduled or unscheduled route for public use or hire upon payment of a fare or at regular fare rates, but not including such as are designed for mass transportation as buses, trains or streetcars.

**B.** The term "operator" means a licensee owning or otherwise having control of one or more taxicabs.

**C.** The term "driver" means the person driving and having physical control over a taxicab whether he/she be the licensee or in the employ of the licensed operator.

Source: City Code

Effective Date: 9-1-75

**Subd. 2. Taxicab driver's license.**

**A. License required.** It is unlawful for any person to drive a taxicab, or for any operator of a taxicab to allow any other person to drive a taxicab, within the City of Hibbing unless that person has first obtained and displayed a taxicab driver's license under the provisions of this Section.

**B. Drivers from other cities.** Any driver licensed to operate a taxicab in another city may carry passengers from that city to any place within the City of Hibbing and may freely enter and travel upon the streets for that purpose. In that case, it shall not be deemed necessary for the taxicab driver to obtain a Hibbing license, but the driver shall not be permitted to accept or offer any passenger for hire in the City of Hibbing, or otherwise operate a taxicab within the City without first obtaining a license under the provisions of this Section. While within the City, the taxicab driver shall be required to observe all of the applicable regulations and conditions of this Section and shall have in possession and display to any person upon demand the license certificate for the taxicab.

**C. License application.** Every applicant for a taxicab driver's license shall file an application with the Administrative Assistant of the City of Hibbing. The application shall be made on a form

provided by the City of Hibbing, including information such as, but not limited to, a complete employment history, to verify that the terms and conditions of this Section have been met. The application shall be signed and sworn to by the applicant. Prior to the issuance of the license, every licensee shall be photographed. The chief of police or his or her representative shall investigate each applicant and shall forward the results of the application to the Administrative Assistant. Any false statement on the application shall be grounds for denial, refusal to renew or revocation of a license.

**D. License fee.** The fee required for a license shall be \$25.00.

**E. Prerequisites to license.** Eligibility to be licensed to operate a taxicab shall be as follows:

1. Possess a valid Minnesota driver's license;
2. Be at least eighteen (18) years old;
3. Be a citizen of the United States, or an alien admitted for permanent residence, or who has otherwise obtained work authorization from the U.S. Immigration and Naturalization Service;
4. Shall not be under sentence or have been discharged from sentence for a felony conviction within the ten (10) years immediately preceding application for a license for the following offenses: Murder (Minn. Stat. §§609.185 to 609.195), manslaughter (§§ 609.20 to 609.205), criminal vehicular homicide and injury (§ 609.21), assault I--III (§§ 609.221 to 609.223), criminal sexual conduct (§§ 609.342 to 609.3451), indecent conduct (§ 617.23, subd. 2 or 3); or any violation of the controlled substance law (§ 152 et al) which is punishable by a maximum sentence of fifteen (15) years or more; as allowed under Minn. Stat. § 364.09.
  - a. The licensee shall not be under sentence or have been discharged from sentence for any felony conviction within the five (5) years immediately preceding application for a license, and shall not be under sentence or have been discharged from sentence for any non-traffic gross misdemeanor or non-traffic misdemeanor conviction within the three (3) years immediately preceding application for a license.
  - b. The City may grant, pursuant to Minn. Stat. §364.03, an exception to paragraph a. upon evidence that either the offense is not related to the occupation of taxicab driver, or upon evidence of rehabilitation.
  - c. A person holding a license on the effective date of this Section will be disqualified from license renewal only for convictions that occur after the effective date of this Section. However, no licensee will be eligible for renewal if the licensee has any felony convictions in the five (5)

years preceding renewal; or any non-traffic gross misdemeanor or misdemeanor convictions in the three (3) years preceding renewal involving the use or threat of use of force, possession or sale of a controlled substance, prostitution or indecent conduct.

standards:

5. Shall have a driving record meeting the following
  - a. No convictions in the last ten (10) years for any of the following offenses involving injury or death; no conviction in the last three (3) years for any of the following offenses not involving injury or death:
    1. Leaving the scene of an accident under Minn. Stat. 609.21, or 169.09, or similar law of another state or Minnesota law as amended;
    2. Driving while impaired under Minn. Stat. § 169A.20, subd.1, or similar law of another state or Minnesota law as amended.
    3. Misdemeanor Reckless Driving under Minn. Stat. § 169.13, subd. 1, or similar law of another state or Minnesota law as amended;
    4. Refusal to submit to a chemical test under Minn. Stat. § 169A.20, subd. 2.
    5. A person holding a license on the effective date of this Section will be disqualified from license renewal only for convictions that occur after the effective date of this section. However, no licensee will be eligible for renewal if the licensee has any convictions for the above-listed offenses in the five (5) years preceding renewal or in the three (3) years preceding renewal if the offense did not involve injury or death.
  - b. No prior license revocation within one year immediately preceding application as defined in Minn. Stat. § 169A.03, subd 21.
  - c. For original licensure: No more than four (4) moving violations within the last three (3) years, and no more than two (2) moving violations in the last year. For renewal: No more than four (4) moving violations within the last three (3) years and no more than three (3) moving violations in the last year. A moving violations shall mean for this subsection those A violation of a traffic regulation but does not include a parking violation, vehicle equipment violation, or warning citation.
  - d. Every new applicant shall have at least one (1) year's driving experience as a licensed driver.
  - e. An applicant who has had a driver's license outside the state of Minnesota at any time during the ten

(10) years prior to application shall submit a copy of that applicant's driving record from that state.

- f. Upon submission of proof of suitability and evidence of insurability, the Chief of Police or his or her representatives may waive one (1) or more of the requirements listed above; provided, that any such waiver shall indicate the grounds for the Chief of Police's or his or her representatives' decision.

6. Shall have a demonstrated knowledge of the provisions of the taxicab ordinance relating to the conduct of taxicab drivers and the operation of a taxicab.

7. Failure to apply for renewal of any taxicab operator's license within thirty (30) days after expiration shall be deemed an abandonment of the licensee's right to such renewal.

**F. Duty to exhibit license.** Every taxicab driver while on duty shall display the front of his or her taxicab driver's license on the dashboard of the vehicle in a location readily visible to passengers, which license displays the driver's photograph and license number on the front in a manner approved by the Chief of Police or his or her representatives. In addition to any other penalties, a police officer may order the licensee to discontinue operations until such time as the licensee has a license in possession.

