

CHAPTER 6 LICENSES AND PERMITS

6.1	Licensing of Taxicabs	1
6.2	Alcoholic Beverage Licensing	4
6.3	Provisions Regarding the Sale of 3.2% Beer	25
6.4	Providing for General Licensing Restrictions, Responsibility of Licensee, Right to Search, and Compliance Checks Regarding the Sale of Alcoholic Beverages	32
6.5	Licensing and Regulation of the Sale, Possession, and Use of Tobacco Products and Tobacco Related Devices	37
6.6	Licensing of Peddlers, Solicitors, Itinerant Businesses and Transient Merchants	43
6.7	Regulation and Licensing of Gambling	51
6.8	Regulation and Licensing of Gaming Rooms	54
6.9	Regulation and Licensing of Professional Therapeutic Massage	60
6.10	Licensing and Regulation Regarding the Location of Sexually Oriented Businesses	66
6.11	Regulation and Licensing of Pawn Brokers	76
6.12	Licensing and Regulation of Businesses or Commercial Enterprises involved in the Process of Tattooing and Body Piercing	91
6.13	Regulation and Licensing of Solid Waste and Recycling	92
6.14	Regulation and Licensing of Excavators	98
6.15	Hunting Deer by Bow and Arrow in Cloquet City Limits	103
6.16	Regulation and Licensing of Bowling Alleys	105

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SECTION 6.1: LICENSING OF TAXICABS

6.1.01 Definitions. Unless it appears from the context that a different meaning is intended, the following words shall have the meaning attached to them by this Section.

Subd. 1. Operator. The word “operator” shall mean and include any person owning or having control of the use of one or more taxicabs used for hire upon the streets or engaged in the business or operation of a taxicab within the corporate limits of the City.

Subd. 2. Street. The word "street" shall mean and include any street, avenue, alley, court, cul de sac, or thoroughfare which is a public place located within the corporate limits of the City.

Subd. 3. Taxicab. The word "taxicab" shall mean any private motor vehicle used for the purpose of transporting passengers for hire over and upon any street, avenue, alley, court, land or public place within the corporate limits of the City; but the term shall not include vehicles subject to control and regulation by the public service commission or vehicles regularly used by undertakers in carrying on their business.

Subd. 4. Taxicab Driver. The word “taxicab driver” shall mean and include any person who drives a taxicab, whether such person be the owner of such taxicab or employed by a taxicab owner or operator.

6.1.02 License and Insurance Required. It shall be unlawful for any person, firm, partnership or corporation to carry on the operation of taxicabs for carrying passengers for hire within the corporate limits of the City without first securing liability insurance from an insurance company or association holding a license to do an indemnity insurance business in the State of Minnesota, as specified and for the purposes set forth in this Section, and without first having obtained a taxicab license as required in this Section. Provided, further, that the total number of taxicab licenses issued and outstanding under authority of this Section shall not exceed one for every 1000 persons residing within the corporate limits of the City.

6.1.03 Amount of Insurance. The liability or indemnity insurance required to be furnished under the provisions of this section for each taxicab carrying passengers for hire as specified in this Section shall be in such amounts as are established by applicable state statute or the Council from time to time. However, in no event will the liability limits of such a policy be less than \$100,000 per person and \$300,000 per accident. The policy shall be in such form that it shall provide for the payment of any judgment obtained against the insured or principal therein to the extent of the liability therein provided by any person injured in person or property by reason of any act of the owner, driver, chauffeur, manager or other person in the operation of a taxicab or by the representative of any person killed or injured by such act. Proof of such insurance shall be filed with the City Administrator and shall have a condition that it cannot be canceled without thirty (30) days’ written notice to the City Administrator. In the case of any cancellation of insurance, the license issued under this Section to the person, firm, partnership or corporation whose policy is so canceled shall become inoperative and void unless and until further proof of insurance shall be furnished to the City Administrator.

6.1.04 Application for License. Each applicant for a taxicab license shall apply to the City Administrator for such license upon a form to be provided by the City and must comply with the following provision to the satisfaction of the City Council:

1. The applicant must not be an illegal alien.
2. The applicant must be 18 years of age or over if a natural person, and in the case of any co-partnership, firm or corporation, must be authorized to operate taxicabs and carry on business in accordance with the hours of the State.

3. The applicant must fill out, upon the blank form provided by the City, a statement covering the legal name of the operator and each vehicle to be licensed giving the following information:
 - The full name and address.
 - The class and passenger carrying capacity of each vehicle for which a license is desired.
 - The length of time the vehicle has been in use.
 - The make, model and year of vehicle.
 - The factory vehicle identification number
 - The State license number.
 - The holder of legal title to such motor vehicle if other than the applicant.
 - A statement signed by the operator of a garage or service station or State Inspections Department, or by a mechanic employed in such garage or service station, certifying that each vehicle sought to be licensed is in a thoroughly safe condition for the transportation of passengers.
4. The applicant must fill out upon the blank form provided by the City regarding each driver and giving the following information:
 - The full name of driver.
 - The birth date and address of the driver.
 - The drivers license number of the driver.
5. If such application is made by an individual owner, it shall be signed and sworn to by such owner; if it is made by a partnership, then it shall be signed and sworn to by one of the partners; and if it is made by a corporation, then it shall be signed and sworn by one of the duly elected officials of such corporation.

6.1.05 Approval. Upon receiving the application, the City Administrator shall place the application on file in his or her office and when proof of insurance as required by section 6.1.03 has been filed with the City Administrator, he or she shall refer the application with the policy, bond or undertaking to the City Council for approval or disapproval.

6.1.06 Issuance of License. Upon receipt and approval by the City Council of the application, the City Administrator shall issue a license to the applicant in conformity to and with the provisions of this Section. The City Administrator shall issue to the licensee a license bearing a number for each vehicle licensed under the operator, which license the applicant shall display or have available for review in each motor vehicle.

6.1.07 Restrictions. The operation of the motor vehicle shall be subject to the following restrictions:

- A. No person operating the motor vehicle shall carry any passengers or permit any passengers to ride anywhere except on the seats of the motor vehicle.
- B. Children and infants must be transported in approved child carrier seats, if of an age where state law requires it.
- C. No more than one passenger shall be permitted to ride on the seat with the driver besides the driver or chauffeur of the taxicab.
- D. No taxicab shall take on or discharge passengers while in motion.
- E. All passengers shall be received and discharged at the curb or as near thereto as the motor vehicle can approach. Passengers shall be allowed to alight or board a taxicab on the right-hand side only, excepting on one way streets, where passengers may also alight or board on the left-hand side of the vehicle, provided the left side of the vehicle is abutting the curb.
- F. No taxicab shall travel faster than the limitation placed thereon by the laws of the State and the Code or Ordinances of the City.

- G. No driver of any taxicab shall solicit passengers by motion, calling by voice or sounding horn, bell or whistling.
- H. No persons shall drive a taxicab without first having obtained a chauffeur's license, as provided for by State Statutes.
- I. No taxicab shall be operated upon any street within the corporate limits of the City without having the name of the company prominently displayed, either by having the name painted upon the front or rear door, or by having a suitable sign bearing the name of the company placed in a position such as is readily visible to the public.
- J. No taxicab shall be operated without a card or notice conspicuously posted in the taxicab showing that within the prior 30 days the taxicab has been inspected by an automobile mechanic, in a garage with the necessary equipment needed to inspect, adjust and repair lights and brakes, and that the lights and brakes of the taxicab were found to comply with the Statutes of the State of Minnesota in such cases made and provided.
- K. No taxicab or other vehicle used for the transportation of passengers for hire in the City shall carry signs, posters, placards or other medium of advertising, except that automobiles used as taxicabs may have a base or stand on the rear of the automobile not larger in size than twenty-four (24) inches high or twenty-four (24) inches wide and so situated as not to interfere with the vision through the rear window or handicap the driving and operation of the vehicle. Buses or other types of vehicles may have signs, posters, placards, or other medium of advertising not larger than specified in this Subdivision attached to the sides or rear of the vehicle and so placed as to not interfere with the vision or operation of the vehicle. Any such signs, posters, placards, or other medium or advertising shall not contain any obscene or indecent matter or advertise the use or consumption of intoxicating liquor or non-intoxicating malt beverage.

6.1.08 License Fee. No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for license under this section shall be established by resolution as adopted from time to time by the City Council.

6.1.09 License Term. Each license shall be issued for a maximum period of time of one year. All such licenses under this article shall expire on December 31st of each calendar year or portion thereof.

6.1.10 Transfers. No license shall be transferred or sold. No refund shall be made for the unexpired portion of any license surrendered to the City or revoked as provided in this Section.

6.1.11 Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

6.1.12 Taxi Stands. The City Council may by resolution establish necessary stands for taxicabs upon the public streets in the City and shall designate the stands by the placing of signs and the painting of curbs at the points designated as stands. No vehicle other than a taxicab shall be permitted to stand or park at the designated taxicab stands, except that a vehicle may stop in the designated taxicab stand for the purpose of taking on or discharging passengers while the driver is in attendance upon the vehicle, and no taxicab shall stand or park upon a public street at a point other than a designated taxicab stand except that a taxicab may stop at a point not so designated for the purpose of discharging and receiving passengers while the driver is in attendance upon the taxicab.

6.1.13 Enforcement of Fare. It shall be unlawful for any person who has been transported by a taxicab to refuse to pay the fare for the transportation.

6.1.14 Revocation. Violation of any of the provisions of this section shall be cause for revocation of any licenses issued under this section at the discretion of the City Council.

SECTION 6.2: ALCOHOLIC BEVERAGE LICENSES

6.2.01 Adoption of State Law by Reference. The provisions of Minnesota Statutes, Chapter 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Code as if set out in full. It is the intention of the City Council that all future amendments to Minnesota Statutes, Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Code is adopted.

6.2.02 City May Be More Restrictive Than State Law. The Council is authorized by the provisions of Minnesota Statutes, Chapter 340A.509, as it may be amended from time to time, to impose, and has imposed in this Code, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minnesota Statutes, Chapter 340A, as it may be amended from time to time.

6.2.03 Definitions. In addition to the definitions contained in Minnesota Statutes, Chapter 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

- A. **Brewer.** Means a person who manufactures malt liquor for sale and who holds a Brewers License issued by the State of Minnesota.
- B. **Brewery Taproom (also known as a microbrewery).** Means a facility on the premises of or adjacent to the premises owned by a Brewer, licensed under Minn. Stat. 340A.301, intended for the on-sale consumption and limited off-sale of beer produced on site by the brewer as authorized by Minn. Stat. 340A.26.
- C. **Brew Pub.** Means a brewer who also holds one or more retail on-sale license(s) and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in Minn. Stat. 340A.24.
- D. **Caterer's Permit.** Means a permit issued by the Commissioner of Public Safety and the City of Cloquet to a restaurant that holds an on-sale intoxicating liquor license issued by the City. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale intoxicating liquor license is issued.
- E. **Club.** Means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports or a congressionally chartered veterans' organization. In addition, the club must meet the following criteria:
 - 1. Has more than 30 members;
 - 2. Own or rent a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
 - 3. Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.
- F. **Cocktail Room.** Means a facility on or adjacent to the premises of a micro distillery licensed under Minn. Stat. 340A.22, which has been issued a cocktail room license for the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller.

- G. **Distilled Spirits.** Means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non- industrial use.
- H. **Growler.** Means a 64-ounce container of malt liquor brewed and sold to an individual on the site of a licensed Brewery Taproom for consumption off the licensed premises as prescribed for in MS 340A.301.
- I. **Exclusive Liquor Store.** An “Exclusive Liquor Store” is an establishment used exclusively for the sale of:
1. alcoholic beverages;
 2. tobacco products;
 3. ice;
 4. beverages, either liquid or powder, specifically designated for mixing with intoxicating liquor;
 5. soft drinks;
 6. liqueur-filled candies;
 7. food products that contain more than one-half of one percent alcohol by volume;
 8. cork extraction devices;
 9. books and videos on the use of alcoholic beverages;
 10. magazines and other publications published primarily for information and education on alcoholic beverages;
 11. multiple-use bags designed to carry purchased items;
 12. devices designed to ensure safe storage and monitoring of alcohol in the home, to prevent access by underage drinkers; and
 13. home brewing equipment.
 14. clothing marked with the specific name, brand, or identifying logo of the exclusive liquor store, and bearing no other name, brand, or identifying logo.
- J. **Licensed Premises.** Means the premises described in the approved license application, subject to the provisions of Section 340A.410, Subd. 7. In the case of a restaurant, club, or exclusive liquor stores licensed for on-sales of alcoholic beverages and located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated.
- K. **Liquor.** Means 3.2 Malt Liquor, Intoxicating Liquor, Strong Beer/Malt Liquor, and Wine.
- L. **Intoxicating Liquor.** Means ethyl alcohol and includes distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.
- M. **3.2 Malt Liquor.** (Often referred to as 3.2 beer) Means any potable malt beverage with an alcoholic content of more than one-half percent (½%) by volume and not more than three point two percent (3.2%) by weight.
- N. **Micro-Distillery.** Means a distillery operated within the State producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year and licensed under Minn. Stat. 340A.22.
- O. **Off-Sale.** Means the sale of liquor in the original package in retail stores for consumption off or away from the premises where sold.
- P. **On-Sale.** Means the sale of liquor by the glass, or by the drink for consumption on the premises only.

- Q. **On-Sale Wine License.** Means a license authorizing the sale of wine not to exceed 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food unless otherwise permitted by State Law.
- R. **Original Package.** Means the bottle or container in which the liquor is placed at the place of manufacture.
- S. **Restaurant.** Means an eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this Code unless it meets the definitions of a “small establishment”, “medium establishment” or “large establishment”.

The term "restaurant," when used in connection with “on-sale wine” or “on-sale 3.2 malt liquor” licenses, shall mean an establishment under the control of a single proprietor or manager, having appropriate facilities for serving meals and seating not fewer than 25 guests at one time, and where, in consideration of payment thereof, meals are regularly served at table to the general public and which employs an adequate staff to provide the usual and suitable service to its guests.

- T. **Theater.** Means a building containing an auditorium in which live dramatic, musical, dance, or literary performances are regularly presented to holders of tickets for those performances.

6.2.04 Types of Liquor Licenses. The City Council is authorized to issue the following licenses and permits:

- A. On-sale intoxicating liquor
- B. On-sale wine
- C. Off-sale intoxicating liquor
- D. 3.2% on-sale intoxicating liquor
- E. 3.2% off-sale intoxicating liquor
- F. Sunday on-sale intoxicating liquor and 3.2% malt liquor
- G. Optional 2am liquor
- H. Temporary on-sale intoxicating liquor
- I. Temporary 3.2% malt liquor
- J. Brew Pub on-sale intoxicating liquor
- L. Brew Pub on-sale 3.2% malt liquor
- M. Brewer taproom off-sale malt liquor
- N. Brewer temporary on-sale intoxicating liquor
- O. Brewer taproom (microbrewery)
- P. Cocktail room
- Q. Micro-distiller off-sale
- R. Micro-distiller temporary on-sale intoxicating liquor

6.2.05 On-Sale Intoxicating Liquor.

- A. On-sale intoxicating liquor licenses may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this Code:

1. hotel,
2. restaurant,
3. bowling center,
4. theater,
5. exclusive liquor store,
6. club or congressionally chartered veterans organizations, with the approval of the commissioner, provided that the organization has been in existence for at least three (3) years and liquor sales will only be to members and bona fide guests.
7. brewery taprooms
8. cocktail rooms

- B. **Number of On-Sale Intoxicating Liquor Licenses Which May be Issued.** “On-Sale Intoxicating Liquor” licenses may be granted in such number and to such persons as qualify under State Liquor Laws, but shall permit consumption of liquor on the licensed premises only. No more than thirteen (13) licenses may be issued without voter approval by City referendum. [M.S. §340A.413] Licenses issued to bowling centers, restaurants, hotels, clubs or congressionally chartered veterans organizations, and establishments that are issued licenses to sell wine under M.S. §340A.404, Subd. 5 are excluded from the license limits.
- C. **On-Sale Club License.** An on-sale intoxicating liquor club license requires approval by the City. After approval by the City, the Commissioner of Public Safety’s final approval must be obtained. Without the Commissioner’s approval, the license will not be effective.
- D. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in a youth amateur athletic event being held for persons 18 years of age or younger being held on the premises.

The authorization shall specify the area in which intoxicating liquor must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance as required under M.S. 340A.409 to cover the event.

6.2.06 On-Sale Wine Licenses.

- A. On-sale wine licenses may be issued to:
1. theaters,
 2. restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. §340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in Section 6.2.03, Subd. 6 of this Code,
 - a. Seating for 25 guests at one time must meet all City Zoning and Fire Code laws;
 3. licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, subd. 1, as it may be amended from time to time.

- B. On-sale wine licenses shall permit the sale of wine of up to 24% alcohol by volume for consumption on the licensed premises
- C. After approval by the City, the Commissioner of Public Safety's final approval must be obtained. Without the Commissioner's approval, the license will not be effective.
- D. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- E. The license shall permit the sale of wine on all days of the week unless the City Council restricts the sale of wine on all days except Sunday.

6.2.07 3.2 Percent On-Sale Malt Liquor Licenses.

- A. 3.2% on-sale malt liquor licenses may be issued only to:
 - 1. golf courses,
 - 2. restaurants,
 - 3. hotels,
 - 4. clubs,
 - 5. bowling centers,
 - 6. establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

6.2.08 Intoxicating Liquor, On-Sale; Sunday Sales.

- A. Sunday on-sale intoxicating liquor licenses may be issued only to:
 - 1. restaurant that has an on-sale intoxicating liquor license and a minimum seating capacity of 30 persons;
 - 2. club;
 - 3. bowling center; or
 - 4. hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the sale of food.

6.2.09 Optional 2 A.M. Permit.

- A. No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner.
- B. After approval by the City, the Commissioner of Public Safety's final approval must be obtained and license will be issued by the Commissioner.

6.2.10 Off-Sale Intoxicating Liquor License.

- A. Off- sale intoxicating liquor licenses may be issued only to:
 - 1. exclusive liquor stores.
- B. Off-sale intoxicating liquor licenses shall allow for the sale of intoxicating liquor in its original container for consumption off the licenses premises only. An off-sale intoxicating liquor licensee may sell off-sale wine and 3.2 percent malt liquor without an additional license.

- C. After approval by the City, the Commissioner of Public Safety's final approval must be obtained. Without the Commissioner's approval, the license will not be effective.
- D. The number of "Off-Sale" licenses available at any one time will be determined by the City Council but not more than twelve (12) will be issued at any one time.

6.2.11 3.2 Percent Off-Sale Malt Liquor Licenses.

- A. 3.2% malt liquor off-sale licenses shall permit the sale of 3.2 percent malt liquor at retail in the original package for consumption off the premises only. An off-sale intoxicating liquor license cannot be issued to a place where 3.2 percent malt liquor is sold for consumption on the premises.

6.2.12 Temporary On-Sale Intoxicating Liquor Licenses.

- A. Temporary on-sale intoxicating liquor licenses may be issued:
 - 1. Only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years.
- B. After approval by the City, the Commissioner of Public Safety's final approval must be obtained. Without the Commissioner's approval, the license will not be effective.
- C. No license shall be for longer than four consecutive days and the City shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year.

6.2.13 Temporary 3.2 Percent Malt Liquor Licenses.

- A. Temporary 3.2% malt liquor licenses may be issued:
 - 1. Only to a club, charitable, religious, or nonprofit organization.

6.2.14 Consumption and Display Permits.

- A. **Permit Required.** No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner of Public Safety under Minnesota Statutes, Section 340A.414.
- B. **Local consent required.** A Consumption and Display permit issued under this section is not effective until approved by the City Council. After approval by the City, the Commissioner of Public Safety's final approval must be obtained. Without the Commissioner's approval, the license will not be effective. All permits issued under this section expire on March 31 of each year.
- C. **One day consumption and display permits.** The City Council may issue a one day permit for the consumption and display of intoxicating liquor to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization. The permit must be approved by the Commissioner of Public Safety and is valid only for the day indicated on the permit. The City may not issue more than ten permits under this section in any one year.

6.2.15 Brew Pub On-Sale Intoxicating Liquor or On-Sale 3.2 Percent Malt Liquor Licenses.

- A. With the approval of the Commissioner of Public Safety, the City Council may issue to brewers who operate a restaurant in their place of manufacture and who meet the criteria established under M.S. §340A.24, as it may be amended from time to time. Sales under these licenses at an on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 6.2.16 below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

6.2.16 Brewer Off-Sale Malt Liquor Licenses.

- A. With the approval of the Commissioner of Public Safety, the City Council may issue to a brewer that is a licensee under Section 6.2.15 above and otherwise meets the criteria established at M.S. §340A.24, as it is amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the City. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. §340A.285 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 6.2.15 above, the brewers total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.
- B. Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer's license under M.S. §340A.301, subd 6(c), (i), or (j) and meeting the criteria established by M.S. §340A.28 as may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with M.S. §340A.285.

6.2.17 Brewer Temporary On-Sale Intoxicating Liquor.

- A. With the approval of the Commissioner of Public Safety, the City Council may issue to a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year a temporary on-sale intoxicating liquor license in connection with a social event within the City sponsored by the brewer.

6.2.18 Brewer Taproom License.

- A. The City Council may issue to the holder of a brewer's license under M.S. §340A.301, Subd 6(c), (i) or (j) as it may be amended from time to time. A brewer's taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. §340A.301, Subd 6(d) as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the City Clerk will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The City Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or vocation during the license period.

6.2.19 Cocktail Room License.

- A. The City Council may issue a holder of a state micro-distillery license a cocktail room license. A micro-distillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a micro-distillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a micro-distillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. §340A.301 Subd 6(a). No single entity may hold both a micro-distillery cocktail room and taproom license and a micro-distillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a micro-distillery cocktail room license, the City shall inform the Commissioner of Public Safety of the licensee's name and address and trade name, and the effective date and expiration date of the license. The City shall also inform the Commissioner of Public Safety of a micro-distillery cocktail room license transfer, cancellation, suspension or revocation during the licensing period.

6.2.20 Micro-Distiller Off-Sale License.

- A. The City Council may also issue a micro-distiller license to a holder of a state micro-distillery license. A micro-distiller off-sale license authorizes of sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

6.2.21 Micro-Distiller Temporary On-Sale Intoxicating License.

- A. The City Council may issue a micro-distiller temporary on-sale intoxicating license but only to the holder of a state micro-distillery license. A micro-distiller temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the City sponsored by the micro-distillery.

6.2.22 Temporary Licenses.

Subd. 1. Temporary On-Sale Liquor Licenses. Consistent with Minn. Stat. 340A.404 Subd. 10, and as limited by Minn. Stat. 340A.410 subd. 10, hereinafter the City Council will determine on a case-by-case basis the number of clubs, political committees registered under Minn. Stat. 10A.14 (charitable, religious or nonprofit organizations in existence for three (3) years) that will be issued a temporary on-sale license to sell intoxicating liquor within the City.

1. Consistent with the provisions of Minn. Stat.340A.404 Subd. 10, the City Council will determine the duration of any such licenses granted (not to exceed 1 day per year for any one licensee). The Council shall not award more than one temporary license to any one organization or registered political committee annually unless the license is issued in connection with an event officially designated as a community festival by the City Council.
2. Location. A temporary license authorized by this section may authorize the on-sale of intoxicating liquor on premises other than the premises owned or permanently occupied by the licensee provided the site is approved and located within the City limits.

Subd. 2 Temporary On-Sale 3.2% Beer Sales. The City hereby adopts the provisions of Minn. Stat. 340A.404 Subd. 10 as a guideline for the issuance of 3.2% beer sales temporary licenses and hereinafter the City Council will determine on a case-by-case basis the number of clubs, political committees registered under Minn. Stat. 10A.14 (charitable, religious or nonprofit organizations in existence for three years) that will be issued a temporary on-sale license to sell 3.2% beer within the City. Temporary on-sale licenses

may be issued in the discretion of the Council, subject to the limits of this Section, to clubs, or charitable, religious, or non-profit organizations listed as 501(c) corporations for tax purposes.

1. Location. A temporary license authorized by this section may authorize the on-sale of 3.2% beer on premises other than the premises owned or permanently occupied by the licensee provided the site is approved by the City Council and located within the City limits.
2. Conditions of Temporary License. Any license issue under this provision may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the municipality. Any license issued under this ordinance is subject to all of the laws governing the sale of intoxicating liquor and all such licenses are not valid unless first approved by the Commissioner of Public Safety or designated representative.
3. License Fees and Insurance. All licensees issued a license pursuant to this section will pay the City a fee of \$50 for each day the license is requested for at the time of application. In addition, as a condition of receiving said license, all licensees will provide the City Administrator a certificate of insurance providing proof of liability and dram shop insurance in an amount of Five Hundred Thousand Dollars (\$500,000) per claim and One Million Dollars (\$1,000,000) in aggregate. The City will be added as a named insured on any such certificate and will be given ten (10) days written notice prior to termination of any such policy.
4. Conditions of Temporary License. Any license issue under this provision may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the municipality. Any license issued under this ordinance is subject to all of the laws governing the sale of intoxicating liquor and all such licenses are not valid unless first approved by the Commissioner of Public Safety or designated representative.
5. License Fees and Insurance. All licensees issued a license pursuant to this section will pay the City a fee of \$50 at the time of application. In addition, as a condition of receiving said license, all licensees will provide the City Administrator a certificate of insurance providing proof of liability and dram shop insurance in an amount of Five Hundred Thousand Dollars (\$500,000) per claim and One Million Dollars (\$1,000,000) in aggregate. The City will be added as a named insured on any such certificate and will be given Ten (10) days written notice prior to termination of any such policy.

Subd. 3. Temporary On-Sale License. With regard to all temporary on-sale licenses approved the City pursuant to Minn. Stat. 340A.403, the licenses shall be issued subject to the following restrictions and conditions:

1. Eligible Licenses. Licenses shall be issued only to clubs or charitable, religious or non-profit organizations having an Internal Revenue Service Determination Letter pursuant to the provisions of Section 501(c) of the Internal Revenue Code as amended.
2. Limit on Number. Consistent with the provisions and limitations of Minn. Stat. 340A.410 Subd. 10, the City Council will determine the number and duration of any such temporary licenses granted to any one organization or political committee annually not to exceed twelve (12) days per year. The Council shall not award more than one temporary license to any one organization or registered political committee annually unless the license is issued in connection with an event officially designated as a community festival by the City Council. A series of temporary licenses may be issued under this provision in any combination not to exceed a total of twelve (12) days per year in any combination of the following:

- a) No more than three (3) four-day licenses;
 - b) No more than four (4) three-day licenses;
 - c) No more than six (6) two-day licenses;
 - d) No more than twelve (12) one-day licenses.
3. One-Day On-Sale Licenses. One-day On-Sale licenses to sell liquor in a parking lot are required to be fenced in. One-Day On-Sale licenses to sell liquor in a park does not need to be fenced in.
 4. Police. The applicant shall deposit with the City Administrator at the time of applying for the license, sufficient funds to reimburse the City for all costs for two (2) police officers who shall be on the location for which the temporary license for the sale of 3.2 percent malt liquor is issued during all times when 3.2 percent malt liquor is sold, unless otherwise determined by the City Council that either fewer or additional officers are needed of which the applicant shall reimburse the City as identified by the Council.
 5. Restrictions. The licensee shall not permit any person under the legal drinking age to remain or be in the area where the 3.2 percent malt liquor is being sold and consumed, which area shall be enclosed by a fence or other enclosure.
 6. Special Application Requirements. An applicant for a temporary license for the sale of 3.2 percent malt liquor shall apply on forms provided by the City to the City Administrator not less than sixty (60) days prior to the date for which the temporary license for the sale of 3.2 percent malt liquor is sought. In addition, all applicants shall also provide the City Administrator with a certificate of liability insurance covering the event for which the license is sought in the minimum amount of \$500,000 per claim and a \$1,000,000 in aggregate. It shall be a requirement that the City of Cloquet be named as an additional insured on the policy and that the City of Cloquet be provided with a minimum of ten (10) days written notice prior to termination of any insurance policy so obtained.
 7. Compliance. All applicants for a temporary "On-Sale" license for the sale of 3.2 percent malt liquor shall comply with all provisions of Minnesota Law and Cloquet Code or Ordinances including Minn. Stat. Sections 340A.402 and 340A.412. Evidence of compliance with this subdivision shall be submitted to the City Administrator by the applicant not less than twenty-four (24) hours prior to the event for which the temporary license for the sale of 3.2 percent malt liquor is sought.

6.2.23 Council Discretion to Grant or Deny a License. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this Code.

6.2.24 Application for License.

Subd. 1. Form. Every application for a license issued under this Code shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. No person shall make a false statement in an application.

Subd. 2. Description of Premises. An application for an On-Sale Intoxicating Liquor License shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. No license issued under the Chapter shall be effective beyond the building space and attached

courtyards, patios, or gardens as approved by the Council and as shown on the license application for such license.

The description may not include any parking lot or sidewalk unless a "Sidewalk Use Permit Agreement" has been executed and the appropriate insurance has been submitted. If the seating area is on the public sidewalk, a minimum of a four foot walking path must be available for the public. The barrier required between seating area and the walking path must be approved by the city prior to the seating area being established.

6.2.25 License Fees.

Subd. 1. No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for license under this section shall be established by ordinance or resolution as adopted from time to time by the City Council. No license or other fee established by the City shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

Subd. 2. In the event that the costs of investigation exceeds the fee established by Council, the applicant shall reimburse the City of Cloquet for the actual costs of the investigation, as determined by the City Council prior to the issuance of a liquor license to the applicant.

Subd. 3. No liquor license fee for 3.2 percent malt liquor, On-Sale intoxicating liquor and off-sale intoxicating liquor, shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing. [M.S. 340A.408, Subd. 3a]

Subd. 4. The fee for all licenses issued by the City, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis. In computing such fee, any unexpired fraction of a month shall be counted as one month.

Subd. 5. The annual fee for an off-sale intoxicating liquor license shall be reduced by \$100 if at the time of initial application or renewal the following conditions are met:

1. The licensee agrees to have a private vendor train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors; and
2. The licensee agrees to post a policy requiring identification checks for all persons appearing to be 30 years old or less; and
3. A cash award and incentive program is established by the licensee, to award employees who catch underage drinkers, and a penalty program is established to punish employees in the event of a failed compliance check.
4. Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to Section 6.2.39 of this Code.

6.2.26 Term and Expiration of Licenses. Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety and the accompanying City consent to the permit, shall expire on March 31 of each year.

6.2.27 Refunds. A refund of a pro rata share of an annual license fee for a retail license to sell intoxicating or 3.2 percent malt liquor may occur only if authorized by Minn. Stat. 340A.408 Subd. 5, as it may be amended from time to time, less the investigation fee.

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

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

6.2.30 Financial Responsibility. Prior to the issuance of any license under this Code, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the City and the Commissioner of Public Safety as a condition of issuance or renewal of his or her license. Applicant shall file a duplicate copy of all filing with the City Administrator prior to issuance of a license. Any lapse in insurance coverage or other evidence of financial responsibility as set forth within this Section shall automatically suspend the licensee's license to operate. Notice of cancellation of current liquor liability policy to licensee of impending suspension or revocation shall result in suspension or revocation instantly upon lapse unless evidence of compliance of financial responsibility requirements is presented to the City Administrator and other licensing authority before termination shall be effective. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

Subd. 1. Exempt Licensees. Those licensees that are exempt from the liability insurance provisions of Minn. Stat. 340A.409 and 340A.801 shall file with the City Administrator an affidavit prepared by the licensee and duly notarized containing at least the following:

A. On-Sale 3.2 percent malt liquor licensees:

1. That the licensee-affiant's on-sales of the preceding licensing period were less than \$25,000.00.
2. That licensee-affiant expects the sales to be less than \$25,000.00 for the period of license being applied for.
3. That the licensee-affiant shall notify the City Administrator within twenty-four (24) hours of the sales of the licensee reaching \$24,000.00.
4. That the licensee-affiant shall, during the license period, obtain certificate of insurance or bond during the licensing period if his or her sales reach \$25,000.00
5. That the licensee-affiant shall have the security required pursuant to Minn. Stat. 340A.409 and 340A.801 in effect prior to the sale of the \$25,000.00 in sales. Failure to file the affidavit required in this Section shall automatically suspend the licensee's license.

B. Off-Sale 3.2 percent malt liquor licensees:

1. That the licensee-affiant's on-sales of the preceding licensing period were less than \$50,000.00.
2. That licensee-affiant expects the sales to be less than \$50,000.00 for the period of license being applied for.
3. That the licensee-affiant shall notify the City Administrator within twenty-four (24) hours of the sales of the licensee reaching \$49,000.00.

4. That the licensee-affiant shall, during the license period, obtain certificate of insurance or bond during the licensing period if his or her sales reach \$50,000.00.
5. That the licensee-affiant shall have the security required pursuant to Minn. Stat. 340A.409 and 340A.801 in effect prior to the sale of the \$50,000.00 in sales. Failure to file the affidavit required in this Section shall automatically suspend the licensee's license.

C. On-Sale Wine licenses.

1. That the licensee-affiant's sales of the preceding licensing period were less than \$25,000.00.
2. That licensee-affiant expects the sales to be less than \$25,000.00 for the period of license being applied for.
3. That the licensee-affiant shall notify the City Administrator within twenty-four (24) hours of the sales of the licensee reaching \$24,000.00.
4. That the licensee-affiant shall, during the license period, obtain certificate of insurance or bond during the licensing period if his or her sales reach \$25,000.00
5. That the licensee-affiant shall have the security required pursuant to Minn. Stat. 340A.409 and 340A.801 in effect prior to the sale of the \$25,000.00 in sales. Failure to file the affidavit required in this Section shall automatically suspend the licensee's license.

Subd. 2. The licensee shall obtain liability insurance, a bond surety or cash as provided under Minn. Stat. 340A.409 and 340A.801 in an amount not less than provided by statute when the licensee is not exempt pursuant to law.

Subd. 3. Any lapse in insurance coverage or other evidence of financial responsibility as set forth within this Section shall automatically suspend the licensee's license to operate. Notice of cancellation of current liquor liability policy to licensee of impending suspension or revocation shall result in suspension or revocation instantly upon lapse, unless evidence of compliance of financial responsibility requirements is presented to the City Administrator and other licensing authority before termination shall be effective.

6.2.31 Investigation.

Subd. 1. Preliminary background and financial investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application a non-refundable investigation fee established by ordinance or resolution as adopted from time to time by the City Council, which shall be in addition to any license fee. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

Subd. 2. Comprehensive background and financial investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial

investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

Subd. 3. Inspection of Premises. All premises where any license under this Chapter is granted shall be open to inspection by a licensed police officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.

Subd. 4. Inspection of Records. The business records of the licensee, including federal and state tax returns shall be available for inspection by the City Administrator, or other duly authorized representative of the City at all reasonable times.

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

6.2.33 Hours and Days of Sale for Intoxicating Liquor and 3.2 Percent Malt Liquor.

Subd. 1. Off-Sale: No sale of intoxicating liquor or 3.2 percent malt liquor may be made:

1. on Sundays; except between the hours of 11:00 a.m. and 6:00 p.m;
2. before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
3. on Thanksgiving Day;
4. on Christmas Day, December 25; or
5. after 8:00 p.m. on Christmas Eve, December 24.

Subd. 2. On-Sale: No sale of intoxicating liquor or 3.2 percent malt liquor for consumption on the licensed premises may be made:

1. Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
2. After 2:00 a.m. on Sundays, except as provided in Subd.3 below.

Subd. 3. Intoxicating liquor; Sunday Sales; On-Sale

1. A restaurant, club, bowling center, or hotel with seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. (2:00 a.m. if they have a state license) on Monday.
2. The establishment serving intoxicating liquors on Sundays must obtain a Sunday license. The license must be issued by the City Council for a period of one year, and the fee for the license will be set by the Council from time to time but may not exceed \$200 annually.

6.2.34 Samples. It shall be lawful for the holder of an "off- sale" intoxicating liquor license to provide on the premises of the retail licensee samples of wine, liqueurs, cordials and distilled spirits which the retail licensee currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, cordial, and distilled spirits samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of "off-sale" in a quantity less than 50 milliliters of wine per variety per customer, 100 milliliters of malt liquor, and 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits per variety per customer. A brewer may furnish samples of malt liquor the brewer manufactures in a quantity of less than 100 milliliters of malt liquor per variety per customer.

6.2.35 Restrictions on Issuance.

Subd. 1. Each license shall be issued only to the applicant for the premises described in the application.

Subd. 2. Not more than one license shall be directly or indirectly issued within the City to any one person.

Subd. 3. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

Subd. 4. No license shall be issued for any place or any business ineligible for a license under state law.

Subd. 5. Distance from Schools and Churches. No license shall be granted for any place within 1,200 feet of any public school or within 600 feet of any church unless the entity pre-existed the location of the school or church in question or unless such a use is permitted under City Zoning and is approved by the City Council. In applying this restriction, the distance shall be measured between the main front entrance of each structure, following the route of ordinary pedestrian travel.

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

Subd. 1. All Intoxicating and 3.2 Percent Malt Liquor Licenses.

- A. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.
- B. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- C. No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance or where the consumption and display of liquor is lawfully permitted.
- D. Sale to Minors or Intoxicated Persons. No liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.
- E. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- F. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- G. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- H. Any violation of any condition of this section may be grounds for revocation or suspension of the license.
- I. Nudity on the Premises of Licenses Establishments is Prohibited. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the

people of the City that nudity is prohibited as provided in this section on the premises of any establishment licensed under this ordinance. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this ordinance, as set forth in this section, reflects the prevailing community standards of the City.

It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this Code or the imposition of a civil penalty under the provisions of 6.2.40.

Subd. 2. On-Sale Licenses.

- A. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- B. Unlicensed Premise. It shall be unlawful for any licensee holding an "On-sale" license to sell or dispense intoxicating liquor except upon and within the premises or building for which the license was granted. No person shall consume liquor in any such unlicensed place.
- C. Illegal Sales. No "On-Sale" dealer shall sell liquor by the bottle or container for removal from the premises.
- D. Any licensee holding a retail on-sale license to sell alcoholic beverages shall not allow, suffer or permit any person under the age of twenty one (21) years of age to be, remain or loiter in or upon such premises.
- E. Six Months' Prior Eligibility. No regular on-sale license shall be granted for a business or club which has not been in operation and eligible to receive a license for a least six (6) months immediately preceding the application of a license.
- F. Banquet Room. A regular on-sale license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which shall not be present fewer than twenty-five (25) persons.

Subd. 3. Off-Sale Licenses.

- A. Failure by on off-sale intoxicating liquor license who has received a fee reduction pursuant to section 6.2.08, Subd. 5 of this Code to abide with the provisions of section 6.2.08, Subd. 5.

Subd. 4. 3.2 Percent Malt Liquor Licenses.

- A. Age Misrepresentation. No minor shall misrepresent his or her age for the purpose of obtaining beer.

- B. Inducing Purchase. No person shall induce a minor to purchase or procure beer.
- C. Procurement. No person other than the parent or legal guardian shall procure beer for any minor, and then only for consumption on the premises of the parent or guardian.
- D. Possession. No minor shall have beer in his or her possession with the intent to consume it at a place other than the household of his or her parent or guardian.
- E. Consumption. No minor shall consume beer unless in the company of his or her parent or guardian on the premises of the parent or guardian.
- F. Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.
- G. Liquor Dealer's Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a Federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of Minnesota to sell intoxicating liquors.

Subd. 5. Club License.

- A. All sales of liquor or beer by the club shall be restricted to members of the licensed club or to bona fide guests as defined in this Section and no sale may be made to a non-member unless (1) he or she is a guest in the company of the member, or (2) a guest at a special event in the club sponsored by a member for which a reservation has been made by such member at least twenty-four (24) hours preceding the event, or (3) all guests shall sign a guest register which shall give his or her name, address and the name of the club of which he or she is a member; or the name of the member of whom he or she is a guest.
- B. All liquor and beer license restrictions, sale regulations and hours and days of sales, as stated in this Chapter and relating to the "on-sale" of liquor and beer, shall be binding upon all club licensees.
- C. It shall be unlawful for any person who is not a member of the licensed club to purchase liquor or beer from the club unless he or she is a guest of the member or at a social event as defined in Subparagraph A.

6.2.37 Minors.

Subd. 1. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on-sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on-sale.

Subd. 2. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

6.2.38 Sale of Liquor by Caterers.

Subd. 1. Illegal Sale. It shall be unlawful for the holder of a caterer's permit to sell alcoholic beverages off the holder's licensed premises in the City, except as an incidental part of the service of prepared meals at an event sponsored by a person with whom the holder has contracted for such prepared meal service.