**G. Issuance of license.** Each taxicab driver's license shall have upon it a number by which the license shall be designated, a photograph of the licensee, and such other information as the Administrative Assistant of the City of Hibbing may require. The Administrative Assistant may issue licenses for a term of less than one (1) year for a prorated initial fee in order to have all license expiration dates on the same date.

**H. Requirement of valid Minnesota driver's license.** Any time that a licensee's Minnesota driver's license is suspended, revoked or canceled, his or her taxicab driver's license shall likewise be immediately suspended, revoked or canceled. No person shall operate a taxicab without a valid Minnesota driver's license.

**I. Renewals.** A taxicab driver's license shall be issued annually. The Administrative Assistant of the City of Hibbing may cause the renewal of a taxicab driver's license from year to year by appropriate endorsement upon the application for renewal and payment of an annual fee as set forth in this Section. The driver shall make such renewal application upon a form to be furnished by the Administrative Assistant of the City of Hibbing. The renewal form shall be filled out with the full name and address of the applicant, together with the date and number of the original license. If a driver has not been licensed in the previous license year, he or she shall be considered a new applicant.

**J. Suspension, revocation and non-renewal.** A taxicab driver's license may be revoked, suspended or not renewed following the

procedure set forth in Subdivision 7. When a taxicab driver's license has been revoked or suspended, it shall immediately be returned to the Administrative Assistant of the City of Hibbing. If the City Council stipulates that a licensee whose taxicab driver's license has been revoked may reapply after a specific period of time has elapsed, that period of time shall not commence until the taxicab driver's license has been returned to the Administrative Assistant.

**K. Revocation of state driver's license; limited licenses; impaired driving conviction.**

1. Any person holding a taxicab driver's license whose Minnesota driver's license is suspended, canceled or revoked for any reason shall immediately surrender his or her taxicab driver's license to the Administrative Assistant of the City of Hibbing. The taxicab driver's license shall be returned to the licensee upon reinstatement of the Minnesota driver's license or issuance of a limited license authorizing operation of a taxicab; provided, however, that suspension, cancellation or revocation of a Minnesota driver's license due to refusal to submit to a legally required blood alcohol test under the state implied consent statute shall be grounds for the revocation, non-issuance or non-renewal of the taxicab driver's license.

2. Any licensed taxicab driver whose Minnesota driver's license has been revoked and who has been issued a limited license authorizing the operation of a taxicab shall immediately notify the Administrative Assistant of the City of Hibbing of the same. At that time, the licensee shall furnish to the Administrative Assistant a copy of the limited license and a written statement containing a schedule of the days and hours of each day during which he or she will be driving a taxicab during the term of the limited license. No deviation from the schedule shall be permitted. In addition, the licensee shall personally furnish to the Administrative Assistant copies of all trip sheets for all shifts worked during the term of the limited license.

3. Any person holding a taxicab driver's license shall notify the Administrative Assistant of the City of Hibbing immediately whenever he or she is convicted of an impaired driving offense.

4. Refusal to take and/or failure to pass a chemical test administered pursuant to 169A.51 while on duty shall be grounds for revocation of a taxicab driver's license.

5. Failure to comply with the provisions of this Section shall be grounds for revocation of a taxicab driver's license.

**L. Notification of change of address.** Any person holding a taxicab driver's license, shall notify the Administrative Assistant immediately whenever he or she has a change of address.

Source: Ordinance No. 371, 2nd Series  
Effective Date: 05-01-2010

**Subd. 3. License Fees.** The annual license fee for each taxicab is \$33.00. Provided, however, that if a licensed vehicle is disabled through mechanical failure or for needed repairs, the license may be temporarily transferred to another conveyance for a seven-day period upon approval by the City.

Source: Ordinance No. 282, 2nd Series  
Effective Date: 04-03-2003

**Subd. 4. License Issuance and Display, and Vehicle Marking.** All licenses shall be issued for specific conveyances, except as otherwise herein provided. License tags, including number and year for which issued, shall be plainly visible from the front and rear of the conveyance. Both sides of every licensed taxicab, when in use, shall be plainly and permanently marked as such with a painted sign or appurtenances showing the full or abbreviated name of the licensed operator.

Source: Ordinance No. 371, 2nd Series  
Effective Date: 05-01-2010

**Subd. 5. Insurance Required.** Before a taxicab license is issued by the Council, and at all times effective during such licensed period, the licensee shall have and maintain public liability and bodily injury insurance in the amount of \$100,000.00 for any one person and \$300,000.00 for two or more persons injured in any one accident, as well as \$100,000.00 property damage insurance.

Source: Ordinance No. 233, 2nd Series  
Effective Date: 2-28-97

**Subd. 6. Mechanical Condition.** Before issuing a taxicab license, the applicant shall present to the Council a certificate signed by a competent and experienced mechanic showing that the taxicab conveyance is in good mechanical condition, that it is thoroughly safe for transportation of passengers and that it is in neat and clean condition. Such similar certificate may be required from time to time during the licensed period. In lieu of such certificate the Council may accept the report of the Chief of Police relative thereto.

Source: City Code  
Effective Date: 9-1-75

**Subd. 7. Suspension and Revocation.**

**A. Generally.** Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

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

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



3. Conviction of any offense for which granting of a license could have been denied under Subd. 2, E.

4. Violation of any provision of this Section.

**B. Notice.** Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

**C. Public hearing.** Upon receiving the notice provided in paragraph B. of this Subdivision, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time-frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

**D. Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a taxicab driver or operator licensed under this Section, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in paragraph C. of this Subdivision.

**E. Appeals.** Any person whose license is suspended or revoked under this Section shall have the right to appeal that decision in Court.

Source: Ordinance No. 371, 2nd Series  
Effective Date: 05-01-2010

## SEC. 6.29. KENNELS.

**Subd. 1. Defined.** For the purposes of this Section the term "kennel" means any place, building, tract of land, abode or vehicle, wherein or whereon four (4) or more dogs, over six (6) months of age, or four (4) or more cats over six (6) months of age, are kept, kept for sale, or boarded including a non-profit Humane Society organization.

Source: Ordinance No. 384, 2nd Series  
Effective Date: 05-05-2011

**Subd. 2. License Required.** It is unlawful for any person or non-profit Humane Society organization to operate or maintain a kennel without first having obtained a license therefor from the City.