Subd. 2. Illegal Interest. It shall be unlawful for the person who has contracted with the holder for prepared meal service to have any legal, equitable or pecuniary interest in the holder, or the holder's compensation from the catered event.

Subd. 3. Information Required. Except for holders who also hold an on-sale intoxicating liquor license issued by the City, it is unlawful for any person holding a caterer's permit to sell or otherwise provide alcohol to any individual or group located within the corporate boundaries of the City unless said person has first provided the Police Chief for the City with the following:

- A. A copy of their valid caterer's permit as issued by the State of Minnesota; and
- B. A copy of their valid on-sale liquor license as issued by the city where their primary on-sale liquor premise is located; and
- C. A copy of their dram shop insurance policy clearly indicating that dram shop coverage is currently in force; and
- D. A completed caterer's permit application form; and
- E. Payment of an application fee as set by resolution by the City Council.

Subd. 4. Aiding and Abetting. It is unlawful for any person to intentionally aid, advise, hire, counsel, or conspire with or otherwise procure another to commit the prohibited act.

Subd. 5. Enforcement. This section shall be enforced by the Chief of Police or his/her designee.

6.2.39 Suspension and Revocation.

- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this ordinance relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that Act, or it may contract with the Office of Hearings Examiners for a hearing officer.
- B. The following are the minimum periods of suspension or revocation which shall be posed by the Council for violations of the provisions of this Code or M.S. §340A, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time:
 1. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of Section 6.2.35, Subd. 1 (I), the license shall be revoked.
 2. The license shall be suspended by the Council after a finding under this section, division A, that the licensee has failed to comply with any applicable statute, rule, or provision of this ordinance for at least the minimum period as follows:

- (a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
 - (b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - (c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - (d) For a fourth violation within any three-year period, the license shall be revoked.
3. The Council shall select the day or days during which the license shall be suspended.
- C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the City Administrator, a hearing before the City Council shall be granted within ten days. Any suspension under this Division (B) shall continue until the City Council determines that the financial responsibility requirements of state law and this ordinance have again been met.
- D. The provisions of Section 6.2.40 (Penalties) pertaining to civil penalties may be imposed in addition to or in lieu of any suspension or revocation under this Code.

6.2.40 Penalties

Subd. 1. Any person violating the provisions of this Code or Minn. Stat. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

Subd. 2. The Council shall impose a civil penalty of up to \$2,000 for each violation of Minn. Stat. Ch. 340A, as it may be amended from time to time, and of this Code. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, Minn. Stat. 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- A. For the first violation within any three-year period, \$500.
- B. For the second violation within any three-year period, \$1,000.
- C. For the third and subsequent violations within any three-year period, \$2,000.

Subd. 3. The term "violation" as used in Section 23 includes any and all violations of the provisions in this section, or of Minn. Stat. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the proceeding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

6.2.41 Temporary expansion of licensed premises; outdoor sales and services. The purpose of this section is to allow for the temporary expansion of the licensed premises of a liquor licensee, to temporarily include limited outdoor areas directly adjacent to and contiguous with the permanently licensed premises on City owned land or City public right-of-way, from time to time, subject to such conditions as the City Council determines will protect the public health, safety and welfare. The City Council finds that allowing outdoor sales and services in downtown commercial areas is beneficial to the creation of a vibrant and prosperous business community so long as adequate review, controls, and accountability are in place. Accordingly, liquor licensees shall be entitled to apply for the benefits available under this section.

Therefore, the holder of any retail liquor license for premises located in the HC and CC zoning districts of the City may, on an annual basis, apply for a permit for temporary expansion of its licensed premises, for an area directly adjacent to and contiguous with the permanently licensed premises. The City Council may grant such a permit on the terms and conditions specified under this section and such other terms and conditions as the City Council may determine are necessary or advisable to protect the public health, safety and welfare. Such permit shall authorize use of any temporary expansion area on particular days, dates and times and shall be valid for a period of time as specified in the permit, not to exceed one year. If approved by the City Council, a temporary expansion area may include defined areas of public property including public sidewalks and/or parking lots. Application for a permit for temporary expansion of a licensed premises or other unlicensed premises shall be subject to the following requirements and procedures.

Subd. 1 Application. Application for a permit for temporary expansion of a licensed premises or other premises shall be made on a form provided by the City and shall contain the following information and such other information as the City may require from time to time:

- A. The names, addresses and telephone numbers of the license holder and of all managers of the licensed establishment or of the owner and manager of an unlicensed premises.
- B. A specific description and diagram of the area in which the temporary expansion activity is to occur. The description and diagram must include location, dimensions, barriers proposed to be used, ingress and egress arrangements, seating capacity, and other pertinent information.
- C. Written consent of the owner of the expansion area or of a person with lawful responsibility for the expansion area, if the owner is someone other than the licensee or business owner.
- D. The purpose for which the temporary expansion is sought, a description of planned activities, including food and beverage service, entertainment, if any, security plans (include lighting, sanitation, liquor control, etc.) and days and hours of operation including beginning and ending dates.
- E. Proof that any necessary auxiliary permits have been obtained.
- F. A detailed description of the planned staffing of the temporary expansion areas during hours of operation, and methods the licensee will use to ensure that consumption of alcoholic beverages are not removed from those areas.
- G. Such other information as the City may deem necessary for the protection of public health, safety and welfare.

Subd. 2 Fees. Each application shall be accompanied by an application fee in such amount as may be determined by the City Council from time to time.

Subd. 3 Review. Applications shall be submitted to the City Administrator's office and shall be reviewed by such staff persons as may be appropriate in the circumstances, including the Chief of Police in all applications which involve the outdoor sale of liquor. Review of applications shall include consideration of

all pertinent building code, fire code, and other life safety issues, applicable zoning ordinances, history of licensee with regards to maintaining order on the licensed premises and complying with applicable laws, potential impact of proposed outdoor service on adjoining properties in terms of light, noise and liquor control, and other considerations.

Subd. 4 Conditions. Approval of an application may be made subject to any appropriate restrictions or conditions, which may vary from establishment to establishment depending upon the location and circumstances.

SECTION 6.3 PROVISIONS REGARDING THE SALE OF 3.2% BEER

6.3.01 Definition of Terms.

Subd. 1 Beer. As used in this Section, "Beer" shall mean "3.2 percent malt liquor" which is any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Subd. 2 Beer Store. "Beer Store" shall mean an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages, ice and soft drinks at retail.

6.3.02 License Required.

Subd. 1 Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the City without first having received a license as provided in this Section. Licenses shall be of three kinds: (1) Regular "On-Sale"; (2) "Off-Sale", (3) Temporary "On-Sale".

Subd. 2 Regular On-Sale. Regular "On-Sale" licenses shall be granted only to bona fide clubs, beer stores, drug stores, restaurants, and hotels where food is prepared and served for consumption on the premises. "On-Sale" licenses shall permit the sale of beer for consumption on the premises only.

Subd. 3 Off-Sale. "Off-Sale" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

Subd. 4 Temporary On-Sale 3.2% Beer Sales.

- A. **Temporary Licenses.** The City hereby adopts the provisions of Minn. Stat. §340A.404 Subd. 10 as a guideline for the issuance of 3.2% beer sales temporary licenses and hereinafter the City Council will determine on a case-by-case basis the number of clubs, political committees registered under Minn. Stat. 10A.14 (charitable, religious or nonprofit organizations in existence for three years) that will be issued a temporary on-sale license to sell 3.2% beer within the City. Temporary on-sale licenses may be issued in the discretion of the Council, subject to the limits of this Section, to clubs, or charitable, religious, or non-profit organizations listed as 501(c) corporations for tax purposes.
1. **Location.** A temporary license authorized by this section may authorize the on-sale of 3.2% beer on premises other than the premises owned or permanently occupied by the licensee provided the site is approved by the City Council and located within the City limits.
 2. **Conditions of Temporary License.** Any license issue under this provision may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the municipality. Any license issued under this ordinance is subject to all of the laws governing the sale of intoxicating liquor and all such licenses are not valid unless first approved by the Commissioner of Public Safety or designated representative.

3. License Fees and Insurance. All licensees issued a license pursuant to this section will pay the City a fee of \$50 for each day the license is requested for at the time of application. In addition, as a condition of receiving said license, all licensees will provide the City Administrator a certificate of insurance providing proof of liability and dram shop insurance in an amount of Five Hundred Thousand Dollars (\$500,000) per claim and One Million Dollars (\$1,000,000) in aggregate. The City will be added as a named insured on any such certificate and will be given ten (10) days written notice prior to termination of any such policy.

6.3.03 General License Applications. Every application for a license to sell beer shall be made to the City Administrator on a form supplied by the City and containing such information as the Administrator or the City Council may require. It shall be unlawful to make any false statement in an application.

6.3.04 Temporary On-Sale License. With regard to all temporary on-sale licenses approved the City pursuant to Minn. Stat. 340A.403, the licenses shall be issued subject to the following restrictions and conditions.

Subd. 1 Eligible Licenses. Licenses shall be issued only to clubs or charitable, religious or non-profit organizations having an Internal Revenue Service Determination Letter pursuant to the provisions of Section 501(c) of the Internal Revenue Code as amended.

Subd. 2 Limit on Number. Consistent with the provisions and limitations of Minn. Stat. §340A.410 Subd. 10, the City Council will determine the number and duration of any such temporary licenses granted to any one organization or political committee annually not to exceed twelve (12) days per year. The Council shall not award more than one temporary license to any one organization or registered political committee annually unless the license is issued in connection with an event officially designated as a community festival by the City Council. A series of temporary licenses may be issued under this provision in any combination not to exceed a total of twelve (12) days per year in any combination of the following:

- a) No more than three (3) four-day licenses;
- b) No more than four (4) three-day licenses;
- c) No more than six (6) two-day licenses;
- d) No more than twelve (12) one-day licenses.

Subd. 3 One-Day On-Sale Licenses. One-day On-Sale licenses to sell liquor in a parking lot are required to be fenced in. One-Day On-Sale licenses to sell liquor in a park does not need to be fenced in.

Subd. 4 Police. The applicant shall deposit with the City Administrator at the time of applying for the license sufficient funds to reimburse the City for all costs for two (2) police officers who shall be on the location for which the temporary license for the sale of 3.2 percent malt liquor is issued during all times when 3.2 percent malt liquor is sold.

Subd. 5 Restrictions. The licensee shall not permit any person under the legal drinking age to remain or be in the area where the 3.2 percent malt liquor is being sold and consumed, which area shall be enclosed by a fence or other enclosure.

Subd. 6 Special Application Requirements. An applicant for a temporary license for the sale of 3.2 percent malt liquor shall apply on forms provided by the City to the City Administrator not less than sixty (60) days prior to the date for which the temporary license for the sale of 3.2 percent malt liquor is sought. In addition, all applicants shall also provide the City Administrator with a certificate of liability insurance covering the event for which the license is sought in the minimum amount of \$500,000 per claim and a \$1,000,000 in aggregate. It shall be a requirement that the City of Cloquet be named as an additional insured on the policy and that the City of Cloquet be provided with a minimum of ten (10) days written notice prior to termination of any insurance policy so obtained.

Subd. 7 Compliance. All applicants for a temporary "On-Sale" license for the sale of 3.2 percent malt liquor shall comply with all provisions of Minnesota Law and Cloquet Code or Ordinances including Minn. Stat. Sections 340A.402 and 340A.412. Evidence of compliance with this subdivision shall be submitted to the City Administrator by the applicant not less than twenty-four (24) hours prior to the event for which the temporary license for the sale of 3.2 percent malt liquor is sought.

6.3.05 License Fees and Duration.

Subd. 1 Payment Required. Each application for a license shall be accompanied by a receipt for payment in full of the required fee for the license. All fees shall be paid into the general fund of the City.

Subd. 2 Expiration; Pro Rata Fees. Every license except a temporary license shall expire on the last day of June of each year. Each license except a temporary license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

Subd. 3 Fees. The annual fee for a regular on-sale license; the annual fee for an "off-sale" license; and the fee for a temporary license shall be established by resolution as adopted from time to time by the City Council.

Subd. 4 Refunds. Upon rejection of application for a license, the City Administrator shall refund the amount paid, less the investigation fee. In the event that the costs of investigation exceeds the fee established by Council, the applicant shall reimburse the City of Cloquet for the actual costs of the investigation, as determined by the City Council prior to the issuance of a liquor license to the applicant. In addition, no part of the fee paid for any license issued under this section shall be refunded except in the following instances upon application to the Council within seven (7) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one (1) month before expiration of the license because of:

- A. Destruction or damage of the licensed premises by fire or other catastrophe;
- B. The licensee's illness;
- C. The licensee's death;
- D. A change in the legal status of the municipality making it unlawful for the licensed business to continue.

6.3.06 Granting of License.

Subd. 1 Investigation and Hearing. The City Council shall investigate all facts set out in the application. After such investigation and hearing, the Council shall grant or refuse the application in its discretion by motion or resolution.

Subd. 2 Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the Council.

6.3.07 Number of Licenses. The City Council shall determine the number of regular "on-sale" and "off-sale" 3.2% licenses that will be granted annually. In addition, a club or charitable, religious, or non-profit organization may be issued a temporary "on-sale" 3.2% license. (Minn. Stat. §340A.403 & 340A.411).

6.3.08 Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by State law.

6.3.09 Places Ineligible for License.

Subd. 1 Conviction or Revocation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this Section, any other Code provision or ordinance related to alcoholic beverages, or of the State Beer or Intoxicating Liquor Law, or where any license under this Chapter has been revoked for cause until one (1) year has elapsed after such conviction or revocation.

Subd. 2 Distance from Schools and Churches. No license shall be granted for any place within 1,200 feet of any public school or within 600 feet of any church unless the entity pre-existed the location of the School or Church in question or unless such a use is permitted under City Zoning and is approved by the City Council. In applying this restriction, the distance shall be measured between the main front entrance of each structure, following the route of ordinary pedestrian travel.

Subd. 3 Six Months' Prior Eligibility. No regular on-sale license shall be granted for a business or club which has not been in operation and eligible to receive a license for a least six (6) months immediately preceding the application of a license.

Subd. 4 Payment of Obligations Due City. No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent or unpaid.

6.3.10 Conditions of License.

Subd. 1 General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Section and of any other applicable Code provision, ordinance of the City, or State law.

Subd. 2 Sale to Minors or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any person under 21 years of age.

Subd. 3 Consumption by Minors. Any licensee holding a retail on-sale license to sell alcoholic beverages shall not allow, suffer or permit any person under the age of twenty one (21) years of age to be, remain or loiter in or upon such premises.

Subd. 4 Employment of Minors. Except as otherwise permitted by State law, no minor under 18 shall be employed on the premises of a beer store.

Subd. 5 Gambling. No gambling or any gambling devices shall be permitted on any licensed premises unless appropriate license is issued by the State or City as permitted by law.

Subd. 6 Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 7 Liquor Dealer's Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a Federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of Minnesota to sell intoxicating liquors.

Subd. 8 Sales of Intoxicating Liquors. No licensee who is not also licensed to sell intoxicating liquor or who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this Section.

Subd. 9 Searches and Seizures. Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search warrant and may seize all intoxicating liquors found on the licensed premises in violation of Subdivision 8.

Subd. 10 Licensee Responsibility. Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.

Subd. 11 Banquet Room. A regular on-sale license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which shall not be present fewer than twenty-five (25) persons.

Subd. 12 Financial Responsibility. Prior to the issuance of a beer and wine license, the applicant shall demonstrate proof of financial responsibility as is required pursuant to Minn. Stat. 340A.409 and 340A.801. The applicant shall file all documents required by the Commissioner of Public Safety. Applicant shall file a duplicate copy of all filing with the City Administrator prior to issuance of a license.

- A. Those licensees that are exempt from the liability insurance provisions of Minn. Stat. 340A.409 and 340A.801 shall file with the City Administrator an affidavit prepared by the licensee and duly notarized containing at least the following:
 - 1) That the licensee-affiant's sales of the preceding licensing period were less than \$10,000.00.
 - 2) That licensee-affiant expects the sales to be less than \$10,000.00 for the period of license being applied for.
 - 3) That the licensee-affiant shall notify the City Administrator within twenty-four (24) hours of the sales of the licensee reaching \$9,000.00.
 - 4) That the licensee-affiant shall, during the license period, obtain certificate of insurance or bond during the licensing period if his or her sales reach \$10,000.00
 - 5) That the licensee-affiant shall have the security required pursuant to Minn. Stat. 340A.409 and 340A.801 in effect prior to the sale of the \$10,000.00 in sales. Failure to file the affidavit required in this Section shall automatically suspend the licensee's license.
- B. The licensee shall obtain liability insurance, a bond surety or cash as provided under Minn. Stat. 340A.409 and 340A.801 in an amount not less than provided by statute when the licensee is not exempt pursuant to law.
- C. Any lapse in insurance coverage or other evidence of financial responsibility as set forth within this Section shall automatically suspend the licensee's license to operate. Notice of cancellation of current liquor liability policy to licensee of impending suspension or revocation shall result in suspension or revocation instantly upon lapse, unless evidence of compliance of financial responsibility requirements is presented to the City Administrator and other licensing authority before termination shall be effective.

6.3.11 Hours of Sale:

Subd. 1 3.2 Percent Malt Liquor. No sale of 3.2 percent malt liquor for consumption on the licensed premises may be made:

- (1) Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (2) After 2:00 a.m. on Sundays, except as provided by subdivision 3.

Subd. 2. 3.2 Percent Malt Liquor; Sunday Sales; On-Sale. A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds a 3.2 percent malt liquor license may sell 3.2 percent malt liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays provided the establishment applying for the extension from 1:00 a.m. to 2:00 a.m. holds a Sunday liquor license and has otherwise complied with all the applicable provisions as set forth in this Code including the “No Hand Gun” posting requirement, have submitted the required Form 9011 - 2 a.m. and has been approved by and has paid all required fees to the Alcohol and Gambling Enforcement Division of the State of Minnesota and has been approved by the City Council.

Subd. 3. 3.2 Percent liquor; off-sale. No sale of 3.2 percent malt liquor may be made by an off-sale licensee:

- (1) on Sundays; except between the hours of 11:00 a.m. and 6:00 p.m.;
- (2) before 8:00 a.m. on Monday through Saturday;
- (3) after 10:00 p.m. on Monday through Saturday;
- (4) on Thanksgiving Day;
- (5) on Christmas Day, December 25; or
- (6) after 8:00 p.m. on Christmas Eve, December 24.

Subd. 4. Sales after 1:00 a.m.; permit fee. No licensee may sell 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has a valid liquor license and must comply with all other applicable provisions of this code and must provide the City with verification that the establishment has submitted the 9011 - 2 am Form to the State Alcohol and Gambling Enforcement Division and has been approved and has paid all required fees.

6.3.12 Firearm Posting Requirements. All establishments holding a liquor license that apply for an extension of hours of service will additionally be required to post in the establishment a notice consistent with the requirements of Minnesota Statute §624.714 subd. 17, as amended, to ban the possession of firearms on the premises.

6.3.13 Clubs. No club shall sell beer except to members and to guests in the company of members.

6.3.14 Restrictions on Purchase and Consumption.

Subd. 1 Age Misrepresentation. No minor shall misrepresent his or her age for the purpose of obtaining beer.

Subd. 2 Inducing Purchase. No person shall induce a minor to purchase or procure beer.

Subd. 3 Procurement. No person other than the parent or legal guardian shall procure beer for any minor, and then only for consumption on the premises of the parent or guardian.

Subd. 4 Possession. No minor shall have beer in his or her possession with the intent to consume it at a place other than the household of his or her parent or guardian.

Subd. 5 Consumption. No minor shall consume beer unless in the company of his or her parent or guardian on the premises of the parent or guardian.

Subd. 6 Consumption Prohibited-Where:

- A. No beer shall be consumed in any theater, recreation hall or center, dance hall, ball park, public park, or other place of public gathering used for purposes of entertainment, amusement or playing of games unless otherwise allowed by the City Council as part of a community event or festival.
- B. No beer shall be consumed on any public street, sidewalk (unless specifically allowed above as part of a community event or festival) or in any automobile within the City limits of the City.