**Subd. 3. License Fee.** The annual license fee for a kennel is \$10.00.

**Subd. 4. Inspection Fee.** The annual fee for inspection of the premises of the kennel is \$15.00.

**Subd. 5. Investigation Fee.** Notwithstanding any other provision in Chapter 6 to the contrary, in addition to the license fee set forth in Subd. 3 above, all initial applications and renewal applications shall be accompanied by an investigation fee of \$25.00. Said investigation fee is to cover the costs incurred by the City for investigating the background of the applicant and, with regard to renewal applications, for investigating any violations of Sections 10.21, 10.22 or 10.23 of the City Code and compliance with any and all conditions of the conditional use permit. Violations of Sections 10.21, 10.22 or 10.23 of the City Code or the conditional use permit shall be grounds for not renewing the kennel license. Said investigation fee shall not be refunded in the event that a kennel license is not issued to the applicant.

**Subd. 6. Ownership Defined.** For the purposes of this Section, any person who harbors, feeds, boards or keeps a dog or cat under his control shall be deemed the owner thereof including a non-profit Humane Society organization.

**Subd. 7. Kennel License Restrictions.** Licenses shall not be issued, nor kennels maintained, in the urban area of the City except to a non-profit Humane Society organization. Application for a kennel license shall be in accordance with procedures for issuance of a conditional use permit and shall be required in all cases.

Source: Ordinance No. 233, 2nd Series  
Effective Date: 2-28-97

## **SEC. 6.30. PAWNBROKERS.**

**Subd. 1. Definitions.** When used in this article, the following words shall mean:

**A. Pawnbroker.** Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this Section shall be applicable. This definition shall exclude bondsmen and brokers.

**B. Reportable transaction.** Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

**1.** The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an

established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.

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

**C. Billable transaction.** Every reportable transaction by a pawnbroker is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

**Subd. 2. License Required.** It is unlawful for any person to engage in the business of a pawnbroker without a license therefor from the City.

Source: Ordinance No. 368, 2nd Series  
Effective Date: 03-28-2010

**Subd. 3. License fees.**

**A.** The annual license fees for licenses issued under this Section shall be 60 cents (\$.60) per billable transaction payable to the City of Hibbing to be forwarded to the City of Minneapolis for the use of their automated pawn system program. No other fees shall be charged for one (1) year after which the City Council of the City of Hibbing shall review said annual license fee and make a determination as to the appropriate payment.

Source: Ordinance No. 391, 2nd Series  
Effective Date: 07-06-2011

**B.** The billable transaction fee reflects the cost of processing transactions and other related regulatory expenses as determine by the City Council, and shall be reviewed and adjusted, if necessary, annually. Licensees shall be notified in writing thirty (30) days before any adjustment is implemented.

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

**Subd. 4. Application required.**

**A.** If the applicant is a natural person:

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

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

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

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

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

6. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the proceeding five (5) years.

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

8. The physical description of the applicant.

9. If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them as required in 1. through 8. of this subparagraph A. of subdivision 4. of this Section.

**B.** If the applicant is a partnership:

1. The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in subparagraph A. of subdivision 4. of this Section.

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

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

4. If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in 1. through 8. of subparagraph A. of subdivision 4. of this Section.

**C.** If the applicant is a corporation or other organization:

1. The name of the corporation or business firm, and if incorporated, the state of incorporation.

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

3. The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in 1. through 8. of subparagraph A. of subdivision 4. of this Section.

4. A list of all persons who control or own an interest in excess of five (5) percent in such organization or business firm or who are officers of the corporation or business firm and all information concerning said persons required in 1. through 8. of subparagraph A. of subdivision 4. of this Section. This item 4, however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

**D.** For all applicants whether or not the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit and whether or not the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit:

1. The location of the business premises.
2. If the applicant does not own the business premises, a true and complete copy of the executed lease.
3. The legal description of the premises to be licensed.
4. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
5. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed.
6. Such other information as the City Council or issuing authority may require.

**E. New manager.**

1. When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within fourteen (14) days. The application must include all appropriate information required in this Section.

2. Upon completion of an investigation of a new manager, the licensee must pay \$15.00 for the cost of the investigation to assure compliance with this Section.

**F. Application execution.** All applications for a license under this Section must be signed and sworn to under oath or affirmation

by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

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

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

1. Is a minor at the time that the application is filed;
2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes Section 364.03, Subd. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this Section as prescribed by Minnesota Statutes Section 364.03, Subd. 3; or
3. Is not of good moral character or repute.

**Subd. 5. Bond required.** Before a license will be issued, every applicant must submit a One Thousand and No/100ths Dollar (\$1,000.00) bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon thirty (30) days written notice to the City, which shall be served upon licensing authority.

**Subd. 6. Records required.** At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department.

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

**B.** The purchase price, amount of money loaned upon, or pledged therefor.

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

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

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

**F.** The identification number and state of issue from any of the following forms of identification of the seller:

1. Current valid Minnesota driver's license.
2. Current valid Minnesota identification card.
3. Current valid photo identification card issued by another state or province of Canada.

**G.** The signature of the person identified in the transaction.

**H.** Effective sixty (60) days from the date of notification by the Police Department of acceptable video standards the licensee must also take a color photograph or color video recording of:

1. Each customer involved in a billable transaction.
2. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

If a photograph is taken, it must be at least two (2) inches in length by two (2) inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the Police Department upon request. The major portion of the photograph must include an identifiable facial image of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must focus on the person paying or selling the item so as to include an identifiable image of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The



licensee must inform the person that he or she is being videotaped by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three (3) months.

**I. Digitized photographs.** Effective sixty (60) days from the date of notification by the Police Department licensees must fulfill the color photograph requirements in paragraph H. above by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction with which they are associated. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in paragraph H.

**J. Renewals, extensions, redemptions and confiscations.** For renewals, extensions, redemptions and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

**K. Inspection of records.** Records must at all reasonable times be open to inspection by the Police Department. Data entries shall be retained for at least three (3) years from the date of transaction. Entries of required digital images shall be retained a minimum of ninety (90) days.

**Subd. 7. Daily reports to police.**

**A.** Effective no later than sixty (60) days after the Police Department provides licensees with the current version of the Automated Pawn System Interchange File Specification, licensees must submit every reportable transaction to the Police Department daily in the following manner:

**1.** Licensees must provide to the Police Department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the Police Department daily.

**B. Billable transaction fees.** Licensees will be charged for each billable transaction reported to the Police Department.

**1.** If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day;

2. If the problem is determined to be outside the licensee's system, the licensee must continue to provide the reports required in paragraph A of this Subdivision 7 and resubmit all such transactions via modem when the error is corrected.