Subd. 7 Liquor Consumption and Display. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

6.3.15 Suspension or Revocation. The violation of any provisions or conditions of this Section by a beer licensee or his or her agent shall be grounds for revocation or suspension of the license. The license of any person who holds a Federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this Section may be revoked or suspended by for a period of time, not to exceed sixty (60) days or revoke any intoxicating liquor license, upon a finding that the licensee has failed to comply with any applicable statute, regulation, Code or Ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. Sections 14.57 to 14.69 of the Administrative Procedure Act. Reasonable notice, as provided for in State law, shall be deemed by mailing of notice by certified mail ten (10) days prior to the date of hearing to the address shown on the application of licensee. Suspension and revocation shall be automatic without a hearing if the licensee shall violate the provisions of this Section relating to insurance and financial responsibility. If a licensee shall have his or her license suspended or revoked, the license shall not be reinstated without a new application for license filed in accordance with the provisions of this Section as though the applicant had no license and not as a renewal application.

6.3.16 Penalty. Any person violating any provisions of this section shall be guilty of a misdemeanor or gross misdemeanor as provided by Minnesota Statute.

**SECTION 6.4: PROVIDING FOR GENERAL LICENSE RESTRICTIONS,
RESPONSIBILITY OF LICENSEE, RIGHT TO SEARCH, AND COMPLIANCE
CHECKS REGARDING THE SALE OF ALCOHOLIC BEVERAGES**

6.4.01 Purpose. Because the City finds that there is a connection between high risk and illegal conduct related to the illegal sale and possession of alcoholic beverages within the City; and, since the City further believes it is in the best interests of its citizens for the City to regulate the sale and distribution of alcoholic beverages in a manner which will help to prevent illegal sales and the sale and possession of alcoholic beverages by minors and underage adults (those under the legal drinking age), the City believes that it is in the best interests of its citizens and the general public that the City provide for compliance checks and administrative penalties for licensees who sell, barter or dispense intoxicating (and non-intoxicating beverages) in violation of the provisions of Minnesota Statutes Chapter 340A and applicable law.

6.4.02 Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The term “shall” means mandatory and the term “may” means permissive.

The following terms shall have the definitions given to them:

Subd. A. Intoxicating and Nonintoxicating Liquor. Alcoholic beverages as referred to in this section are intended to refer to both intoxicating and nonintoxicating liquors as those terms are defined by Minnesota Statute.

1. An intoxicating liquor is any distilled, fermented spirituous, vinous and malt beverage containing more than 3.2 percent ethyl alcohol by weight.
2. A nonintoxicating liquor is any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

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

Subd. C. Underage Adult. Any natural person who is an adult but who has not yet reached the legal age for the consumption of intoxicating or nonintoxicating beverages as defined by Minn.Stat. 340A.503.

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

Subd. E. Compliance Checks. Compliance checks shall mean the system the City uses to investigate and ensure that those authorized to sell alcoholic beverages are following and complying with the requirements of applicable state laws and city Code or Ordinances with regard to the sale of alcoholic beverages. Compliance checks may involve the use of individuals (including minors) under the age of twenty-one (21) as authorized by this section.

6.4.03 License. No person or retail establishment shall sell or offer to sell any intoxicating or nonintoxicating beverage product without first having obtained a license to do so from the City.

Subd. A. Revocation or Suspension. Any license issued by the City may be revoked or suspended as provided in the Violations and Penalties section of this section.

6.4.04 Prohibited Sales. It shall be a violation of this section for any person to sell or offer to sell any intoxicating or nonintoxicating alcoholic beverage:

1. To any person under the then existing legal drinking age as that term is defined by Minnesota Statute.

2. By any other means, or to any other person, prohibited by federal, state, or other local law, Code or Ordinance provision, or other regulation.

6.4.05 Administrative Penalties and Responsibility for Illegal Sales.

Subd. A. All licensees shall be responsible for the actions of their employees in regard to the sale of alcoholic beverage on the licensed premise, and for purposes of this section the sale of such an item by an employee shall be considered a sale by the license holder.

Subd. B. Violations and Penalties. Notwithstanding the above, the clerk or employee specifically involved in a compliance check violation or determined to have violated this section will be personally liable to pay an administrative fee in addition to any fees or license suspensions or revocations imposed upon the employer or license holder.

It is hereby determined that the following penalty schedule is adopted:

- A. **A first offense violation** will result in an administrative fee of Two Hundred Dollars (\$200) to the merchant license holder and a Two Hundred Dollar (\$200) penalty fee to the individual clerk or bartender involved in the violation. The amounts of the administrative fees shall be established by resolution as adopted from time to time by the City Council and can be modified based upon the circumstances. The administrative fee assessed the merchant license holder will be waived if the merchant license holder was not the individual clerk or bartender involved directly in the violation and if the merchant license holder can provide proof within fourteen days of the date of the violation that the employee involved in the violation had attended RBS (responsible beverage service) staff training prior to the alleged offense as approved by the City.
- B. **A second offense violation** within twenty-four (24) months of a first violation will result in an administrative penalty of Three Hundred Dollars (\$300) to any clerk or bartender previously cited within 24 months and an administrative penalty of Three Hundred Dollars (\$300) to any merchant/licensee whose clerk was previously cited for a violation of this section within a 24 month period which dollar amount may be modified by resolution as adopted from time to time by the City Council. If the non-licensee clerk or bartender cited has not been previously cited in the preceding 24 month period the administrative fee for the involved clerk or bartender will be treated as a first time offense. The administrative fee for the merchant/licensee will be reduced to the amount of a first time offense if the merchant license holder can provide proof that his/her employees have attended staff ID training as approved by the City within fourteen (14) days of the determination of a violation. Failure to comply with this mandate will result in the assessment of the higher administrative fee.
- C. **A third offense violation** within a twenty four (24) month period will result in An administrative penalty of Four Hundred Dollars (\$400) to any clerk or bartender cited with two prior violations of this section and will result in an administrative penalty of Four Hundred Dollars (\$400) to any merchant/licensee whose clerk was previously cited for a violation of this section within a 24 month period. If the involved clerk or bartender cited has not been previously cited in the preceding 24 month period, the administrative fee of the merchant/licensee will be reduced to a dollar amount commensurate with a second offense violation if the merchant license holder can provide proof that his/her employees have attended staff ID training as approved by the City within fourteen (14) days of the determination of a violation. A third offense within a twenty four month period may also result in a suspension of any license issued by the City to the merchant license holder.

- D. **A fourth offense violation** and any subsequent violations within a twenty-four (24) month period will result in an administrative penalty of One Thousand Dollars (\$1,000) to any clerk or bartender cited with three prior violations of this section and will result in an administrative penalty fee to the merchant/licensee holder of an additional One Thousand Dollars (\$1,000). The merchant/licensee holder will also be required to provide proof that his/her employees have attended staff ID training as approved by the City within fourteen (14) days of determination of violation. A fourth or subsequent offense within a twenty four month period may also result in a suspension or revocation of any license issued by the City to the merchant license holder.
- E. In each instance where the clerk or bartender involved in a violation is also the merchant license holder, the individual cited will receive only the penalty prescribed for the merchant license holder.

All administrative fees imposed by this section are deemed payable within sixty (60) days of the date of citation or no later than thirty (30) days after the date of any written decision determining that a violation has occurred for all appeals. Failure to pay any administrative fee imposed within the time limits set herein will result in a license suspension until the date of payment.

Subd. C. Citation Process and Right to a Hearing. Upon discovery of a violation of this section or pursuant to a compliance check, the involved clerk or bartender and the licensee shall be issued a citation by City Police. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. All fees imposed by this section will be payable to the City Administrator of the City of Cloquet. No administrative fee may be imposed until the clerk or bartender and the licensee has received written notice of the violation by personal service or by certified mail sent to the location of the alleged violation and the cited parties have been afforded an opportunity for a hearing. Any cited party that requests a hearing in writing within twenty (20) days of the date of mailing of the written notice of violation will be afforded an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing and will be completed within ten (10) days of the hearing.

Subd. D. Right to Obtain a Transcript. If a hearing is requested, the hearing will not be recorded and will only be transcribed if all financial arrangements are made in advance with a certified court reporter by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the City with a copy of the transcript at not cost to the City.

6.4.06 Compliance Checks and Inspections. All licensed premises shall be open to inspection by City Police or other authorized city officials during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging underage youth to enter the licensed premises to attempt to purchase alcoholic beverage. No minor or underage adult used in compliance checks shall attempt to use a false identification or theatrical makeup which misrepresents their age. All minors and underage adults lawfully engaged in a compliance check shall answer all questions about their age truthfully when asked by the licensee and shall produce any identification which he or she is asked to produce. In all instances, the minors or underage adults shall be accompanied by City Police or authorized city officials to the location of the compliance check.

- A. **Mandatory Keg Registration.** As of July 1, 1999, all off-sale licensed establishments will be required to register and mark for identification all kegs sold to the public. The information that will be required for registration includes, but is not limited to, any registration number located or placed on the keg, the name and address and drivers license number of the individual to whom the keg was sold, the day in which the keg was sold, the brand of beer in the keg and the keg size. Merchants/Licensees will be required to maintain information on all kegs sold within the City of Cloquet for a minimum of one (1) year. In addition, the merchant/licensee will be required to make this information available to the City Police officers upon demand during normal hours of operation. Merchant license holders will be required to mark the kegs sold in a manner in which to allow them to specifically identify them. Failure to comply with this provision will result in an administrative penalty which shall be established by resolution as adopted from time to time by the City Council for the first offense second offense or any subsequent offense.

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

Subd.1. Illegal Possession. It shall be a violation of this section for any minor or underage adult to have in his or her possession any alcoholic beverage. This subdivision shall not apply to minors or underage adults lawfully involved in a compliance check on behalf of the City and it does not apply to any minor or underage adult who possesses or consumes an alcoholic beverage in the household of the youth's parent or guardian with the consent of the parent or guardian.

Subd. 2. Illegal Use. It shall be a violation of this section for any minor or underage adult to drink or possess alcoholic beverages unless they are lawfully involved in a compliance check on behalf of the City or use the alcoholic beverage in the household of their parent or guardian with the consent of the parent or guardian. Minors and underage adults suspected of violating this provision of this section may be referred to juvenile court for prosecution by the City Attorney or the Carlton County Attorney consistent with existing agreements.

Subd. 3. Illegal procurement. It shall be a violation of this section for any minor or underage adult to purchase or attempt to purchase or otherwise obtain any alcoholic beverage from any person or merchant (unless otherwise permitted pursuant to provisions cited above), and it shall be a violation of this section for any person to purchase or otherwise obtain such items for or on behalf of a minor or underage adult. It shall also be a violation of this section for any person to sell or otherwise provide by gift, barter or sale any alcoholic beverages or products to any underage adult or minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any alcoholic beverage. All individuals suspected of violating this provision of the Code will be referred to the City Attorney or Carlton County Attorney consistent with existing agreements for prosecution. This subdivision shall not apply to underage adults or minors who purchase or attempt to purchase alcoholic beverage while under the direct supervision of a responsible adult for enforcement purposes or for training and education of enforcement purposes.

Subd. 4. Use of False Identification. It shall be a violation of this section for any underage adult or minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 5. Other Penalties. The administrative fees and license suspension consequences set forth in this section are not intended to replace or limit any other juvenile, criminal, administrative or civil sanctions or consequences that may be imposed by state or federal law for the same activity.

6.4.08 Exceptions and Defenses. Nothing in this section shall prevent the providing or use of alcoholic beverages to underage adults or minors as part of a lawfully recognized religious, spiritual, or cultural ceremony or by a parent or guardian of a minor or underage adult in the household of the parent or guardian. It shall also be an affirmative defense to the violation of this section for a person to have reasonable relied on proof of age as described by law.

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

6.4.10 Judicial Review. Any person who maintains they are aggrieved by a decision pursuant to this section may have the decision reviewed in the district court consistent with Minn. Stat. §462.361.

SECTION 6.5: REGULATION AND THE SALE, POSSESSION, AND USE OF TOBACCO PRODUCTS, AND TOBACCO RELATED DEVICES

6.5.01 Purpose. The City finds that smoking contributes to and/or causes premature death, disability, and chronic disease (including but not limited to cancer, heart and lung disease); and that smoking related diseases result in excess medical care costs to individuals and the public at large. Since smoking initiation occurs primarily in adolescence, the City finds it is in the best interests of its citizens for the City to regulate the distribution of tobacco products in a manner which will help to prevent young people from starting to smoke, and which will encourage and assist existing smokers in their efforts to quit smoking. The City also has an interest in promoting clean indoor air for all its citizens and visitors.

6.5.02. Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The term "shall" means mandatory and the terms "may" means permissive. The following terms shall have the definitions given to them:

Subd. 1. Tobacco or Tobacco Products. Tobacco or tobacco products shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flower; cavendish; short, 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.

Subd. 2. Tobacco Related Devices. Tobacco related devices shall mean any tobacco product as well as a pipe, rolling papers, or other device used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products. Tobacco related devices should include electronic cigarettes, as defined as any electronic smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device. The term shall specifically include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes, or any other lighted smoking equipment or device by any other product name.

Subd. 3. Self-Service Merchandising. Self-service merchandising shall mean open displays of tobacco, tobacco products, or tobacco related devices in any way, other than vending machines, where any person shall have access to the product without the assistance or intervention of an employee of the premises maintaining the self-service merchandising.

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

Subd. 5. Sale. A sale shall mean any transfer of goods for money, trade, barter, or other consideration.

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

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

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

Subd. 9. Moveable Place of Business. Moveable place of business shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter or not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10. Compliance Checks. Compliance checks shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this section. Compliance checks may involve the use of minors as authorized by this section.

6.5.03. License. No person or retail establishment shall 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.

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

Subd. 2. Action. The Council may either approve or deny a license application, or it may delay action for such reasonable period of time as is necessary to complete an investigation of the application or the applicant as it deems necessary. If the Council shall approve the license application, the Administrator shall issue the license to the applicant upon payment of the required fee. 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.

Subd. 3. Term. All licenses shall expire on the last day of June of each year. Each license shall be issued for a period of one year except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

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

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

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

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

Subd. 8. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days (30) but no more than sixty days (60) before the expiration of the current license. The issuance of a license under this section shall be considered a privilege and not an absolute right and shall not entitle the holder to an automatic renewal of the license.

6.5.04. Fees. No license shall be issued under this section until the appropriate license fee shall be paid in full and all property taxes have been properly paid up to the date of approval. The fee for license under this section shall be established by resolution as adopted from time to time by the City Council.

6.5.05. Basis for Denial of License. The following shall be grounds for denying the issuance of or renewal of a license under this section, and if a license is mistakenly issued or renewed, it shall be revoked upon the discovery that the person was ineligible for the license for any reason consistent with this section including the following reasons:

- A. The applicant is under the age of eighteen (18) years.
- B. The applicant has been convicted of any violation of a federal, state, or local law, Code or Ordinance 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.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by federal, state, or other local law, Code or Ordinance, or other regulation, from holding such a license.

6.5.06. Prohibited Sales. It shall be 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 loosies as defined in Section 2, subdivision 6, of this section.
- C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other type of deleterious, hallucinogenic, or toxic or controlled substance except nicotine and not naturally found in tobacco or tobacco products.
- D. By any other means, or to any other person, prohibited by federal, state, or other local law, Code or Ordinance provision, or other regulation.

6.5.07. Vending Machines. It shall be unlawful for any person licensed under this section to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of vending machine.

6.5.08. Self-Service Sales. It shall be 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 employee. All tobacco, tobacco products, and tobacco related devices shall be stored behind a counter or other area not freely accessible to customers. The sale of cartons of cigarettes containing ten (10) packs of cigarettes or more, and full rolls of chewing tobacco containing ten (10) tins or more are excluded from this provision.

6.5.09. Compliance Checks and Inspections. All licensed premises shall be open to inspection by City Police or other authorized city officials during regular business hours. From time to time, but at least twice per year, the City shall conduct compliance checks by engaging minors to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco related devices. No minor used in compliance checks shall attempt to use a false identification or theatrical makeup which misrepresents the minor's age. All minors lawfully engaged in a compliance check shall answer all questions about the minor's age truthfully when asked by the licensee and shall produce any identification which he or she is asked to produce. The minor or minors shall be accompanied by City Police or authorized city officials to the location of the compliance check.

6.5.10. 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.

6.5.11. Violations and Penalties.

Subd. 1. Citations for Violations. Upon discovery of a violation of this section or pursuant to a compliance check, the clerk or employee shall be issued a citation by City Police and the licensee shall be notified of the citation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subd. 2. Administrative Penalty by Licensee.

- A. Upon determination of a violation of a compliance check or an illegal sale hereunder, the licensee will be liable for an administrative penalty as follows:

Violation	Administrative Fee	License Suspension
First Violation	\$100	none
Second Violation within a 24 month period	\$200 and	10 day
Third Violation within a 24 month period	\$500 and	90 day
Fourth Violation within a 24 month period	\$1000 and	up to 1 year
Fifth and Subsequent Violation within a 24 month period	\$1000 and	permanent revocation

- B. No administrative penalty may be imposed until the licensee has been sent written notice by certified mail of the violation to the address listed on the license. Any administrative penalty suffered by licensee is in addition and separate from any administrative penalty imposed upon employee.

Subd. 3. Administrative Penalty by Clerk/Employee.

- A. The clerk or employee specifically involved in a compliance check violation or determined to have violated this section will be personally liable to pay an administrative fee. Upon determination of a violation of a compliance check or an illegal sale hereunder, the clerk/employee will be liable for an administrative penalty as follows:

Violation	Administrative Fee
First Violation	\$50.00
Second Violation within a 24 month period	\$100.00
Third and Subsequent Violation within a 24 month period	\$200.00

- B. No administrative penalty may be imposed until the clerk or employee has been sent written notice by certified mail of the violation. Any administrative penalty imposed upon employee is separate from and in addition to any administrative penalty imposed upon licensee.

Subd. 4. Payment of Administrative Fees.

- A. All administrative fees imposed by this section are deemed payable within sixty (60) days of the date of mailing of the written notice of violation or no later than thirty (30) days after the mailing of the written decision of an appeal determining that a violation has occurred.
- B. All such administrative fees imposed pursuant to this section will be payable to the City Administrator, City Hall, 1307 Cloquet Avenue, Cloquet MN 55720. The administrative penalties may be modified from time to time by the City Council.
- C. Failure by the licensee to pay any administrative fee imposed against the licensee within the time limit set herein will result in a license suspension until the date of payment.
- D. Failure by clerk/employee to pay any administrative fee imposed within the time limit set herein shall, at the option of the City Administrator, be either through a collection agency or legal proceedings in accordance with the City's Collection Policy.

Subd. 5. Right to a Hearing.

- A. No administrative penalty may be imposed until the violator has been afforded an opportunity for a hearing before a hearing officer to contest the fact that a violation has occurred. Requests for a hearing must be submitted in writing to the Chief of Police, 508 Cloquet Avenue, Cloquet MN 55720, within twenty (20) days of the date of mailing of the written notice of violation.
- B. Upon receipt of written notice, the City shall have ten (10) business days to set the time and place for the hearing. Written notice of the hearing time and place shall be mailed or delivered to the accused violator at least ten (10) business days prior to the hearing.
- C. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty.
- D. A decision shall be issued by the hearing officer within ten (10) business days. 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 6.5.11 of this section, shall be recorded in writing, a copy of which shall be provided to the City and the accused violator by in person delivery or mail as soon as practicable. Likewise, if the hearing officer finds that no violation occurred or finds grounds for reducing or not imposing any penalty, those findings shall be recorded and a copy provided to the City and the acquitted accused violator by in person delivery or mail as soon as practicable.
- E. Suspension or revocation shall not occur until written notice by the hearing officer has been served on the licensee by certified mail to the address listed on the license and a copy of such notice provided to the City.

Subd. 6. Hearing Officer. For purposes of this section, the hearing officer shall be designated in writing by the City Administrator. The hearing officer is authorized to hear and determine any controversy relating to the violation. This process is intended to replace any existing administrative procedures previously established by ordinance with regard to violations enumerated herein.

Subd. 7. Right to Obtain a Transcript. If a hearing is requested, the hearing will not be recorded and will only be transcribed if all financial arrangements are made in advance with a certified court reporter by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the City with a copy of the transcript at no cost to the City.

Subd. 8. License Suspension or Revocation Without a Hearing. Any license issued pursuant to this Section may be suspended or revoked for violation of any provision of this Section or as detailed in 6.5.11 Subd. 2. Suspension or revocation shall not occur until written notice has been served on the licensee by certified mail to the address listed on the license.

Subd. 9. Other Penalties. The administrative fees and license suspension consequences set forth in this section are not intended to replace or limit any other juvenile, criminal, administrative or civil sanctions or consequences that may be imposed by state or federal law for the same activity.

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

Subd. 1. Illegal Possession. It shall be a violation of this section for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the City.

Subd. 2. Illegal Use. It shall be a violation of this section of any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device. All minors suspected of violating this provision of this section, will be referred to juvenile court for prosecution by the Carlton County Attorney consistent with existing agreements and then existing juvenile court rules and procedures.

Subd. 3. Illegal Procurement. It shall be a violation of this section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device from any person or merchant, and it shall be a violation of this section for any person to purchase or otherwise obtain such items on behalf of a minor. It shall also be a violation of this section for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This subdivision shall not apply to minors who purchase or attempt to purchase tobacco, tobacco product, or tobacco related devices while under the direct supervision of a responsible adult for enforcement purposes or for training and education for enforcement purposes.

Subd. 4. Use of False Identification. It shall be a violation of this section for any minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

6.5.13. Exceptions and Defenses. Nothing in this section shall prevent the providing of tobacco, tobacco product, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this section for a person to have reasonably relied on proof of age as described by state law.

6.5.14. Judicial Review. Any person who maintains he is aggrieved by a decision pursuant to 6.5.03, 6.5.11 or 6.5.12 herein may have the decision reviewed in the district court consistent with Minn. Stat. §462.361.

**SECTION 6.6: LICENSING OF PEDDLERS, SOLICITORS,
ITINERANT BUSINESSES, AND TRANSIENT MERCHANTS**

6.6.01 Purpose. To regulate peddlers, solicitors, and transient merchants and to exercise the City's statutory authority to regulate the nuisance created by such itinerant business practices under the city's general police powers and as specifically authorized by Minnesota Statute §329.15, §412.221 (subd. 19) and §437.02.

6.6.02 Definitions. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and plural shall include the singular. The masculine shall include the feminine and the neuter, and vice-versa. The term "shall" means mandatory and the term "may" is permissive. When used in this Section, the following terms have the following meanings:

Subd. 1. Peddler. "Peddler" means any person, whether a resident of the City of Cloquet or not, who goes from house to house, door to door, business to business, from place to place, or from street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same 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". It does not include vendors of milk and dairy products, farm and garden products sold by those involved in growing or cultivating the same, or the delivery or sale of bakery goods, groceries, or ice by those who distribute their products to regular customers on established routes.

Subd. 2. Transient Merchant. "Transient merchant" includes any person, individual, co-partnership, firm or corporation, whether as owner, agent, consignee, or employee, whether a resident of the City of Cloquet or not, who engages in, or transacts any temporary and transient business of selling and delivering goods, wares and merchandise within said city, and who, in furtherance of such purpose, temporarily hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Provided that such definition does not include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged is not relieved from complying with the provisions of this Section merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with as a part of, or the name of any local dealer, trader, merchant, or auctioneer.

Subd. 3. Solicitor. "Solicitor" means any person, whether a resident of the City of Cloquet or not, who goes from house to house, from place to place or from street to street, soliciting donations or taking or attempting to take orders for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders. Such definition includes any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or other place within the City for the primary purpose of exhibiting samples or taking orders for future delivery. 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.

Subd. 4. Contribution Solicitation. "Contribution solicitation" means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him 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 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.

Subd. 5. Canvasser. A “canvasser” is similar to a solicitor in some respects but is differentiated by the fact that a canvasser refers to the practice of going door-to-door or location to location with the primary purpose of furthering religious, social, or political advocacy. Unlike solicitors, financial profit is not the canvasser’s primary motivation.

Subd. 6. Person. “Person” The term person shall mean 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.

Subd. 7. Farmers Market. A “farmers market” is an association with formal rules and/or bylaws or membership requirements who assemble at a defined location for the purpose of selling their agricultural products (fresh fruits, vegetables and other locally-grown farm products) directly to consumers.

6.6.03 License Required. It is unlawful for any “peddler” or “transient merchant” to engage in any such business within the City of Cloquet without first obtaining a license in compliance with the provisions of this Section and, if a County license is required, from the County of Carlton.

Subd 1. License Application. All peddlers and transient merchants not excepted pursuant to Minnesota Statute §329.14, or other exceptions set forth in this section, must apply for a license from the City and shall file with the City Administrator a sworn application in writing on a form to be furnished by the City Administrator. In addition, each applicant will provide the City with the following information.

- A. Full legal name and physical description of applicant and a complete list of the legal names and description of each individual that will be conducting business on behalf of the applicant.
- B. All other names under which the applicant conducts business or to which applicant officially answers.
- C. Complete permanent home and local address, social security number, date of birth, and state driver’s license number of the applicant and each individual conducting business on behalf of applicant and the places of residence of each for the three (3) years preceding the date of application.
- D. Telephone number of applicant’s permanent address and the local number at which applicant can be reached.
- E. In the case of transient merchants, the local address from which proposed sales will be made and the written consent of the landowner upon whose premises this activity is to be conducted.
- F. A general description of the nature of the business and the items to be sold or the services to be provided.
- G. The name and address of the employer, principal or supplier of the applicant, together with credential or written verification therefrom establishing the exact relationship.
- H. The length of time for which the right to do business is desired and the hours of during which business will be conducted.
- I. The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

- J. The last three (3) communities where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities.
- K. A statement as to whether or not the applicant, or anyone conducting business on behalf of the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor, or misdemeanor for violation of any federal, state, or local Code or Ordinance other than minor traffic offenses.
- L. The applicant shall provide on his/her application a current Minnesota Sales Tax Identification Number.
- M. The applicant shall provide the make, model, year, color and state license number of each motor vehicle to be used by the business.
- N. A recent photograph of the applicant and anyone conducting business on behalf of the applicant which picture will be at least 2" by 2" showing the head and shoulders of the individual in a clear and distinguishing manner.
- O. A certificate of insurance with bodily injury limits of \$100,000 to \$300,000 is also required.

6.6.04 License Fee and Terms

Subd. 1. License Fee. No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for license under this section shall be established by resolution as adopted from time to time by the City Council.

- A. A farmers market, as defined under Section 6.6.02, Subd. 7, shall be exempt from the annual license fee.

Subd. 2. License Term. Each license issued under the provisions of this section shall be valid for the period of time stated therein:

- A. An annual license, which may be issued only to the owner or proprietor of a private premise such as a hotel, motel, shopping mall, banquet facility, service club, armory, ice arena, etc., and a farmers market, wherein a transient merchant as defined in Section 6.6.02, Subd. 2, may lease or otherwise occupy space to engage in said temporary business. An applicant for an annual license must provide the City with assurances that each transient merchant engaged in business upon his/her premise meets the minimum requirements of this and all other applicable ordinances
- B. A license, not to exceed thirty (30) days, shall be issued for all other peddlers and transient merchants in compliance with the provisions of this section.
- C. All licenses shall expire on the last date specified on the license. Annual licenses shall expire on December 31st of each year.

Subd. 3. License Transfers. No license shall be transferred or sold. Each peddler or transient merchant must individually secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued.

6.6.05 Investigation.

Subd. 1. The applicant shall pay a non-refundable investigation fee at the time of filing the application. The investigation fee shall be established by resolution as adopted from time to time by the City Council.

- A. A farmers market, as defined under Section 6.6.02, Subd. 7, shall be exempt from the investigation fee.

Subd. 2. Upon receipt of each license application by the City Administrator, it shall be referred to the Chief of Police who shall immediately institute such investigation into the applicant's business and moral character and that of those involved as he deems necessary for the protection of the public good. The Chief shall endorse the application in the manner prescribed in this section within fourteen (14) days after it has been filed by the applicant with the City Administrator not including Saturdays, Sundays or holidays. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the said application to the City Administrator, who shall notify the applicant that the application is disapproved and that no license will be issued.

Subd. 3. Upon receipt of each license application by the City Administrator, it shall be referred to the Zoning Administrator who shall immediately evaluate the application for compliance with Chapter 17 of this Code. The Zoning Administrator shall endorse the application in the manner prescribed in this section within fourteen (14) days after it has been filed by the applicant with the City Administrator not including Saturdays, Sundays, or holidays. If, as a result of such investigation, the applicants proposed site plan is found to be unsatisfactory, the Zoning Administrator shall endorse on such application his disapproval and his reasons for the same, and return the said application to the City Administrator, who shall notify the applicant that the application is disapproved and that no license will be issued.

6.6.06 License Approval.

Subd. 1. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval and return the application to the City Administrator, who shall present the license for approval to the City Council at the next regularly scheduled meeting.

Subd. 2. Once approved by the City Council, the City Administrator will deliver the license to the applicant within five (5) business days. Such license shall contain the signature of the issuing officer and shall show the name, address, and the kinds of goods to be sold or services provided thereunder, the date of issuance and the length of time from the date of issuance that the same shall be operative.

6.6.07 Exhibition of License. Licensees are required to publicly display and exhibit their license and it must be provided at the request of any citizen.

6.6.08 License Restrictions

Subd. 1. Prohibited Activities. No licensee, business registrant, or anyone acting on their behalf, or any person or organization exempt from the licensing provisions of this section, shall:

- A. Shout, cry out, blow a horn, or use any sound amplifying device anywhere within the City of Cloquet for any purpose sufficient to cause a public nuisance.
- B. Conduct business before 8:00 a.m. or after 8:00 p.m. on any day unless authorized by the City Council.

Subd. 2. Use of Streets, Parks or Other Public Lands Prohibition. The practice of selling goods, wares and produce whether from fruit or vegetable stands and portable shelters or from vehicles and/or trailers while parked on City streets, parks, other public lands and park rights-of-way is hereby prohibited unless otherwise exempted under Section 6.6.09 or such sales are part of a farmers market which has otherwise been authorized or approved by the City Council to sell in such public areas; it being in the public interest to avoid traffic hazards, parking congestion and health hazards that such practices create and to eliminate damage or disruption of the use of parks or public lands by others.

- A. No transient merchant/peddler's license shall be issued unless the applicant submits written consent of the property owner, as required hereunder along with the license application.
- B. No transient merchant/peddler's license shall be issued for sales from any location which does not have sufficient parking for customers or for areas where customer parking would interfere with normal traffic flow or create a traffic hazard.
- C. No person or organization, whether required to have a license or business registration or whether they are exempt from each shall engage in activities regulated by this section anywhere within the City of Cloquet at any location that does not have sufficient parking for customers or in areas where customer parking would interfere with normal traffic flow or cause a traffic hazard.

Subd. 3. Transient Merchant Restrictions - Zoning Compliance.

No transient merchant shall display or offer for sale any merchandise at locations prohibited under Chapter 17 of this Code.

6.6.09 Exemptions. This Section does not apply to the following:

- A. The sale of farm or garden products raised on any farm.
- B. Vendors who make an uninvited call upon the occupant of a resident, subject, however, to solicitation as a preliminary step to the establishment of a regular route service for the sale and delivery of commodities and services to regular customers, such as: vendors of milk, groceries and other perishable commodities; soft water service; dry cleaning; newspapers; and beauty products.
- C. The sale of goods or merchandise on behalf of a bona fide charitable, religious, civic, educational or political organization or student activities for area schools.
- D. Any sale under Court Order.
- E. A bona fide auction sale.
- F. Sidewalk sales authorized by the City Council.
- G. Garage sales or rummage sales when conducted in or by a non-profit institution, or when conducted upon the premise of an owner of the articles being offered by sale provided that such sales do not last longer than forty-eight (48) hours and provided that no more than four (4) sales be conducted by any given location within one (1) year.
- H. Sales at wholesale to a retail dealer.
- I. Newspaper delivery persons.

- J. The acts of merchants (not transient merchants) or their employees in delivering goods in the regular course of business.
- K. Charitable, religious, educational, political, non-profit and local sports and recreational organization solicitations by such organizations or their volunteers.
- L. Non-repeating sales from organized multi-person (multi-vendor) sales such as craft shows, bazaars, gun shows, etc. if held on private premise with the consent of the property owner for use.
- M. Vendors and transient merchants as described in Section 6.6.02, Subd. 2 participating in an event officially designated as a community festival by the City Council within a sponsored City Park property event. The event organizer must provide the City with assurances that each transient merchant engaged in business upon his/her premise meets the minimum requirements of this and all of the applicable ordinances.
- N. Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register. The term door-to-door advocacy includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious and political ideas.

6.6.10 Business Registration.

Subd. 1. Registration Requirement. It is unlawful for any "solicitor", "canvasser" or persons conducting "contribution soliciting" to engage in any such business within the City of Cloquet without first registering with the City Administrator's office in compliance with the provisions of this Section.

- A. All solicitors and any person exempt from the licensing requirements of this Code under Section 6.6.09 shall be required to register with the City prior to engaging in those activities.
- B. Registration shall be made on the same form required for a license application, but no fee shall be required.
- C. Upon completion of the registration form, the City Administrator shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.
- D. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

6.6.11 Canvassing for Religious, Educational, Recreational, Political and Charitable purposes. Any organization, society, association or corporation desiring to solicit or to have solicited in its name money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations upon the streets, in office of business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic, political or philanthropic purpose shall be exempt from the provisions of this Section, provided there is filed a sworn application in writing on a form to be furnished by the City Administrator which shall give the following information:

- A. Name and purpose of the cause involved.
- B. Names and addresses of the officers and directors of the organization.
- C. Period during which the canvassing or solicitation is to be carried on.

- D. Whether or not any commission, fee, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.
- E. Where funds collected, if any, will be used and by what organizations.
- F. Names, ages and addresses of all persons soliciting or canvassing for said organizations.

Upon being satisfied that such organization, association or corporation is a religious, charitable, political, patriotic or philanthropic organization, no further information will be required. Such organization, association or corporation shall furnish all of its members, agents or representatives conducting solicitation credentials in writing stating the name of the organization, name of the agent and purpose of solicitation.

6.6.12 Removal from Premises, Private and Business. Any resident of the City who wishes to exclude peddlers, solicitors or transient merchants from premises occupied by him may place upon or near the usual entrance to such premises a printed placard or sign bearing the following, or comparable, notice: "Peddlers, Transient Merchants and Solicitors Prohibited." Such placard shall be at least 3-3/4" long and 3-3/4" wide and the printing thereon shall not be smaller than forty-eight (48) point type. No peddler, solicitor or transient merchant shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained. Premises shall include the sidewalks, parking lots or halls of any businesses. No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

6.6.13 Records. The Chief of Police shall report to the City Administrator all observed violations and convictions for violations of this Section and the City Administrator shall maintain a record for each license issued and record the reports of violation therein.

6.6.14 Denial and Suspension or Revocation of License.

Subd. 1. License Denial. The following shall be grounds for denying a license under this section:

- A. 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 the information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required fee, or provide proof of insurance as requested at the time of application.
- C. The conviction of the applicant within the last five (5) years from the date of application, for any violation of Federal, State or local Code or Ordinance which adversely impacts the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the City. Such violations shall include, but are not limited to crimes involving moral turpitude which necessarily include burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

Subd. 2. License Suspension or Revocation. Licenses issued under the provision of this Section may be suspended or revoked by the Council of the City of Cloquet after notice and hearing, for any of the following causes:

- A. Fraud, misrepresentation or incorrect statement contained in the application for license.

- B. Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
- C. Any violation of this Section.
- D. Conducting the business of peddler or transient merchant in an unlawful manner or in such a manner as to constitute a menace to health, safety or general welfare of the public.
- E. Emergency revocation or suspension. If in the discretion of the City Administrator or City Police Department, an imminent harm to the health, safety and public welfare may occur because of the actions of a peddler or transient merchant licensed under this section, the Chief of Police or City Administrator may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing at the next regularly scheduled City Council meeting.

6.6.15 Public Hearing Procedure. Any applicant that is denied a license or who receives notice of a suspension or revocation of a license has a right to request a public hearing. In order to request a public hearing, the person affected must provide written notice to the City Administrator setting forth specifically the grounds of their complaint and the action contested. The written notice must be received by the City Administrator within ten (10) business days of the action being contested. If no request is received within ten (10) business days, the action will be deemed final. For purposes of mailed notices, receipt will be considered complete as of the date the notice was placed in the mail. Any hearing will be scheduled within twenty (20) days of the date the notice is received. Such notice shall be mailed, postage prepaid, to the person requesting the hearing at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a Summons at least three (3) days prior to the date set for hearing.

The hearing will be conducted by an independent hearing examiner appointed by the City Council consistent with the City's administrative hearing procedure as set out in Chapter 15 of this Code. If a hearing is requested, the hearing will not be recorded and will only be transcribed if all financial arrangements are made in advance with a certified court reporter. Those arrangements and all costs must be paid by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the City with a copy of the transcript at no cost to the City. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is being suspended or revoked.

6.6.16. Judicial Review. Any person aggrieved by a decision rendered pursuant to this section may have the decision reviewed by the district court consistent with Minn. Stat. §462.361.

6.6.17 Violations; Penalties. Any person or business who violates any provision of this Section while conducting business as a transient merchant or as a peddler without first obtaining a license as required shall be guilty of a misdemeanor under Minnesota law.

SECTION 6.7: REGULATION AND LICENSING OF GAMBLING

6.7.01 Pull-tabs.

Subd. 1 Scope. This Section shall regulate all pull-tab games operated pursuant to Minn. Stat. Chapter 349.

Subd. 2 State Regulations Adopted. Chapter 7861 of Minnesota Rules shall be incorporated by reference into this Section, provided that nothing in the rules shall be deemed to amend or change any provision of this Code unless that provision is deemed to be contrary to state law. No person shall violate any provision of Chapter 7861 of Minnesota Rules or any amendments thereto.

Subd. 3 Age Restrictions.

- A. No person under the age of eighteen (18) may conduct or participate in the playing of the game of pull-tabs.
- B. No person shall sell pull-tabs to any person under the age of eighteen (18).
- C. Proof of age for purchasing pull-tabs may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

Subd. 4 Sale of Pull-Tabs.

- A. In the playing of pull-tabs, no person shall sell or purchase pull-tabs except on a cash or check basis. Credit cards and all other forms of payment shall not be allowed.
- B. A seller may refuse to sell pull-tabs to any person if the seller believes the sale would be in violation of any law or regulation.
- C. The seller shall hand the pull-tabs that are purchased to the player. A player shall never be allowed to reach into the container to select pull-tabs.
- D. Under no circumstances shall a seller assist a player in the opening of pull tabs.
- E. No person shall evade or circumvent or attempt to evade or circumvent any of the provisions of this Section of any State law or regulation by having someone else purchase pull-tabs for the person.
- F. No seller or other gambling employee of the organization operating the gambling shall either orally, in writing or otherwise provide any information to any other person about the total number of winners played or the number or denominations of winners left in the box, except that the seller may post in clear legible type the number of winners played and the number of winners left in the box.
- G. No single deal of pull-tabs which has been taken out of play shall thereafter be returned to play.
- H. In licensed liquor establishments, sales of pull-tabs shall cease at least fifteen minutes before sales of alcoholic beverages are required by law to cease.

6.7.02 Other Lawful Gambling.

Subd. 1 Purpose. The purpose of this Subsection shall be to closely regulate and control the conduct of lawful gambling, other than pull-tabs as regulated in Subsection 6.7.01.

Subd. 2 Provisions of State Law Adopted. The provisions of Minn. Stat. Chapter 349, relating to definition of terms, licensing and restrictions of gambling shall be adopted and made a part of this section as if set out in full.

Subd. 3 License Requirement. No person shall directly or indirectly operate a gambling device or conduct a raffle without a license to do so as provided in this section.

Subd. 4 Persons Eligible for a License. A license shall be issued only to fraternal, religious, and veterans organizations, or any corporation, trust, or association organized for exclusively scientific, literary, charitable, educational, or artistic purposes, or any club which is organized and operated exclusively for pleasure or recreation. The organization shall have been in existence for at least three years and shall have at least thirty active members.

Subd. 5 Raffles, Paddle Wheels, Tip Boards; License Required.

- A. No person or organization shall conduct a raffle or operate a paddle wheel or tip board, as defined in Chapter 349, without having first obtained a license as provided in this section.
- B. All licenses issued for raffles, paddle wheels and tip boards shall be approved by City Resolution.
- C. All licenses issued under this Section shall be subject to all of the regulations and restrictions contained in Chapter 349 of the Minnesota Statutes, and any amendments thereto or thereafter adopted.

Subd. 6 Reporting Requirements. Each licensee shall be responsible for reporting requirements.

Subd. 7 Penalties. Violation of the provisions of this Subsection shall be a misdemeanor.

6.7.03 General Requirements, Expenditures.

Subd. 1 Required Expenditures. A licensed organization conducting lawful gambling within the City limits shall expend 80% of all of its quarterly expenditures for lawful purposes on lawful purposes conducted or located within the City's trade area.