3. If a licensee is unable to capture, digitize or transmit the photographs required in paragraph I. of Subdivision 6 of this Section, the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the Police Department upon request.

4. Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business date the problem had existed.

5. Notwithstanding items 1, 2 and 3 of this paragraph B. above, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

**Subd. 8. Receipt required.** Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include at least the following information:

A. The name, address and telephone number of the licensed business.

B. The date and time the item was received by the licensee.

C. Whether the item was pawned or sold, or the nature of the transaction.

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

E. The signature or unique identifier of the licensee or employee that conducted the transaction.

F. The amount advanced or paid.

G. The monthly and annual interest rates, including all pawn fees and charges.

H. The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.

I. The full name, current residence address, current residence telephone number and date of birth of the pledger or seller.

**J.** The identification number and state of issue from any of the following forms of identification of the seller:

1. Current valid Minnesota driver's license.
2. Current valid Minnesota identification card.
3. Current valid photo driver's license or identification card issued by another state or province of Canada.

**K.** Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.

**L.** The signature of the pledger or seller.

**M.** All printed statements as required by Minnesota Statute Section 325J.04, subdivision 2, or any other applicable statutes.

**Subd. 9. Redemption period.** Any person pledging, pawning or depositing an item for security must have a minimum of ninety (90) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the ninety (90) day holding period items may not be removed from the licensed location. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or to any person identified in a written and notarized authorization to redeem the property identified in the receipt or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of a Police officer. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with Subd. 6, paragraph J, of this Section.

Source: Ordinance No. 368, 2nd Series  
Effective Date: 03-28-2010

**Subd. 10. Victims to report their loss and law enforcement to make comparisons.** Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for seven (7) days from the date of the transaction. An individual may redeem an item seventy-two (72) hours after the item was received on deposit excluding Sundays and legal holidays.

Source: Ordinance No. 374, 2nd Series  
Effective Date: 07-10-2010

**Subd. 11. Police order to hold property.**

**A. Investigative hold.** Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigate hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigate order is canceled, or until an order to hold/confiscate is issued, pursuant to paragraphs B or C of this subdivision below, whichever comes first.

**B. Order to hold.** Whenever a Police officer notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by a Police officer. The order to hold shall expire ninety (90) days from the date it is placed unless a Police officer determines the hold is still necessary and notifies the licensee in writing.

**C. Order to confiscate.** If an item is identified as stolen or evidence in a criminal case a Police officer may:

1. Physically confiscate and remove it from the shop, pursuant to a written order from a Police officer, or

2. Place the item on hold or extend the hold as provided in paragraph B above and leave it in the shop.

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

When an order to hold/confiscate is no longer necessary, a Police officer shall so notify the licensee.

**Subd. 12. Inspection of Items.** At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting items, ware and merchandise and records therein to verify compliance with this Section or other applicable laws.

**Subd. 13. Label required.** Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

**Subd. 14. Prohibited acts.** It shall be unlawful for:

**A.** Any person under the age of eighteen (18) years to pawn or sell or attempt to pawn or sell goods with any licensee.

**B.** A licensee to receive any goods from a person under the age of eighteen (18) years.

**C.** A licensee to receive any goods from a person of unsound mind or an intoxicated person.

**D.** A licensee to receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid

State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.

**E.** A licensee to receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

**F.** A person to pawn, pledge, sell, consign, leave or deposit any article of property not their own with a licensee.

**G.** A person to pawn, pledge, sell, consign, lease or deposit the property of another, whether with permission or without, with any licensee.

**H.** A person to pawn, pledge, sell, consign, leave or deposit any article or property in which another has a security interest with any licensee.

**I.** A person seeking to pawn, pledge, sell, consign, leave or deposit any article of property with any licensee to give a false or fictitious name, to give a false date of birth, to give a false or out of date address of residence or telephone number or to present a false or altered identification, or the identification of another to any licensee.

**Subd. 15. Denial, suspension or revocation.** Any license under this Section may be denied, suspended or revoked for one or more of the following reasons:

**A.** The proposed use does not comply with the zoning code.

**B.** The proposed use does not comply with any health, building, building maintenance or other provision of this City Code or state law.

**C.** The applicant or licensee has failed to comply with one or more provisions of this Section.

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

**E.** Fraud, misrepresentation or bribery in securing or renewing a license.

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

**G.** Violation within the preceding five (5) years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

**H.** The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this Section.

**Subd. 16. Business at only one place.** A license under this Section authorizes the licensee to carry on its business only at the permanent place of business designated in the license.

**Subd. 17. Separability.** Should any subdivision, paragraph, clause or other provision of this Section be declared by a court of competent jurisdiction to be invalid such decision shall not affect the validity of the Section as a whole or any part other than the part so declared invalid.

Source: Ordinance No. 368, 2nd Series  
Effective Date: 03-28-2010

**SEC. 6.31. BINGO.** (Repealed by Ordinance No. 137, 2nd Series, adopted 8-19-85.)

**SEC. 6.32. MASSAGE PARLORS.**

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

**A.** The term "massage" means the performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking, or tapping with the hand or hands or with any mechanical or bathing device.

**B.** The term "massage parlor" means any place or establishment wherein a massage is made available to the public for a monetary or valuable consideration.

**Subd. 2.** It is unlawful for any person, partnership or corporation to own, establish, maintain or operate a massage parlor without a license therefor from the City in accordance with this Section.

Source: Ordinance No. 39, 2nd Series  
Effective Date: 6-22-77

**Subd. 3. License Fee.** An annual license fee shall be paid by any massage parlor operating in the City and said license fee shall be on a fiscal year basis beginning February 1st each year and ending January 31st each year.

**A.** The annual license fee for a massage parlor shall be \$50.00 and the initial annual license fee shall be \$50.00 regardless of the month in which application is made.

**B.** All initial applications for a massage parlor license shall be accompanied by a fee of \$50.00, in addition to the annual license fee of \$50.00, which fee shall be non-refundable and shall cover the costs of the City in processing the application and the investigation thereof.

Source: Ordinance No. 387, 2nd Series  
Effective Date: 05-05-2011

**Subd. 4.** The provisions of this Section shall not apply to:

**A.** A duly licensed medical doctor, osteopath, chiropractor, nurse, or physical therapist while engaged in the practice of their respective profession; or

**B.** A person engaging in the practice of massage on his or her spouse or relative within the first degree of consanguinity in either of their residences; or

**C.** A place or establishment which is a duly licensed hospital, dispensary, convalescent home or nursing home.

**Subd. 5.** In any prosecution for violation of this Section, these exceptions shall constitute affirmative defenses and it shall be incumbent upon the defendant to show that he or she or the place involved is not subject to the provisions of this Section.

**Subd. 6.** Each word, phrase and paragraph of this Section is hereby declared to be an individual section or provision and the holding of any word, phrase or paragraph to be void, ineffective or unconstitutional for any cause whatsoever, shall not be deemed to affect any other word, phrase or paragraph hereof or the application of any word, phrase or paragraph to circumstances or facts not connected with such holding.

Source: Ordinance No. 39, 2nd Series  
Effective Date: 6-22-77

**SEC. 6.33. SALE AND DISPLAY OF LAWN FERTILIZER.** No person, firm, corporation, franchise, or commercial establishment shall sell or display for sale any lawn fertilizer, liquid or granular, within the City of Hibbing that contains any amount of phosphorous or other compound containing phosphorous, such as phosphate, unless:

- (a) Phosphorous-free fertilizer is also available for sale.
- (b) Phosphorous-free fertilizer and fertilizer with phosphorous are separately displayed with each display being clearly marked as to whether or not the fertilizer contains phosphorous.

Source: Ordinance No. 278, 2nd Series  
Effective Date: 07-30-2002

**SEC. 6.34 PEDDLERS AND TRANSIENT MERCHANTS.**

**Subd. 1. Definitions.** 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 Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**A. Peddler.** 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 or 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.

**B. Transient Merchant.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front or other leased space 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 14 consecutive days.

**C. Person.** Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.

**D. Regular Business Day.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.



## **Subd. 2. Exceptions to Definitions.**

**A.** For the purpose of the requirements of this Section, the terms "Peddler" and "Transient Merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

**B.** In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of "Peddlers" 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 Section shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

## **Subd. 3. Licensing; Exceptions.**

**A. County License Required.** No person shall conduct business as a transient merchant within the City limits without first having obtained the appropriate license from the County as required by Minnesota Statutes Chapter 329 as it may be amended from time to time.

**B. City License Required.** Except as otherwise provided for by this Section, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City.

**C. Application.** Application for a City license to conduct business as a peddler or transient merchant shall be made at least 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:

- (1) Applicant's full legal name.
- (2) All other names under which the applicant conducts business or to which applicant officially answers.

(3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).

(4) Full address of applicant's permanent residence.

(5) Telephone number of applicant's permanent residence.

(6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.

(7) Full address of applicant's regular place of business (if any).

(8) Any and all business related telephone numbers of the applicant.

(9) The type of business for which the applicant is applying for a license.

(10) Whether the applicant is applying for an annual or daily license.

(11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City (maximum 14 consecutive days).

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.

(14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

(15) Proof of any required County license.

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

(17) A general description of the items to be sold or services to be provided.

(18) All additional information deemed necessary by the City Council.

(19) The applicant's driver's license number or other acceptable form of identification.

(20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

Source: Ordinance No. 286, 2nd Series  
Effective Date: 06-15-2003

**D. Fee.** Fees for peddler or transient merchant licenses shall be as follows:

1. Display and Sales Areas in a permanent structure:

Per day	\$ 50.00
Annual	\$250.00

2. Display and Sales from a non-permanent structure, including but not limited to tents and trucks, or without using a structure:

Per day	\$ 50.00
Annual	\$250.00

Source: Ordinance No. 298, 2nd Series  
Effective Date: 10-01-2003

**E. Procedure.** Upon receipt of the completed application and payment of the license fee, the City Clerk, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk must issue the license unless there exist grounds for denying the license under Subd. 4 in which case the Clerk must deny the license. If the City Clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

**F. Duration.** An annual license granted under this Section shall be valid for one calendar year from the date of issue. All

other licenses granted under this Section shall be valid only during the time period indicated on the license.

**G. License Exemptions.**

(1) 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.

(2) 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 the activity is for the purpose of exercising that person's State or Federal Constitutional right such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

(3) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.

**Subd. 4. License Ineligibility.** The following shall be grounds for denying a license under this Section:

**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 required by the City as a 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. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any other form of actual or threatened physical harm against another person.

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

**E.** The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency,

within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

**Subd. 5. Suspension and Revocation.**

**A. Generally.** Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Fraud, misrepresentation or incorrect statements on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Conviction of any offense for which granting of a license could have been denied under Subd. 4.

(4) Violation of any provision of this Section.

**B. Multiple persons under one license.** 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 authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

**C. Notice.** Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

**D. Public hearing.** Upon receiving the notice provided in paragraph C. of this Subdivision, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time-frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

**E. Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because

of the actions of a peddler or transient merchant licensed under this Section, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in paragraph C. of this Subdivision.

**F. Appeals.** Any person whose license is suspended or revoked under this Section shall have the right to appeal that decision in Court.

**Subd. 6. Transferability.** No license issued under this Section shall be transferred to any person other than the person to whom the license was issued.

**Subd. 7. Prohibited Activities.** No peddler 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 unreasonably audible within an enclosed structure.

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

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

**D.** Conducting business before 7:00 a.m. or after 9:00 p.m.

**E.** Failing to provide proof of license or 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.

**Subd. 8. Exclusion by Placard.** No peddler 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 or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No

Peddlers or Transient Merchants" or "Peddlers 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.

Source: Ordinance No. 286, 2nd Series  
Effective Date: 06-15-2003

**SECTION 6.35. SECOND HAND GOODS Statement of Policy.** The Hibbing City Council finds that adequate protection of public health, safety, and welfare requires that the business of dealers in second-hand goods be regulated and controlled.

**Subd. 1 Definitions.** When used in this Section, the following words shall mean:

**A.** "Second-hand Goods Dealer" means a person engaged in the business of buying second-hand goods of any kind, including but not limited to coins, gold, silver, jewelry, metals, guns, tires, and automobile accessories, but excepting goods and merchandise taken as part or full payment for new goods and merchandise.

**B.** "Junk" means old or scrap copper or brass, rope, rags, batteries, paper, synthetic or organic trash, rubber debris or waste, or junked, dismantled or wrecked farm or construction machinery or parts thereof, iron, steel, and other old scrap ferrous or non-ferrous material.