- A. **Trade Area Defined.** For the purposes of this section, the City's trade area shall be defined as set forth in Minnesota Statutes §349.213 subd. 1(g) which will include the city limits of the City of Cloquet, the City of Scanlon, and the Townships of Brevator, Thomson, Twin Lakes, and Perch Lake.
- B. **Required Donation.** Ten percent (10%) of the net profits from the operation of gambling equipment in the City by charitable organizations shall be donated to the City. The intent of the City shall be to utilize the monies donated under this Section to fund any permissible public health, safety or welfare purpose deemed proper by the Council. The donation from monthly profits from the licensee shall be made in a check payable to the City of Cloquet and delivered to the City Administrator on or before the last day of the following month. This donation shall be included in the computation of 80% required expenditures. All donations required to be paid to the City will be advised of the source of the funds comprising the donation.
- C. **Records and Reports.** All qualified organizations operating gambling equipment in the City shall keep monthly financial records of gambling proceeds and disbursements and shall submit copies of same to the City Administrator monthly.

Subd. 2 Rent Limitations for Leased Premises.

- A. **Leased Premises.** "Leased Premises" shall mean a building or place of business, or a portion of a building or place of business not owned by a gambling organization, that is leased in its entirety by a gambling organization for use by the organization and its members, which use may include lawful gambling.
- B. **State of Minnesota Rules for Maximum Annual Rentals of Leased Premises.** In the event that the State adopts rules and regulations for establishing fair rentals for leased premises, no lessor or gambling organization shall enter into a lease that exceeds the maximum permitted by the State if that rental is less than the rental established by this Section.

Subd. 3 General Provisions.

- A. **Background Information.** A copy of all applications and reports required by and submitted to the Minnesota Gambling Control Board shall also be submitted to the City Administrator within seven (7) days after they are submitted to the Board.
- B. **Filing of Lease Agreement.** Any organization requesting a license for charitable gambling shall file with the City Administrator a copy of its signed lease agreement prior to or at the same time as filing its request for a gambling license with the State.
- C. **Limitation of Gambling Licenses.** No organization shall be permitted to conduct gambling in more than three (3) establishments within the City.
- D. **Disapproval.** Nothing contained in this Section shall be deemed to limit the City Council's authority to disapprove a license for lawful gambling.
- E. **Filing With Gambling Control Board.** This Section shall be filed with the Minnesota Charitable Gambling Control Board.

Subd. 4 Penalties. Except as otherwise provided, violation of any part of this Section shall constitute a misdemeanor.

**SECTION 6.8: REGULATION AND LICENSING OF GAME ROOMS/ARCADES/POOLHALLS
AND AMUSEMENT DEVICES****6.8.01 Applicability and Purpose.**

Subd. 1 Purpose. The purpose of this Section shall be to establish municipal regulatory powers which will allow the City to regulate certain types of gaming activities in furtherance of the City's interest to promote the public health, safety, morals and welfare relating to the existence and operation of public game rooms/arcades/poolhalls and amusement devices.

Subd. 2 Intent. The intent of this Section shall be:

- A. To regulate and provide for the licensing of game room/arcade/poolhall locations.
- B. To regulate and provide for the licensing of amusement devices located and operated in the City and each location providing amusement devices.
- C. To provide for administrative procedures as shall be necessary for implementation of the various provisions of this Section.
- D. To provide for administrative fees and penalties necessary for the enforcement of this Section.

Subd. 3 Scope and Qualifications.

- A. Jurisdiction. This Section shall apply to all game rooms/arcades/poolhalls and amusement devices located inside the corporate limits of the City.
- B. Interpretation. In their interpretation and application, the provisions of this Section shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare. Where the provisions of this Section impose greater restrictions than those of any statute, other Code or Ordinance or regulation, or where any other statute, ordinance or regulation imposes greater restrictions than this Section, the provisions of the statute, other ordinance or regulation shall be controlling.
- C. Compliance. All game rooms/arcades/poolhalls and amusement devices owned, leased and/or operated after the enactment of this Code shall be subject to all regulations of this Section which shall be applicable.

6.8.02 Definitions and Interpretations.

Subd. 1 Definitions. When used in this section, the following terms shall be deemed to have the meanings ascribed to them:

- A. **“Game Room/arcade/poolhall”** shall mean any business establishment, building structure or tract of land which devotes 30 percent or more of its floor space to the public used for the following amusement or any combination of any of the following amusements:
 - 1. Foosball, air hockey or pigeon hole tables;
 - 2. Pinball machines;
 - 3. Shooting gallery machines;
 - 4. Pool tables.
 - 5. Any electric or electronic device or game patterned after table tennis, hockey, and similar games, including electric rifle or gun ranges;

6. Any mechanical or electrical device which is designed to be played by a contestant or contestants and upon which the contestants receive a score or rating based upon their performance.

The calculation of floor space shall include the area occupied by or reserved for persons who use or are waiting to use the amusements.

- B. **“Amusement Device”** shall mean any machine, table, apparatus or device intended for use by the public for entertainment, recreation and/or amusement, including, but not limited to, "pinball" machines, mechanical and non-mechanical pool tables whether miniature or otherwise, billiard tables, ping pong tables, bowling machines, shuffle boards, electric rifle or gun ranges, miniature mechanical or computer devices and games or amusements patterned after basketball, hockey and similar games or war games and like devices, machines or games which shall be played solely for amusement, recreation and/or entertainment and not as gambling devices and which machines shall be played either by the insertion of a coin or other token or by payment of a fixed fee directly to the supervisor of the establishment in which the machines are located.
- C. **“Operator”** shall mean a person who keeps or allows amusement devices as hereinabove defined to be kept on premises owned by him or under his control, where the same may be played by members of the public legally upon such premises upon payment of the charge therefore.
- D. **“Owner”** shall mean any person who owns and places amusement devices, as hereinabove defined, by whatever arrangements, on the operator’s premises. May also be referred to as a “vendor.”
- E. **“Supervisor”** shall mean the individual of at least eighteen (18) years of age who is in charge of supervising, managing, controlling and regulating all activities and conduct in the game room/arcade/poolhall during lawful hours of doing business, whether he or she be the person who owns, leases and/or operates the game room/arcade/poolhall or amusement devices or the person's agent or employee.

6.8.03 Licenses Required. No person shall own, operate or permit operation of a game room/arcade/poolhall or amusement device on any part of the premises owned, leased or operated by him/her or engage in the business of operating a game room/arcade/poolhall in the City unless the person shall have first procured an annual game room/arcade/poolhall license and/or a license for each location/operator providing amusement devices as provided for in this Section. The City may require an additional license fee for each company that leases amusement devices within the City and may impose a license fee for each amusement device operated on any premises located within the City whether or not a separate game room/arcade/poolhall license is required under this Section. However, all license fees imposed by the City are subject to the license fee limitations set by Minnesota Statute. A game room/arcade/poolhall license shall be in addition to all other licenses required by this Section, and any other licenses required by any City Code provision or ordinance of the City and/or statute, rule or regulation of the State with regard to operations conducted on the site on which the amusement devices are operated.

6.8.04 Application and Procedure.

Subd. 1 Application. Every application for a license shall be made to the City Administrator on a form provided by the City. It shall be accompanied by payment to the City Administrator of the prescribed fee.

Subd. 2 Content. The application for a license under this Section shall, at a minimum, contain the following information:

- A. Full legal name, address, and date and place of birth of the applicant;

- B. Address or location where amusement device(s) shall be located, displayed or operated;
- C. Type of business conducted or that shall be conducted at the place each amusement device is being operated;
- D. The number, type and location of each amusement device being operated for purposes of licensing whether located in a game room/arcade/poolhall or not;
- E. Full legal name, address and date of birth of all other persons having any ownership interest in the premises upon which the game room/arcade/poolhall or amusement device(s) shall be located; any ownership interest in the business that is being conducted upon the premises; and the location where the game room/arcade/poolhall shall be located;
- F. Names and addresses of any other persons having any ownership interest or control, either directly or indirectly, in the amusement device(s) to be kept, maintained or operated at such place;
- G. A diagram of the proposed floor plan of the premise for a game room/arcade/poolhall;
- H. The full legal name, address and date of birth of the manager or managers who will supervise the licensed activity;
- I. Whether any of the persons listed have been engaged in the business of operating a game room/arcade/poolhall in the last five years;
- J. Whether any of the persons listed have been convicted of a crime or have had an application for a game room/arcade/poolhall license denied, revoked or suspended within the last five years;
- K. Signature of applicant and all other interested persons as set forth above.

6.8.05 Insurance. A licensee of any game room/arcade/poolhall as defined herein shall be required to have in force a policy of liability insurance, which shall be approved as to substance and form by the City Attorney. The policy shall provide that it shall not be cancelled without fifteen (15) days written notice to the City, and the coverage shall be for the term of the license. Satisfactory evidence of coverage by insurance shall be filed with the City Administrator before the license shall be issued. Each license issued under this Section shall automatically terminate upon termination of the insurance coverage required herein. Unless otherwise provided in this Section, a required policy of liability insurance shall provide for protection in at least the following amounts:

- A. For injuries, including death there from, sustained by any one person - \$100,000.00
- B. For property damage - \$10,000.00

6.8.06 License Terms and Fees.

Subd. 1 License Fee. Each applicant for a license of the types described in this section shall pay an annual license fee for each amusement device operated and for each location and/or game room/arcade/poolhall required to be licensed. The amount of the license fee for each shall be established by ordinance or resolution as adopted by the City Council from time to time but in no event will exceed the limits permitted by Minnesota Statute.

Subd. 2 License Term. Each license shall be issued for a maximum period of time of one year. All licenses shall expire on the last day of June of each calendar year regardless of when the license was issued. No refund shall be made for the unexpired portion of any license surrendered to the City or revoked as provided in this Section.

Subd. 3 License Transfers. A license provided for by this Section shall be purely a personal privilege and shall not constitute property. A licensee shall not sell, lend or give to any other person his or her license or license insignia as the license shall not be transferable in any manner.

Subd 4 License Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

6.8.07 Inspection. Any City official or employee having a duty to perform with reference to a license under this Section and any police officer may inspect and examine any licensee, his or her business or premises for purposes of enforcing compliance with applicable provisions of this Section. Pursuant to the provisions herein, he or she may, at any reasonable time, enter any licensed premises or premises for which a license shall be required in order to enforce compliance with this Section.

6.8.08 Approval. If, after investigation, the City Administrator and the Chief of Police are satisfied that all requirements of law and this Code have been met, he or she shall present the application to the City Council for action.

6.8.09 Issuance of License. Upon receipt and approval by the City Council of the application, the City Administrator shall issue the appropriate license(s) to the applicant in conformity to and with the provisions of this Section. Every amusement device licensed under this Section shall be listed on the application filed with the City and the operator will have to provide a copy of the license if requested by the City. A license for a game room/arcade/poolhall under this Section shall be displayed in a conspicuous place on the premise.

6.8.10 Certain Machines Not Regulated. Nothing in this Section shall be held to apply to the licensing of any machine held or kept for storage for later sale or distribution, nor shall it be construed to require licensing of coin operated music boxes more commonly known as "juke boxes."

6.8.11 Location of Machines. No amusement device shall be located, placed, maintained or operated on any public street, avenue, boulevard, lane, alley or other public ground within the City. In addition, no amusement device shall be so located that its operation shall create a nuisance.

6.8.12 Use for Gambling. It shall be unlawful for the owner of any amusement device, or for the owner or operator of any establishment where it is located, to permit the same to be used for gambling or for the making of bets or wagers.

6.8.13 Payoffs. It shall be unlawful for the licensee or for the owner or operator of any game room/arcade/poolhall or any establishment where the device is located to give any money, token, merchandise, or any other thing of value or any reward or prize in lieu of free games registered on the devices, and all free games so registered shall be played on the device registering the free game. In addition, there shall be no device on the amusement machinery whereby the owner or operator can cancel registered free games.

6.8.14 Automatic Payoffs. No person shall keep, maintain, sell or permit to be operated in his or her, its, or their place of business any device which has been converted into an automatic payoff device which shall automatically award money, prizes, tokens, merchandise, gifts or anything of value, other than free games to the operator or player of the device. No person shall convert any device into an automatic payoff device.

6.8.15 Destruction of Illegally Operated Machines. Any amusement devices which shall have been made use of in violation of this Section may be seized and destroyed in compliance with the provisions of State Statutes relating to gambling devices.

6.8.16 Conditions of License.**Subd. 1. Amusement Device Location and/or Game Room/Arcade/Poolhall Restrictions.**

- A. **Noise.** No game room, amusement devices, nor any musical device whether or not located in a licensed game room/arcade/poolhall shall be operated so as to constitute a public nuisance.
- B. **Order, Loitering, Littering and Vandalism.** It shall be the responsibility of the licensee to maintain order on the licensed premises at all times, and to prohibit outside loitering and littering by the public. The licensee must also take steps to protect against vandalism by his or her patrons and customers with regard to adjoining and neighboring properties. Failure to comply with the same shall constitute a public nuisance which may result in legal consequences.
- C. **Tobacco, Liquor, Drugs.** No licensee shall keep on his or her premises, sell, offer for sale, consume, or knowingly permit other persons to keep, sell, offer for sale or consume any tobacco or tobacco related products, intoxicating or non-intoxicating alcoholic beverages, narcotic drugs or other illegal substances or contraband upon the licensed premises unless such activity is separately licensed and permitted by the City.
- D. **Compliance with Law.** The licensee shall comply with all laws, City Code provisions or Ordinances and regulations applicable to the licensed business, activity or property, and the enumeration of specific duties or restrictions in this Section shall not be to the exclusion of any other law, Code or Ordinance, rule and regulation which may apply.

Subd. 2. Game Room/Arcade/Poolhall Restrictions.

- A. Only premises which are located in a zoning district where the licensed business is authorized in the City may be licensed.
- B. Adequate off-street parking for automobiles must be provided in compliance with the current Code requirements.
- C. No premises may be licensed unless sufficient visibility exists from outside the entrance to the premises for a person of average stature to visually survey the entire premises and all possible locations of patrons therein.
- D. It shall be the responsibility of the licensee to see that the licensed premises shall not become overcrowded so as to constitute a hazard to the health or safety of persons on the premises. The City fire chief, or designee, may designate the maximum number of persons to be permitted on the licensed premises.
- E. The licensee shall provide for a full time supervisor of the minimum age prescribed by this Section to be upon the licensed premises during all business hours.

6.8.17 Hours of Operation of Licensed Game Rooms/Arcade/Poolhalls. No Game Room/arcade/poolhall licensed by the City shall open prior to 9:00 a.m. on weekdays and noon on Sundays and legal holidays, and shall close not later than 11:00 p.m. each weekday night and not later than 12:00 midnight on Fridays, Saturdays, and legal holidays. This limitation will not apply to amusement devices located in an establishment that is not defined as a game room/arcade/poolhall pursuant to these provisions.

6.8.18 Relationship to Conditional Use Permit. A Game Room/arcade/poolhall license shall not be issued unless the licensee has obtained a Conditional Use Permit from the City, pursuant to the City Zoning Code or Ordinance, and all amendments thereto for the purpose of operating a “game room.” No Conditional Use Permit shall be required for issuance of a Game Room license where it is determined by the Zoning Administrator of the City of Cloquet that the licensee's premises constitutes a valid non-conforming use pursuant to the Zoning Code or Ordinance, and all amendments thereto. A Game Room license issued after obtaining a Conditional Use Permit shall be valid for a period of 180 days, after which the license shall be revoked in the event the licensee has not commenced operation of the Game Room in accordance with the terms and conditions of the permit.

6.8.19 Suspension or Revocation. The Council may revoke or suspend, for a time to be determined by the Council based upon the severity of the violation, any license issued pursuant to this Section for violation of any provision of this Section. Except where mandatory revocation shall be provided without notice and hearing by law, and except where a suspension may be made without a hearing, the holder of the license or permit shall be granted a hearing before a representative designated by the City Council upon at least ten (10) days' notice before revocation or suspension shall become effective. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

6.8.20 Penalty. Any person who violates or fails to comply with any provision of this Section shall be guilty of a misdemeanor and may also be assessed with the costs of prosecution at the discretion of the Court. Any penalty imposed under this Section may also be in addition to a revocation or suspension of any license issued under this section. The game room licensee required to be licensed under this Section, may be charged for any alleged violation of this Section whether or not he/she is in direct control of a machine described in 6.8.02, or the premises upon which any machine is located by virtue of his/her responsibility as licensee under this Section, and by virtue of his/her indirect control of the amusement game machine(s) located on the premises. Each day of violation or failure to comply with any provision of this Section may be considered a separate and distinct offense and shall be punishable as such.

SECTION 6.9: REGULATION AND LICENSING OF PROFESSIONAL THERAPEUTIC MASSAGE

6.9.01 Purpose. It is the purpose of this section to expand the availability of therapeutic massage services and to provide for the separate licensing of therapeutic massage businesses and massage therapists within the City of Cloquet. The City Council finds that individuals and commercial enterprises conducting massage in private by and between members of the same or opposite sex and employing personnel with no specialized training are susceptible to operation in a manner contravening, subverting, or endangering the morals of the community. It is the further purpose of this Section to protect the health, safety and welfare of the general public by strictly regulating the profession of therapeutic massage within the City of Cloquet.

Accordingly, this section provides for a method of making therapeutic massage available but requires inspection, licensing and regulation. The City Council also finds that it is important that certain levels of specialized training exist in order to safely and properly provide therapeutic massage services to the public.

6.9.02 Definitions: In this section the following words and terms have the following meanings as set forth below:

- A. **Therapeutic Massage:** Means the rubbing, stroking, kneading, tapping, or rolling of the body of another with the hands or objects for the exclusive purpose of physical fitness, relaxation, or beautification, and for no other purpose.

Subd. 1. Therapeutic Massage Distinguished: The practice of therapeutic massage is hereby declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, by persons duly licensed in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry.

- a. Exceptions.

1. Persons duly licensed or registered to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, registered nurses and nurses who work under the direction of such persons, are hereby expressly excluded from the requirements of this section, provided the massage is administered in the regular course of a prescribed or authorized medical treatment and not provided as part of a separate and distinct massage business, shall be exempt from obtaining a license under this section.
2. Athletic directors or trainers under contract to a school district, private or public college, are hereby expressly excluded from the provisions of this section.
3. Beauty culturists and barbers who do not give, or hold themselves out to give, massage services other than are customarily given in such shops or places of business shall be exempt from the provisions of this section.

- B. **Therapeutic Massage Therapist:** Means a person who practices or administers therapeutic massage and who has received a minimum of 500 hours of certified therapeutic massage training and certification which has been recognized and accepted by a national or state professional therapeutic massage organization.

- C. **Therapeutic Massage Services:** Means a business or person offering or providing therapeutic massages to others where a fee is charged directly or indirectly, whether or not the massage services are rendered at a licensed premises.

- D. **Therapeutic Massage Business:** Means any business establishment located in the City of Cloquet that provides to the public at large therapeutic massage services.

6.9.03 License Required. No person may conduct therapeutic massage within the City of Cloquet without first obtaining a license from the City. Such license shall be in the form of a Therapeutic Massage Business license for the establishment and a Massage Therapist license for each individual practicing therapeutic massage.

Subd. 1. License Application. All applications shall be made at City Hall to the City Administrator by filing an application form which shall contain the following information:

A. Therapeutic Massage Business License.

1. A description, sketch or floor plan, and the location of the premises where the licensed activity is to be conducted, including the full legal description of the property. If the premise is not constructed and furnished at the time the application is submitted, detailed plans of the premises and furnishing shall be attached to the application. No license will be issued for a Therapeutic Massage Business until a final certificate of occupancy has been issued by the City of Cloquet; and
2. Names and addresses of the applicant(s), together with the names and addresses of the property owner (if different), the business owner (if different), the lessee (if different), the manager or operator (if different), and if a corporation, where the licensed activity will take place; and
3. A description of any crime or other offense, including the time, date, place, and disposition, for which any of the persons named above have been arrested or convicted; and
4. A description of the services offered by the therapeutic massage business; and
5. A non-refundable investigation fee in an amount established by resolution as adopted from time to time by the City Council; and
6. All necessary release forms to allow for the required background, education, and criminal checks; and
7. Any premises proposed to be licensed shall be first inspected by the City's building official. These premises must comply with all applicable building codes, fire codes, and health codes of the City of Cloquet, Carlton County and State of Minnesota; and
8. Evidence that the applicant and property being licensed are not delinquent in property taxes, assessments, or other financial claims of the City; and
9. Evidence that the business has professional liability insurance coverage with liability limits of at least \$1,000,000. Such insurance must remain in force and effect during the term of the license and proof of that insurance must be provided to the City with the application and must be updated as long as the license is in effect; and
10. Proof of Workers Compensation Insurance coverage in the State of Minnesota; and
11. Applicant's Social Security Number and Minnesota Business Identification Number.
12. The applicant for a therapeutic massage business license shall furnish the City with a list of current employees, listing their names, addresses, and the designated duties of the employee. The licensee shall promptly notify the City of any additions or changes to the list of employees and their job descriptions or duties.
13. Any other such information as the City Council may require.