**Subd. 2 Exceptions:** The following business purchases shall not be covered by this Section:

**A.** The purchase of a motor vehicle as scrap to be dismantled or destroyed where the certificate of title is or has been mailed or delivered to the Department of Motor Vehicles for cancellation pursuant to Minnesota Statute §168A.15.

**B.** Used car sales involving vehicles with registered titles through the Department of Motor Vehicles.

**C.** The purchase from an occasional "Garage" or "Yard" sale of personal property conducted from a residence.

**D.** Estate sale or farm auction held at a decedent's residence.

**E.** Auction sales.

**F.** The purchase of used clothing where no single item has a value of greater than \$100.00.

**G.** Consignment sales from an established place of business.



H. The purchase of property from merchants, manufacturers, or wholesale dealers having an established place of business, or of goods purchased at open sale from any bank or from stock, or of goods purchased at salvage. Such property and goods must be accompanied by a bill of sale or other evidence of open or legitimate purchase, which must be shown to any peace officer.

I. Recycling center, e.g. aluminum recycling center.

J. The purchase of property at a flea market or swap meet sponsored by a local non-second-hand goods dealer/ pawnbroker, or by a community group, and conducted on property with the consent of the owner of the property; where such purchaser is not otherwise required to be licensed by this Section.

K. The purchase of junk materials as defined at Subd. 1 B. above.

L. The purchase by Bona Fide antique dealers whose primary business is the buying, selling, trading, and display of antiques.

M. The purchase of property by a non-profit corporation.

**Subd. 3 Licensing and Bonding of Dealers in Second-Hand Goods.**

A. **License Required.** It is unlawful for any person to engage in the business of dealing in second-hand goods without a Second-Hand Goods Dealer license under this Section.

B. **Bond Required.** Before a license shall be issued, bonds in the following amounts and upon the following conditions shall be filed with the City:

Second-Hand Goods Dealer - \$1,000.00 Bond

All such bonds shall require that the principal named therein will observe all laws in relation to dealers in second-hand goods, and conduct the business in conformity thereto, and that they will account for and deliver to any person legally entitled thereto any goods, wares, or merchandise, article or thing, which may have come into his/her hand through the business of dealing in second-hand goods, or in lieu thereof will pay in money to such person or persons the reasonable value thereof.

C. **License Application - Dealer in Second-Hand Goods.** Any applicant for licensing as a dealer in second-hand goods shall specify in their application the type of goods, wares, or merchandise in which they desire to deal, and, if issued, the license shall limit the dealer to the type of goods, wares, or merchandise specified in the application.

1. If the applicant is a natural person:

a. The name, place and date of birth, street resident address, and phone number of applicant.

b. Whether the applicant is a citizen of the United States or resident alien.

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

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

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

f. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the proceeding five (5) years.

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

h. The physical description of the applicant.

i. If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them as required in a. through h. of this paragraph 1. of subparagraph C. of subdivision 3. of this Section.

2. If the applicant is a partnership:

a. The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in paragraph 1. of subparagraph C. of subdivision 3. of this Section.

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

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

d. If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a. through h. of paragraph 1. of subparagraph C. of subdivision 3. of this Section.

3. If the applicant is a corporation or other organization:

a. The name of the corporation or business firm, and if incorporated, the state of incorporation.

b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-Laws shall be attached to the application. If the applicant is a foreign

corporation, a Certificate of Authority as required by Minnesota Statutes Section 303.06 must be attached.

c. The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in a. through h. of paragraph 1. of subparagraph C. of subdivision 3. of this Section.

d. A list of all persons who control or own an interest in excess of five (5) percent in such organization or business firm or who are officers of the corporation or business firm and all information concerning said persons required in a. through h. of paragraph 1. of subparagraph C. of subdivision 3. of this Section. This item, however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

4. For all applicants whether or not the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit and whether or not the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit:

a. The location of the business premises.

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

c. The legal description of the premises to be licensed.

d. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

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

f. Such other information as the City Council or issuing authority may require.

#### 5. New manager.

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

b. Upon completion of an investigation of a new manager, the licensee must pay \$15.00 for the cost of the investigation to assure compliance with this Section.

6. **Application execution.** All applications for a license under this Section must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a

corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

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

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

a. Is a minor at the time that the application is filed;

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

c. Is not of good moral character or repute.

**D. Business at Only One Place.** Any license issued under this Section shall authorize the licensee to carry on such business only at the place designated in such license, excepting the estimating of the value of goods for purchase and the picking up of such goods.

**E. Criminal Record.** No license shall be issued to any person previously convicted of a misdemeanor, gross misdemeanor or felony, provided that any applicant convicted of a misdemeanor may apply to the Council for waiver of this provision. The Council may, at their discretion, grant such a waiver upon demonstration by the applicant that the conviction does not bear substantial relationship to the charter or ability of the applicant to conduct the business in question.

**F. License Fee.** The Second-Hand Goods Dealer license fee is \$500 annually.

**G. Posting of License.** Every Second-Hand Goods Dealer shall prominently post their license in a conspicuous location at their place of business.

**Subd. 4 Records Required.** At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department.

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

B. The purchase price.

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

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

E. The identification number and state of issue from any of the following forms of identification of the seller:

1. Current valid Minnesota driver's license.
2. Current valid Minnesota identification card.
3. Current valid photo identification card issued by another state or province of Canada.

F. The signature of the person identified in the transaction.

G. The signature of the employee completing the transaction.

H. Effective sixty (60) days from the date of notification by the Police Department of acceptable video standards the licensee must also take a color photograph or color video recording of:

1. Each customer involved in a transaction.
2. Every item purchased or sold that does not have a unique serial or identification number permanently engraved or affixed.

If a photograph is taken, it must be at least two (2) inches in length by two (2) inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the Police Department upon request. The major portion of the photograph must include an identifiable facial image of the person who sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must focus on the person selling the item so as to include an identifiable image of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time

and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three (3) months.

**I. Digitized photographs.** Effective sixty (60) days from the date of notification by the Police Department licensees must fulfill the color photograph requirements in paragraph H. above by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction with which they are associated. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in paragraph H.

**J. Renewals, extensions, redemptions and confiscations.** For renewals, extensions, redemptions and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

**K. Inspection of records.** Records must at all reasonable times be open to inspection by the Police Department. Data entries shall be retained for at least three (3) years from the date of transaction. Entries of required digital images shall be retained a minimum of ninety (90) days.

**Subd. 5 Weekly Reports to Police.**

**A. Reportable Items.** Every dealer shall report weekly to the Police Department any reportable transaction in which one (1) or more of the following items is received, regardless of the purchase price, asking price if consigned or brokered, or value attributed to it if accepted in trade.

- a) Any item with a unique identifier.
- b) Items containing precious metals.
- c) Items containing precious gems.
- d) Firearms.
- e) Any of the following items for which the dealer paid twenty-five dollars (\$25.00) or more, in cash or other consideration, or which the dealer intends to offer for sale, or broker, for fifty dollars (\$50.00) or more.
  - 1) Electronic audio equipment.
  - 2) Electronic video equipment.
  - 3) Musical instruments.
  - 4) Photographic and optical equipment.
  - 5) Electronic office equipment.
  - 6) Computers, monitors, printers, scanners, and computer hardware.

- 7) Cellular telephones and pagers.
- 8) Outboard motors, inboard drives, and powered golf carts.
- 9) Electric and gas powered yard or garden equipment and tools.
- 10) Electric, pneumatic, or hydraulic powered construction or mechanic's equipment or tools.

f) Sporting equipment limited to bicycles, golf clubs, snow boards, skis, ski boots and hockey goalie pads, regardless of the purchase price, asking price if consigned or brokered, or value attributed to them if accepted in trade, or any other item for which the secondhand dealer paid one hundred dollars (\$100.00) or more, in cash or other consideration, or which the secondhand dealer intends to offer for sale, or broker, for two hundred dollars (\$200.00) or more.

g) Architectural elements, lighting fixtures, or lamps that are, or contain, stained, etched, leaded, beveled or art glass, limited to those which the secondhand dealer paid one hundred fifty dollars (\$150.00) or more, in cash or other consideration, or which the secondhand dealer intends to offer for sale, or broker, for three hundred dollars (\$300.00) or more.

h) Artist signed or artist attributed works of art, other than architectural elements, lighting fixtures or lamps, limited to those for which the secondhand dealer paid two hundred fifty dollars (\$250.00) or more, in cash or other consideration, or which the secondhand dealer intends to offer for sale, or broker, for five hundred dollars (\$500.00) or more.

**B. Method.** Dealers must make available to the Police Department weekly every reportable transaction in the following manner: All dealers must provide to the Police Department the information required in this Section in writing, on forms approved by the Police Department, by 12:00 noon on each and every Monday except when Monday is a holiday by 12:00 noon on Tuesday of those weeks.

**C. Receipts Required.** On receipt books prescribed by the Police Department, every such dealer in second-hand goods, purchasing or receiving any article or personal property shall give to the person selling such article or personal property a receipt with a description of the item.

**D. Identification Requirements.** Each person selling items in an establishment licensed pursuant to this Section shall identify themselves as provided herein to the licensee or licensee's agent accepting such sale. Neither the licensee nor any of their agents shall transact any business with any person who fails to identify themselves as provided herein. Identification shall be made as follows:

a) By showing a Minnesota driver's license or non-qualification certificate which was duly issued to the person presenting it by the State of Minnesota. The licensee or agent shall stamp or

record the information contained on face of said driver's license or non-qualification certificate on the record required by Subd. 4 of this Section; or

b) In the event the person has no Minnesota driver's license or non-qualification certificate, then by a showing of some other form of identification issued to him/her by a governmental body or a recognized organization which shows either his/her picture or a physical description of him/her or both. The license or agent shall record the type of identification, and any identifying number on the identification, and the name and physical description on the identification in the record required by Subd. 4 of this Section; or

c) By a statement by the licensee that said person is personally known to the licensee and a recording of his/her full name and date of birth.

The licensee or licensee's agent transacting the sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification present with the physical features and signatures of the person presenting such identification and shall not transact any business with any person who appears to be presenting false identification.

The provisions of this Section shall not apply to dealers in precious metals licensed under Minnesota State Statute, insofar as they purchase precious metal bouillon, ingots, or coins.

#### **Subd. 6     Holding Periods.**

A. **Police Order to Hold Property.** Whenever the Police or any member of the Police Department shall have probable cause to suspect that property listed pursuant to Subd. 5 above shall be stolen property or constitute evidence of a crime, or that possession of such property is criminal or that such property shall constitute evidence that any individual has committed a crime, they shall notify such dealer or dealers not to sell any property so received or purchased by them for a period of at least 48 hours in addition to the time period provided for in this Section, not counting Saturday, Sunday, or holidays. Police shall confiscate confirmed stolen property with proper notice to the license holder.

#### **Subd. 7     Unlawful Acts.**

A. **Dealing with Minors, etc.** It is unlawful for any dealer in second-hand goods to purchase any personal property, goods, wares, merchandise, article or thing, from persons of unsound mind or intoxicated persons, or from persons under 18 years of age, without the written consent of his or her parent or guardian.

B. **Minors; Prohibitions.** No person under the age of 18 years shall sell any personal property or other valuable thing with any person licensed to do business under this Section. It is unlawful for



any person under the age of 18 years to represent to any person licensed under the provisions of this Section, at the time of selling any personal property, that he or she is 18 years of age or older.

C. **Misconduct of Second-Hand Dealers.** It is unlawful for Second-Hand Goods Dealers to:

a) Have goods in their possession and refuse to permit a law enforcement officer to examine them during usual business hours; or

b) Purchase property from a person under lawful age, without the written consent of his or her parent or guardian.

c) Fail to comply with any subdivision or provision of this Section.

**Subd. 8 Enforcement.**

A. **Enforcement Authority.** This Section shall be administered and enforced by the City of Hibbing Police Department.

B. **Misdemeanor Penalty.** Any person, firm or corporation who shall violate any of the provisions hereof or who shall make any false statement in any license or record required to be submitted under the provisions hereof, shall be guilty of a misdemeanor.

C. **Suspension and Revocation of License.** Any license issued pursuant to this Section may be suspended for up to sixty (60) days or revoked for good causes by the Council. Written notice shall be given to the licensee of the Council's intent to suspend or revoke a license. A licensee shall have ten (10) days from the receipt of said notice to appeal the proposed suspension or revocation to the Council for a hearing of the matter before the full Council at a regular or special meeting of the Council. If appeal is timely noted, all action shall be stayed pending the hearing. Written notice of the hearing shall be served upon the licensee at least twenty-one (21) days prior to the date of the hearing. Any licensee whose license is suspended or revoked may appeal from such order to the District Court. Such appeal shall be taken by service of the written notice hereof upon the Council within ten days after service upon the licensee of the order appealed from and by filing with the District Court Administrator, within ten days after service, the notice of appeal with proof of service thereof upon the Council. An appeal will not stay implementation of the Council's order.