B. Massage Therapist License.

1. The applicant's name, social security number, Minnesota Business Identification Number, and date of birth; and
2. The applicant's residence address and home telephone number; and
3. If the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or means and information concerning the dates and places where used; and
4. The type, name, and location of every business or occupation the applicant has been engaged in during the preceding five (5) years; and
5. Residence addresses of the applicant during the five (5) years preceding the date of application; and
6. Evidence that the applicant:
 - a. Can document at least 500 hours of certified therapeutic massage training recognized and accepted by a national or state professional therapeutic massage organization and any and all continuing education requirements so required by that organization; and
 - b. Proof of membership in good standing in a recognized national and/or state professional therapeutic massage organization; and
 - c. Has current professional liability insurance coverage with liability limits of at least \$1,000,000. Such insurance must remain in force and effect during the term of the license and proof of that insurance must be provided to the City with the application and must be updated as long as the license is in effect.
7. All necessary release forms to allow for the required background, education, and criminal checks; and
8. A non-refundable investigation fee in an amount established by resolution as adopted from time to time by the City Council; and
9. Any other such information as the City Council may require.

6.9.04 Issuance of Therapeutic Massage Business and Therapist License. The City Council may issue a license under this section if all of the following conditions are met:

1. If the applicant is 18 years of age or older; and,
2. If the applicant and property being licensed is not delinquent in payment of property taxes, assessments, or other financial claims of the City; and
3. The applicant has provided the information for the application and has truthfully answered the questions and request for information on the application form; and,
4. An applicant has not been convicted of a violation of provision of this section or a related state or federal law within ten years immediately preceding the application; and,

5. The premises to be used for the business are properly zoned and are in compliance with the applicable laws and Code or Ordinances; and,
6. All license fees have been paid; and,
7. The applicant has not been convicted of a sexually oriented crime within ten years of the date of the application for a license with the City; and,

6.9.05 Premise Inspection.

Subd. 1. By applying for a license pursuant to this section, an applicant shall be deemed to have consented to have the Police or other appropriate City authorized representatives inspect any premises on which therapeutic massage services will be provided for the purpose of insuring compliance with the law at any time during normal business hours even if the premises is the residence of the therapist to be licensed.

Subd. 2. A licensee or any person employed by the licensee who is involved in the operation of a therapeutic massage business commits an offense if the person refuses to permit a lawful inspection of the premises by a City representative or the Police Department at any time the business is occupied or open for business during business hours. Each such occasion will be considered a separate misdemeanor offense.

6.9.06 License Terms and Fee. Therapeutic Massage Business License and Therapeutic Massage Therapist License.

Subd. 1. License Fee. No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for license under this section shall be established by resolution as adopted from time to time by the City Council.

Subd. 2. License Term. Each license shall be issued for a maximum period of time of one year. All such licenses under this article shall expire on December 31st of each calendar year or portion thereof regardless of when the license was issued.

Subd. 3. License Transfers. No license shall be transferred or sold. A licensee under this section shall not transfer a license to another. A licensee of a therapeutic massage business or massage therapist may not change the location licensed for massage therapy without prior approval of the City. No refund shall be made for the unexpired portion of any license surrendered to the City or revoked as provided in this Section.

Subd. 4. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

6.9.07 Suspension and Revocation.

Subd. 1. Suspension of License: The City Council may suspend a license if the City Council determines the licensee or an employee of a licensee has:

- a. Violated any provisions of this Code;
- b. Engaged in the use of alcoholic beverages or use of illegal drugs while performing therapeutic massage services during business hours;
- c. Refused to allow an inspection of premises as authorized by this section;
- d. Demonstrated an inability to operate or manage the enterprise in a peaceful and law abiding manner, thus necessitating action by law enforcement officers.

Subd. 2. Revocation: The City Council may revoke a license if a cause for suspension occurs and the license has been suspended within the preceding 12 months. The City Council may also revoke the license if the City Council determines that:

- a. The licensee gave false or misleading information during the application process, and in such instance, all fees that have been paid for the application of said licensee will be forfeited by the applicant to the City.
- b. A licensee or employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
- c. A licensee or employee knowingly operated the business during the period of time when the licensee's license was suspended or during hours not authorized for the operation of the business by this Section.
- d. The City determines that the licensee has been convicted of an offense which would prohibit them from obtaining a license.
- e. A licensee is delinquent in payment to the City for ad valorem taxes or other taxes or fees.
- f. There is a violation or regulation relating to the building, safety, or health of the licensed therapist.
- g. There is a lapse, revocation, or discontinuance of the professional liability insurance required by this Section.

6.9.08. License Restrictions.

Subd. 1. Compliance with Law: The licensee and any person in the employ of the licensee or agent or officer thereof and any and all persons with an interest in said business shall comply with this section; and, all other applicable section and regulations of the City Code, State of Minnesota and the United States.

Subd. 2. Hours of Operation: A licensed therapist shall not perform massages, nor shall massage patients be permitted on the premises of the massage therapist between the hours of 9:00 p.m. and 7:00 a.m.

Subd. 3. Age: No person under the age of 18 years of age may be employed by a massage therapist required to be licensed under the provisions of this Section.

Subd. 4. Cleanliness: The premises and contents where therapeutic massage will be conducted must be kept and maintained in a sanitary condition.

Subd. 5. Clothing: At all times during the conducting of therapeutic massage services, massage therapists and all employees must remain fully clothed in non-transparent clothing and customers must remain reasonably covered in non-transparent material.

Subd. 6. Zoning: Therapeutic massage business licenses shall be granted only for the operation of therapeutic massage upon fixed premises which are properly zoned according to the City code.

Subd. 7. Alcohol, Drugs, Etc: No beer, liquor, narcotic drug, or controlled substances as such terms are defined by state statutes or the City Code shall be served, sold or consumed on the premises and during the hours of operation of therapeutic massage licensed herein.

Subd. 8. Violations: Violations of any law or regulation relating to the building, safety, or health shall be grounds for revocation of any license issued under this Section in addition to any criminal prosecution that may result.

Subd. 9. Locks: It is a specific restriction of any license so issued under this Section that there will be no locks on the doors of massage rooms where massage services are being conducted pursuant to this license.

Subd. 10. Practicing Therapists: Only massage therapists who are licensed by the City shall engage in massage services pursuant to this Section.

Subd. 11. Discrimination: No massage therapy business established shall discriminate between persons on the basis of race, color, creed, sex, or national origin or ancestry.

Subd. 12. Compliance: All licensed persons conducting therapeutic massage must comply with any and all amendments to this Section. Failure to do so is grounds for revocation of a license issued under this Section.

Subd. 13. Minors: Therapeutic massage services shall not be administered on any person who is under the age of 18 years, unless the parent or guardian of such person is present at the time that the therapeutic massage services are being administered.

Subd. 14. Location of Therapeutic Massage Services: Therapeutic massage services may be conducted at any place of business properly licensed for such purpose. If the therapeutic massage services are conducted at the residence of the licensee, only the owner/occupant of that residence who is a duly licensed therapist may perform therapeutic massage services at that location. Provided, however, a licensed massage therapist may administer massage services at the following other additional locations:

- a. Rest Homes.
- b. Nursing Homes.
- c. Hospitals.
- d. Assisted Living Facility.
- e. The private residence of patrons.
- f. The location of the patron's place of employment provided that the place of employment does not serve or sell intoxicating or non-intoxicating malt beverages.
- g. Onsite - chair massage at a public location (such as a fundraiser event, craft shows, grand openings) focusing on back, shoulders, neck, arms and hands. Chair massage is done fully clothed.

6.9.09 Health and Disease Control. No person while afflicted with any disease in a communicable form or while a carrier of such disease or while afflicted with boils, infected wounds, sores, or any acute respiratory infection, may work administer therapeutic massage services. No persons known, suspected, or being afflicted with any such disease or condition shall be employed or permitted in such an area or capacity to perform therapeutic massage services by the licensee.

6.9.10 Penalties and Enforcement.

Subd. 1. Any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor.

Subd. 2. Injunction: The person who operates or causes to be operated a therapeutic massage business or engages in massage services without a valid license or otherwise in violation of this section is subject to a civil suit or injunction as well as prosecution for any criminal violation.

**Section 6.10: REGULATIONS REGARDING THE
LICENSING OF SEXUALLY ORIENTED BUSINESSES**

6.10.01 Purpose. The purpose of this section is to prescribe licensing requirements for sexually-oriented businesses in order to protect the general health, safety, and welfare and to control certain land uses that may have a direct and detrimental effect on the character of the City's residential and commercial neighborhoods.

6.10.02 Findings of the City Council. The City Council makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by a City staff committee. It is apparent from that review and the data compiled by staff that there are a number of issues that must be addressed:

- A. Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending state licensed family day care home, state licensed group family day care homes, and state licensed child care centers; student attending school; and people using public parks and libraries.
- B. Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
- C. Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.
- D. The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of life in the community. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is often perceived by others as an indication that the community or area is deteriorating and the result can be devastating to other businesses that may be required to move out of the vicinity and which could influence residents to relocate from the area. It has been noted that the presence of such businesses can have the overall effect of causing declining real estate values, which result can be exacerbated by the concentration of such businesses, which can erode the City's tax base and contribute to overall community blight.
- E. Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
- F. Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

6.10.03 Conclusions of the City Council. In direct furtherance of the substantial goals of public health, safety, and welfare, the City Council adopts this section, recognizing that it has a great interest in the present and future character of the City's residential and commercial neighborhoods.

6.10.04 Definitions: The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

- A. **Adult Body Painting Studio** - An establishment or business which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical area as defined herein.
- B. **Adult Book Store** - An establishment that has forty percent (40%) or greater of its current store stock in merchandise, videos, books, magazines, and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.
- C. **Adult Oriented Cabaret** - A building or space wherein a portion of the business is used for providing dancing, modeling or other live entertainment, if such dancing or modeling or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons.
- D. **Adult Car Wash** - A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.
- E. **Adult Companionship Establishment** - A companionship establishment which excludes minors by reason of age, or which provides the service for a fee of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexually activities or specified anatomical areas as defined herein.
- F. **Adult Entertainment Facility** - A building or space wherein an admission is charged for entrance, or food or alcoholic and nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment, including nude dancing, nude modeling or nudity, or which include other activities distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.
- G. **Adult Modeling Studio** - An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as define herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- H. **Adult Motion Picture Theater** - A building or space with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
- I. **Adult Mini-Motion Picture Theater** - A building or space with a capacity for fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

- J. **Adult Sauna** - A sauna which excludes by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.
- K. **City** - City of Cloquet, Minnesota.
- L. **Dwelling Unit** - One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.
- M. **Issuing Authority** - City Council of the City of Cloquet.
- N. **Minor** - Any natural person under the age of eighteen (18) years.
- O. **Nudity** - The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.
- P. **Person** - One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.
- Q. **Public Library** - Any library that provides fee access to all residents of a city or county without discrimination, received at least half of its financial support from public funds, and is organized under the provisions of Minnesota Statutes, Chapter 134.
- R. **Public Park** - A park, reservation, open space, playground, beach, or recreation center in the City owned, leased, or used, wholly or in part, by a City, County, State, School District or Federal Government for recreation purposes.
- S. **Place of Worship** - A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship or religious educational purposes.
- T. **Sadomasochistic abuse** - Flagellation or torture by or upon a person unclad or partially clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one.
- U. **School** - A building or space that is principally used as a place where persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this Code.
- V. **Sign** - A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land which directs attention to an object, project, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display or official court or government office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a "sign".

- W. **Single Family Dwelling** - A residential building containing one dwelling unit as herein defined, including detached, semi-detached and attached dwellings, which is intended to be used as a residence.
- X. **State Licensed Family Day Care Home, State Licensed Group Family Day Care Home, State Licensed Child Care Center** - A facility holding a license from the State of Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.
- Y. **Sexually Oriented Business** - An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash, adult-oriented cabaret, or adult sauna as herein defined.
- Z. **Specified Sexual Activities** - For the purposes of this Code, sexual activities include the following:
- (1) Human genitals in a discernible state of sexual stimulation or arousal; or
 - (2) Acts of human masturbation, sexual intercourse, sadomasochistic behavior or sodomy; or
 - (3) Fondling of or other erotic touching of human genitals, the pubic region or pubic hair, buttock, or female breast or breast; or
 - (4) Any combination of the foregoing.
- ZZ. **Specified Anatomical Areas** - For purposes of this Code, this means:
- (a) Less than completely or opaquely covered:
 - (1) human genitals, pubic region or pubic hair; or
 - (2) buttock; or
 - (3) female breast or breasts below a point immediately above the top of the areola; or
 - (4) any combination of the foregoing; and/or,
 - (b) Human male genitals in a discernibly turgid state even if completely or opaquely covered.

6.10.05 License Required. No person shall own or operate a sexually-oriented business within the City unless such person is currently licensed under this section.

6.10.06 License Application. The application for a license under this section shall be made on a form supplied by the issuing Authority and shall request the following information:

Subd. 1 All Applicants. For all applicants:

- A. Whether the applicant is a natural person, corporation, partnership, or other form of organization.

- B. The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- C. The name and street address of the business. If the business is to be conducted under a designation, name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted.

Subd. 2 Applicants Who Are Natural Persons. If the applicant is a natural person:

- A. The name, place and date of birth, street and city address, and phone number of the applicant.
- B. 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 where used.
- C. The street and city addresses at which the applicant has lived during the preceding two (2) years.
- D. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.
- E. Whether the applicant has ever been convicted of a felony, crime, or violation of any Code other than a petty misdemeanor traffic Code. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.

Subd. 3. Applicants That Are Partnerships. If the applicant is a partnership:

- A. The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart (2) of this Section.
- B. The name(s) of the managing partner(s) and the interest of each partner in the 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 shall be attached to the application.

Subd. 4. Corporate or Other Applicants. If the applicant is a corporation or other organization:

- A. The name of the corporation or business form, 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, shall be attached.
- C. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of the applicants in subpart (2) of this Section.

6.10.07 License Application Execution. If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

6.10.08 License Application Verification. Applications for licenses under this section shall be submitted to the City Council (hereinafter referred to as the "Issuing Authority"). Within twenty (20) calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this section.

6.10.09 License Application Consideration. No later than ten (10) calendar days after the completion of the license application verification and investigation by the Issuing Authority or its agents and employees, as prescribed in this section, the Issuing Authority shall accept or deny the license application in accordance with this Section. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the determination for reconsideration by the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received, the hearing before the City Council shall take place within twenty (20) calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the City Planning Department.

During the application consideration process prescribed herein an applicant operating a business not previously subject to the license provisions of this Section may remain operating pending the outcome of the application consideration by the Issuing Authority.

6.10.10 License Fees.

Subd. 1. Application fee.

- A. The license application fee shall be established by resolution as adopted from time to time by the City Council.
- B. The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority the license fee shall be refunded to the applicant.
- C. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

Subd. 2. Investigation fee.

- A. An applicant for any license under this Division shall deposit with the Issuing Authority, at the time an original application is submitted, which shall be established by resolution as adopted from time to time by the City Council, to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. The investigation fee shall be nonrefundable.

6.10.11 Persons and Locations Ineligible for a License. The Issuing Authority shall issue a license under this subsection to an applicant unless one (1) or more of the following conditions exists:

- A. The applicant is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;
- B. The applicant failed to supply all of the information requested on the license application;
- C. The applicant gave false, fraudulent, or untruthful information on the license application;
- D. The applicant has had a sexually-oriented license revoked from the City or any other jurisdiction within a one (1) year period immediately preceding the date the application was submitted;
- E. The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;
- F. The sexually-oriented business does not meet the zoning requirements prescribed in this Code;
- G. The premises to be licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- H. The applicant has not paid the license and investigation fees required in section.

6.10.12 License Restrictions.

Subd. 1. Posting of License. A license issued under this section must be posted in a conspicuous place in the premises for which it is used.

Subd. 2. Effect of License. A license issued under this Section is only effective for the compact and contiguous space specified in the approved license application.

Subd. 3. Maintenance of Order. A licensee under this section shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Section shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

Subd. 4. Distance Requirement for Live Adult Entertainment. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten (10) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.

Subd. 5. Interaction with Patrons. No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

Subd. 6. Gratuity Prohibition. No customers, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer, and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

Subd. 7. Adult Car Wash Requirements. Sexually-oriented businesses that are adult car washes shall meet all of the requirements of this Section.

6.10.13 Restrictions Regarding License Transfer.

- A. The license granted under this section is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.
- B. When a sexually-oriented business licensed under this section is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this section.

6.10.14 Restrictions Regarding Hours of Operation. A licensee shall not be open for business to the public during the following hours on the following days:

- A. Adult Body Painting Studio, Adult Book Stores, Adult Companionship Establishment, Adult Modeling Studio, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Sauna, Adult Car Wash: Monday through Sunday - Not open before 6:00 a.m. nor after 11:00 p.m.
- B. Adult Entertainment Facilities, including Adult Oriented Cabarets: Monday through Sunday - Not open before 6:00 a.m. nor after 1:00 a.m.

6.10.15 Restrictions Regarding Minors. No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of eighteen (18) years. Proof of age may be established only by; a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

6.10.16 Renewal Application.

Subd. 1. Annual Licenses: Deadline for Renewal Applications. All licenses issued under this Division shall be effective for only one (1) year commencing with the date of approval by the Issuing Authority or City Council. An application for the renewal of an existing license shall be submitted to the Issuing Authority at least thirty (30) calendar days prior to the expiration date of the license.

Subd. 2. Verification, Investigation and Consideration of Renewal Application. Within twenty (20) calendar days of receipt by the Issuing Authority of a fully completed renewal application, the Issuing Authority shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Section. No later than ten (10) calendar days after the completion of the renewal application verification and investigation by the Issuing Authority, as prescribed herein, the Issuing Authority shall issue a renewal license unless one (1) or more of the following conditions exist:

- A. The applicant is a minor at the time the application is submitted.
- B. The applicant failed to supply all of the information requested on the renewal application;
- C. The applicant gave false, fraudulent, or untruthful information on the renewal application;
- D. The sexually-oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this Code;

- E. The sexually-oriented business does not meet the zoning requirements prescribed in the Code;
- F. The premises licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- G. The applicant has had a conviction of any crime listed in this Division; or
- H. The Applicant has had a sexually-oriented license revoked within a one (1) year period immediately preceding the date the application was submitted.
 - (1) **Notice of Denial.** If the Issuing Authority denies a renewal application, the Issuing Authority shall notify the applicant in accordance with this Section and the notice shall, in addition, state the grounds for the denial.
 - (2) **Appeal to City Council or Court of Law.** After the denial of a renewal application by the Issuing Authority, the applicant may appeal the determination to the City Council for reconsideration or by immediately challenging the determination in a court of law. If the City denies renewal of a license under this Division, the applicant shall not be issued a license under this Division for one (1) year from the date of the denial. If, subsequent to the denial, the City Council finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

6.10.17 Sanctions for License Violations.

Subd. 1. Suspension. The City Council may suspend a license issued pursuant to this Code for a violation of:

- A. Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- B. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
- C. Any violation of this Code or related state law.
- D. A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364.02, Subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.
- E. Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the community.

Subd. 2. Revocation. The City Council may revoke a license if the City Council determines that:

- A. The licensee's license was suspended in the preceding fourteen (14) months and an additional cause for suspension as detailed in (a) above is found by the City Council to have occurred within the fourteen (14) month period;

- B. The licensee gave false or misleading information in the material submitted to the City during the application process;
- C. The licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- D. A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;
- E. A licensee violated any of the provisions of Minnesota Statutes §617.241 to §617.299 relating to the illegal distribution, possession or sale of obscene materials;
- F. A licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;
- G. A licensee has been convicted of an offense prescribed in Section 13 and/or 14 of this Code for which the time period required has not elapsed;
- H. One two or more occasions within a 12-month period, a person or persons has/have committed an offense prescribed in Section 13 and/or Section 14 of this Code, in or on the license premises, for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed;
- I. A licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or
- J. A licensee is delinquent in payment to the City, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, or other financial obligations.