For the purpose of this Section, "good cause" shall include, but not limited to:

1) Conviction of licensee or any of licensee's employees of any crime relating to the operation of a pawnbroking or second hand goods business.

2) Violations by the licensee or licensee's employees of any of the provisions of this Section or any other Section of the City

Code or Statute relating to the operation of a pawnbroking business or second-hand goods business.

3) Failure to cooperate fully with any lawful law enforcement investigation.

4) Falsely stating any material fact on the license application.

5) Submitting a false or incomplete record to the Police.

Source: Ordinance No. 398, 2nd Series  
Effective Date: 10-27-2011

(Sections 6.36 through 6.39, inclusive, reserved for future expansion.)

**SEC. 6.40. PLUMBERS.** (Repealed by Ordinance No. 175, 2nd Series, adopted 3-19-90.)

**SEC. 6.41. TAPPER.** (Repealed by Ordinance No. 137, 2nd Series, adopted 8-19-85.)

**SEC. 6.42. INSTALLATION, ALTERATION, SERVICING AND REPAIRING OF GAS PIPING, GAS APPLIANCES AND GAS APPURTENANCES.** (Repealed by Ordinance No. 175, 2nd Series, adopted 3-19-90.)

**SEC. 6.43. RAFFLES AND GAMING DEVICES.** (Repealed by Ordinance No. 137, 2nd Series, adopted 8-19-85.)

**SEC. 6.44. GAMBLING.**

**Subd. 1. Definitions.** As used in this Section, there is incorporated herein by reference the definitions in Minnesota Statutes, Section 349.12.

Source: Ordinance No. 214, 2nd Series  
Effective Date: 6-29-94

**Subd. 2. Gambling Forms and Eligibility.** All forms of legal gambling may be carried on, but only by an organization, and subject to the provisions of this Section and Minnesota Statutes, Section 349.11, et. seq.

Source: Ordinance No. 137, 2nd Series  
Effective Date: 8-30-85

**Subd. 3. Gambling Regulations.**

**A. Premises.** If the organization owns or leases property for organizational activities, which may or may not include lawful gambling activities, a majority in value of such real property shall be situated within the City. If the organization owns or leases no real property except that it leases space on real property for lawful gambling activities only, such premises shall be licensed under City Code, Chapter 5 for on-sale of liquor. If the organization carries on lawful gambling upon leased premises, such lease shall be in writing and for a term of at least one (1) year and the rental payments shall not be based upon a percentage of receipts or profits from such gambling.

**B. Expenditures of Profits.**

1. All net profits from gambling shall be expended for a lawful purpose, and seventy-five (75%) percent of all such profits shall be expended for (1) persons who are residents of the City, or (2) organizations which carry on all their activities

within the City, or (3) supplementing the services of the government of the City, or (4) improving, expanding, maintaining, repairing or acquiring real property located within the City.

2. Each organization licensed pursuant to this Section shall file with the City, copies of any and all records and/or reports that it is required to file with the Gambling Control Board of the State of Minnesota, and said records and/or reports shall be filed simultaneously with the filing with the Gambling Control Board of the State of Minnesota. In addition, each and every organization licensed pursuant to this Section shall file with the City an annual report of their receipts and expenditures on a calendar year basis and said report shall be filed with the City on or before January 15th of each and every year.

Source: Ordinance No. 214, 2nd Series  
Effective Date: 6-29-94

**C. Exemptions.** Statutory exemptions from licensing by the Board, whether by reason of the type of organization or number of lawful gambling events or occasions, shall require a permit from the City. Provided, however, that bingo conducted in a nursing home or a senior citizen housing project, or by a senior citizen organization, conducted as provided and exempted by statute, shall not require a permit.

Source: Ordinance No. 142, 2nd Series  
Effective Date: 5-20-86

**D. Limitations on Licenses and Permits.** An organization may hold more than one (1) license from the Board or permits from the City, collectively, which authorize lawful gambling at more than one (1) location, whether such locations be within or without the City; provided, that if a license from the Board is held by an organization, no permit shall be issued to it by the City, and if a permit from the City is held by an organization, any application for a license to it from the Board shall be disapproved by the Council, unless the Council makes a specific finding that there is no other organization within the City that has requested a gambling license from the Board or a permit from the City after due notice has been given by the City and unless the organization has complied with the reporting requirements of Subd. 3, Subparagraph B, Item 2 above.

Source: Ordinance No. 214, 2nd Series  
Effective Date: 6-29-94

**E. Special Bingo Regulations.** Bingo shall only be conducted by an organization which has been in existence for at least three (3) years, has at least thirty (30) active members, and on premises which it owns.

**F. Exclusions.** Statutory exclusions from licensing by the board shall nevertheless require registration by Application to the City.

Source: Ordinance No. 367, 2nd Series  
Effective Date: 02-07-2010

**Subd. 4. City Approval of Applications.** Unless it finds that the applicant can or has complied with all of the applicable regulations set forth in Subdivision 3 of this Section, the Council shall (1) upon receipt from the Board of a notice of application for issuance or renewal of a license, take action to disapprove the same and inform the Board, or (2) as to lawful gambling exempt from licensing, refuse to issue or renew a permit.

Source: Ordinance No. 137, 2nd Series  
Effective Date: 8-30-85

**Subd. 5. Permit and Registration Fees.** The fees for a permit to conduct lawful gambling, exempt from licensing by the Board, and to register for an exempt or excluded raffle shall be as follows:

- A. \$15.00 for each bingo occasion.
- B. \$15.00 for each raffle permit.
- C. \$15.00 for each exempt or excluded raffle registered.

Source: Ordinance No. 367, 2nd Series  
Effective Date: 02-07-2010

**Subd. 6. CODIFIER'S NOTE:** Ordinance No. 182, adopted 8-6-90, established the Charitable Gambling Commission at this Subdivision. The Commission is now found in Chapter 2, Sec. 2.22.

Source: Ordinance No. 182, 2nd Series  
Effective Date: 8-24-90

**Subd. 7. Ten Percent (10%) Contribution Fund. - Repealed.**

Source: Ordinance No. 375, 2nd Series  
Effective Date: 07-10-2010

(Sections 6.45 through 6.98, inclusive, reserved for future expansion.)

(Pages 273 through 277 reserved)

**SEC. 6.99. VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code  
Effective Date: 9-1-75