Subd. 3. Notice of Hearing. A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give a least eight (8) days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail at the most recent address listed on the application.

6.10.18 Penalty. A violation of this section shall be a misdemeanor under Minnesota law and each day that a prohibited violation occurs or exists will constitute a separate violation.

6.10.19 Zoning Regulations. (*See Chapter 12 Zoning - Section 12.8*)

SECTION 6.11: REGULATION AND LICENSING OF PAWN BROKERS

6.11.01 Declaration of Findings and Intent

Subd. 1. The City Council hereby finds that the business of a pawnbroker has the potential for developing or degenerating into a public nuisance. The City Council further finds that the protection of the public welfare requires the business of a pawnbroker be licensed and regulated. In addition, the City Council finds that the administration and enforcement of the provisions of this section, and all other applicable laws with respect to pawnbrokers, shall require substantial direct and indirect expenditures of funds by the City.

Subd. 2. The City Council hereby declares that the intent of this section shall be to provide for the licensing and regulation of pawnbrokers within the City.

Subd. 3. Accordingly, the following provisions are intended to comply with the legislative authority given to municipalities to regulate pawn shops (Minn. Stat. 325J, et. seq., and its provisions) and to help the police department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and to increase identification of criminal activities in the pawn industry through the timely-collection and sharing of pawn transaction information through implementation of the required use of the automated pawn system (APS).
(Ordinance 318A)

6.11.02 Definitions. For purposes of this section, the following words have the meanings ascribed to them in this section:

Subd. 1. Pawnshop. "Pawnshop" means the location at which or the premises in which a pawnbroker regularly conducts business.

Subd. 2. Pawnbroker.

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

This definition includes 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 chapter shall be applicable.

- (b) The following are exempt from the definition of "pawnbroker":
1. Any bank regulated by the State of Minnesota, the Comptroller of the Currency of the United States, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any other federal or state authority and their affiliates;
 2. Any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations;

3. Any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the department of commerce.

Subd. 3. Pawn transaction. "Pawn transaction" means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Subd. 4. Person. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

Subd. 5. Pledged goods. "Pledged goods" means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

Subd. 6. Reportable transactions. 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.

Subd. 7. Billable transactions. Every reportable transaction conducted by a pawnbroker except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession is a billable transaction.

6.11.03 License Required; Number Allowed.

Subd. 1. No person shall engage in the business of pawnbroking or act as a pawnbroker or hold himself or herself out to be a pawnbroker or advertise such services within the City without first having obtained a license to do so. The license shall authorize the licensee to engage in the pawnbroking business at the premises named on the license. A separate license shall be required for each separate premises utilized for the business of the pawnbroker.

Subd. 2. No more than one license shall be issued under this section for each full 5,000 persons who reside in the City.

6.11.04 Application.

Subd.1. Application for a pawnbroker's license shall be made to the City Clerk and shall state on the application the name of the applicant; the place of business; and the number of employees intended to be engaged in the operation of the business. If the applicant shall be a corporation, partnership, association or other organization of any kind then the names and percentage of ownership in applicant of each and every individual having any ownership interest in applicant shall be provided.

Subd. 2. The Chief of Police or his or her designee shall investigate each applicant for the license and each individual owner or applicant if it be a corporation, partnership, association or other organization of any kind and shall report back to the City Council whether or not the applicant or its owner(s) is (are) of good character.

Subd. 3. Application Information Required.

A. **Contents.** An application form provided by the City must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

(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 preceding 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. Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two (2) years preceding the application but only upon request by the Chief of Police and/or the City of Cloquet.
- j. 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 subdivision (1) 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 subdivision (1) of this section.

- b. The name(s) of the managing partner(s) and the interest of each partner in the licensed business.
 - c. A copy of the partnership agreement under which the partnership is operating 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. A true copy of the federal and state tax returns for partnership for the two (2) years preceding the application but only upon request by the Chief of Police and/or the City of Cloquet.
 - e. 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 subdivision (1) of this section.
- (3) If the applicant is a corporation or other organization:
- a. The name of the corporation or business form, 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 subdivision (1) 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 form or who are officers of the corporation or business form and all information concerning said persons required in subdivision (1) above. This subdivision (d), 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 they must additionally indicate:
- a. Whether the applicant holds a current pawnbroker, precious metal dealer or second-hand goods dealer license from any other governmental unit.
 - b. Whether 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.
 - c. The location of the proposed business premises.
 - d. If the applicant does not own the business premises, a copy of the executed lease or rental agreement pertaining to the proposed business premises.

- e. The legal description of the premises to be licensed.
 - f. 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.
 - g. 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.
 - h. Such other information as the city councilor issuing authority may require.
- B. **New manager.** 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, on forms provided by the City, within fourteen (14) days. The application must include all appropriate information required in Section 4.
- (1) Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this chapter. If the investigation process is conducted solely within the State of Minnesota, the fee shall be one hundred dollars (\$100.00). If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding two thousand five hundred dollars (\$2,500.00).
- C. **Application execution.** All applications for a license under this chapter 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.
- D. **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 inspector may reasonably require in support of the statements set forth in the application.
- E. **Public hearing.** The council member of the ward in which the proposed business would be located may request a public hearing before the council, at a regularly scheduled council meeting at City Hall.
- F. **Persons ineligible for a license.** No licenses under this chapter will be issued 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 chapter as prescribed by Minnesota Statutes, Section 364.03, Subd. 3; or,
 - (3) Is not of good moral character or repute.

6.11.05 Fees.

Subd. 1. License Fee. The annual fee for a license shall be Three Hundred Dollars (\$300) or at such amount as adopted from time to time by the City Council and this fee shall be payable in advance and no license shall be issued until the fee shall be paid. The license fee shall be payable annually in accordance with procedures established by the City Administrator's Office.

Subd. 2. Duration. All licenses issued hereunder expire on the 1st day of January of each year. If the license period is for less than one year, the fee to be paid by the applicant shall not be pro rated. The payment of the fee in installments shall not be allowed.

Subd. 3. Investigative Fee. An applicant for a new license under this chapter, or for the renewal of an existing license that is more than six (6) months past due, shall deposit five hundred dollars (\$500.00) with the Police Department at the time an original application is submitted to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this chapter. If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding two thousand five hundred dollars (\$2,500.00).

Subd. 4. Billable Transaction License Fee.

- (1) The billable transaction license fee shall reflect the cost of processing transactions from the respective classifications and other related regulatory expenses as determined by the City Council.
- (2) The billable transaction license fee shall be reviewed and adjusted as necessary. Licensees shall be notified in writing thirty (30) days before any adjustment is implemented. The billable transaction fee for modem transactions shall not exceed the billable transaction fee for manual transactions.
- (3) Billable transaction fees shall be automatically remitted monthly and are due and payable within thirty (30) days. Failure to do so is a violation of this chapter.

6.11.06 Bond and Workers Compensation Certificate.

Subd. 1. Every applicant for a license to be issued under this section shall provide with his or her application a bond in the sum of \$5,000, by a corporate surety authorized to do business in this state, conditioned upon observance of and compliance with the conditions and provisions of this section. The bond shall be for the benefit of the City or any person who shall suffer damage through the act of the pawnbroker. The bond shall have the same term as the license which the applicant is seeking.

Subd. 2. Every applicant for a license to be issued under this section shall provide with his or her application a certificate evidencing that applicant has in force and effect workers compensation insurance required under the laws of the state or that the insurance shall not be required to be maintained by applicant.

6.11.07 Payment of Taxes and Other Charges. No license shall be granted under this section for the operation on any premises, on which real estate taxes, assessments or other financial claims of the City are delinquent and unpaid.

6.11.08 Qualifications of Licensee.

Subd. 1. No license shall be issued to an applicant if the individual applicant or any individual owner of an applicant that is a corporation, partnership, association or other organization of any type shall have been previously convicted of a misdemeanor, gross misdemeanor or felony. Provided, however, that the applicant may apply to the City Council for a waiver of this provision in the case of misdemeanor convictions. The City Council may, in its discretion, grant the waiver for misdemeanor convictions upon demonstration by the applicant that the conviction does not bear a substantial relationship to the character or ability of the applicant to conduct the business of pawnbroking consistent with the provisions of this section and all other applicable laws; or if there is a relationship that the applicant is sufficiently rehabilitated pursuant to M.S. Section 364.03, as it may be amended from time to time.

Subd. 2. No person ineligible under M.S. Section 325D.03, as it may be amended from time to time, shall be granted a license.

6.11.09 Records Required. At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English on a pawn ticket the following information by using ink or other indelible medium on forms or in a computerized record approved by the Chief of Police:

- (1) A complete and accurate description of each item including, but not limited to, any trade-mark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- (2) The purchase price, amount of money loaned upon, or pledged therefor.
- (3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- (4) 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.
- (5) Full name, residence address, 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 of hair.
- (6) The identification number and state of issue from any of the following forms of identification of the seller:
 - a. Current valid Minnesota driver's license.
 - b. Current valid Minnesota identification card.
 - c. Current valid photo identification card issued by another state, Indian Tribe or tribal government or another recognized federal or state governmental entity.
- (7) The signature of the person identified in the transaction.
- (8) The monthly annual interest rates, including all pawn fees and charges.
- (9) Effective sixty (60) days from the date of notification by the chief of police of acceptable video standards, but no sooner than January 1, 2005, the licensee must also take a color photograph or color video recording of:
 - a. Each customer involved in a billable transaction.
 - b. 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 Chief of Police, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up 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 zoom in on the person pawning or selling the item so as to include an identifiable close-up 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 orally and 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.

A passive video system may be used in place of a digital photograph. All passive video surveillance must be kept for a minimum of ninety (90) days.

- (10) Digitized photographs. Effective sixty (60) days from the date of notification by the police license inspector, but no sooner than January 1, 2005, licensees must meet the photograph requirement above by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in subdivision (8).
- (11) Renewals, extensions and redemptions. For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
- (12) Inspection of records. The records must at all reasonable times be open to inspection by the police department or department of licenses and consumer services. 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.

6.11.10 PRINTED PAWN TICKET REQUIREMENTS.

Subd. 1. The following shall be printed on all pawn tickets:

- (1) the statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than sixty (60) days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods."
- (2) the statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item."

- (3) the statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record."
- (4) a blank line for the pledgor's signature. Signed pawn tickets conforming with the requirements of M.S. Section 325J.04 (2), as it may be amended from time to time, shall be issued to the pledger and a copy retained by the pawn broker.

6.11.11 DAILY REPORTS TO POLICE.

Subd. 1. Effective no later than ninety (90) 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.

Subd. 2. 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 in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in section 9 (b)(1), and must be charged a fifty dollar (\$50.00) reporting failure penalty, daily, until the error is corrected; or
- (3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in section 11 (b)(1), and resubmit all such transactions via modem when the error is corrected.
- (4) If a licensee is unable to capture, digitize or transmit the photographs required in Section 9, 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.

- (5) 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 day the problem had existed.
- (6) Section 11 (b) (1) through (3) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

6.11.12 RECEIPT REQUIRED

Subd. 1. 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:

- (1) The name, address and telephone number of the licensed business.
- (2) The date and time the item was received by the licensee.
- (3) Whether the item was pawned or sold. or the nature of the transaction.
- (4) 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.
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction.
- (6) The amount advanced or paid.
- (7) The monthly and annual interest rates, including all pawn fees and charges.
- (8) 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.
- (9) The full name, residence address, residence telephone number, and date of birth of the pledger or seller.
- (10) The identification number and state of issue from any of the following forms of identification of the seller:
 - a. Current valid Minnesota driver's license.
 - b. Current valid Minnesota identification card.
 - c. Current valid photo driver's license or identification card issued by another state.
- (11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair.
- (12) The signature of the pledger or seller.
- (13) All printed statements as required by State Statute 325J.04 subdivision 2, or any other applicable statutes.

6.11.13. REDEMPTION PERIOD.

Subd. 1. Any person pledging, pawning or depositing an item for security must have a minimum of sixty (60) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the sixty (60) day holding period, items may not be removed from the licensed location except as provided in section 19. 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 the police license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with section 9. A pawn transaction that involves holding only the title to property is subject to Minnesota Statutes Chapters 168A and 336.

6.11.14 HOLDING PERIOD.

Subd. 1. Any item purchased by a licensee must not be sold or otherwise transferred for seventy-two hours(72)hours 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.

6.11.15 POLICE ORDER TO HOLD PROPERTY.

Subd. 1. 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 investigative 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 investigative order is canceled, or until an order to hold/confiscate is issued, whichever comes first.

Subd. 2. Order to hold. Whenever the Chief of Police or the Chief's designee, 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 the chief or the chiefs designee. The order to hold shall expire ninety (90) days from the date it is placed unless the chief of police or the Chief's designee determines the hold is still necessary and notifies the licensee in writing.

Subd. 3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chiefs designee may:

- (1) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chiefs designee, or
- (2) Place the item on hold or extend the hold as provided herein 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, the Chief of Police, or Chief's designee shall so notify the licensee.

6.11.16. INSPECTION OF ITEMS.

Subd. 1. At all times during the terms of the license, the licensee must allow the police license inspector or his designee(s) to enter the premises where the licensed business is located, including all off- site storage facilities as authorized herein, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.

6.11.17. LABEL REQUIRED.

Subd. 1. 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 re-used.

6.11.18 DENIAL, SUSPENSION OR REVOCATION.

Subd. 1. Any license under this chapter may be denied, suspended for up to sixty (60) days or revoked for good cause shown at a regular or special meeting of the City Council on five (5) days written notice for one or more of the following reasons:

- (1) The proposed use does not comply with the City Zoning Code.
- (2) The proposed use does not comply with any health, building, building maintenance or other provisions of this Code of Ordinances, federal or state law.
- (3) The applicant or licensee has failed to comply with one or more provisions of this chapter.
- (4) 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.
- (5) Fraud, misrepresentation or bribery in securing or renewing a license.
- (6) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.
- (7) 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.
- (8) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

Subd. 2. For the purposes of this section, "good cause" shall include, but shall not be limited to:

- (1) Conviction of pawnbroker, any of its owners, or any of his or her employees of any crime relating to the operation of a pawnbroking business;
- (2) Violation by the pawnbroker, any of its owners, or his or her employees of any of the provisions of this section or any other Code or Ordinance or statute relating to the operation of a pawnbroking business;
- (3) Failure to cooperate fully with any lawful police investigation;
- (4) Falsely stating any material fact on the license application; and
- (5) Submitting a false or incomplete record to the police.

6.11.19. BUSINESS AT ONLY ONE PLACE/LOCATION.

Subd. 1. A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the police license inspector may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with this ordinance. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code.

Subd. 2. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises which extends for more than six (6) months.

Subd. 3. Consistent with Minn. Stat. §325J.10 no new pawnshop shall be located within ten (10) driving miles of any gambling casino. However, if the pawnshop was lawfully operating as of April 2, 1996, that existing business shall not be required to relocate or close as a result of this section and if it chooses or is required to relocate, the business must obtain the prior approval and consent of the City.

6.11.20. PAWNBROKER PERMITTED CHARGES.

Subd. 1. Notwithstanding any other statute, ordinance, rule, regulation or section herein, a pawnbroker may contract for and receive a pawnshop charge not to exceed three percent per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20.00 if the property is not in the possession of the pawnbroker.

Subd. 2. The pawnshop charge allowed under paragraph (1) above shall be deemed earned due, and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date, the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.

Subd. 3. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.

Subd. 4. Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, shall be uncollectible and the pawn transaction shall be void.

Subd. 5. A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.

6.11.21 PROHIBITED ACTS.

Subd. 1. A pawnbroker and any clerk, agent, or employee of a pawnbroker shall not:

- (A) Make any false entry in the records of pawn transactions.
- (B) Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions.
- (C) Refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties.
- (D) Fail to maintain a record of each pawn transaction for three years.
- (E) Accept a pledge or purchase property from a person under the age of 18 years.

- (F) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this section, or providing for a maturity date less than sixty (60) days after the date of the pawn transaction.
- (G) Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in section 22 herein, upon payment in full of the amount due the pawnbroker unless either the date of redemption is more than sixty (60) days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to section 13 and the appropriate provisions of this ordinance, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency.
- (H) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction.
- (I) Sell or otherwise charge for insurance in connection with a pawn transaction.
- (J) Remove pledged goods from the pawnshop premises or other storage place approved by a municipality at any time before unredeemed, pledged goods are sold pursuant to this ordinance.
- (K) No licensee may receive any goods from a person of unsound mind or an intoxicated person.
- (L) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.
- (M) No licensee may 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.
- (N) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.
- (O) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

6.11.22. REDEMPTION; RISK OF LOSS.

Subd. 1. Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement of goods acceptable to pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

6.11.23. MOTOR VEHICLE TITLE PAWN TRANSACTIONS; SPECIAL PROVISIONS.

Subd. 1. In addition to the other requirements of this chapter, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:

- (a) Be licensed as a used motor vehicle dealer under Minnesota Statutes Section 168.27, and post such license on the pawnshop premises.
- (b) Verify that there are no liens or encumbrances against the motor vehicle with the department of public safety.
- (c) Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

Subd. 2. A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

Subd. 3. The pawn of any motor vehicle shall conform with the requirements of M.S. Section 325J.095, as it may be amended from time to time.

6.11.24. PENALTIES FOR VIOLATION.

Subd. 1. Misdemeanor. A violation of the provisions of this ordinance by a pawnbroker or pledgor is a misdemeanor.

6.11.25. MISCELLANEOUS PROVISIONS.

Subd. 1. Hours of Operation. No pawnbroker shall receive a pledge or pawn or purchase any goods between the hours of 9:00 p.m. on Saturdays and 9:00 a.m. on Monday or between the hours of 9:00 p.m. and 9:00 a.m. on any other day of the week.

Subd. 2. Identification Requirements. Each person pawning, pledging or selling items in an establishment licensed pursuant to this section shall identify himself or herself as provided in this section to the pawnbroker or pawnbroker's agent accepting the pawn, pledge or sale. Neither the pawnbroker nor any of his or her agents shall transact any business with any person who fails to identify himself or herself as provided in this section. Identification shall be made as follows:

- A. By a showing of a Minnesota driver's license or non-qualification certificate which shall have been duly issued to the person presenting it by the state.
- 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 or her by a governmental body which shows either his or her picture or a physical description of him or her or both.

Subd. 3. The pawnbroker or his or her agent transacting the pawn, pledge or sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented with the physical features and signature of the person presenting the identification and shall not transact any business with any person who appears to be presenting false identification.

6.11.26. SEPARABILITY.

Subd. 1. Council Intent. Should any section, subsection, clause or other provision of this chapter be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the remaining portion of this Section pertaining to the regulation of pawnshops as a whole or any part other than the part so declared invalid.

**SECTION 6.12: LICENSING AND REGULATION OF BUSINESSES OR
COMMERCIAL ENTERPRISES INVOLVED IN THE PROCESS OF
TATTOOING AND BODY PIERCING**

6.12.01 Purpose. The City Council finds that it is necessary to regulate the business of tattooing and body piercing in order to protect the health, safety, and welfare of its citizens and the general public. The City Council finds that the experience of other cities indicates that there is a connection between tattooing and body piercing, and hepatitis and other health related problems.

6.12.02 License Required. Effective January 1, 2011, all persons or entities wishing to conduct any activity defined in Chapter 146B of Minnesota Statutes will be required to obtain a license and the approval of the Minnesota Department of Health consistent with the general provisions of Chapter 146B and the City hereby cedes authority to the Department of Health to license and enforce those provisions.

SECTION 6.13: LICENSING OF SOLID WASTE AND RECYCLING

6.13.01 Purpose and Application. The Sanitary Board of the Western Lake Superior Sanitary District (the "District"), which includes the City of Cloquet (the "City") within its boundaries; is empowered by its enabling legislation to regulate the disposal of Solid Waste within its boundaries; Laws of Minnesota 1989, 1st Special Session, Chapter 1, (the "Score Legislation"). To reduce the volume of Solid Waste requiring disposal, the Score Legislation requires the District and other governmental agencies in the State of Minnesota responsible for disposal of Solid Waste to provide residents an opportunity to recycle which shall include:

- A. Local recycling center in the District and sites for collecting recyclable materials that are located in areas convenient for persons to use them; and,
- B. Curbside pickup, centralized drop-off, or a local recycling center for recyclable materials in cities with a population of 5,000 or more persons.

The District has adopted a Code Relating to Mixed Municipal Solid Waste Management and Recycling which is effective within the City unless the City adopts an ordinance which: (1) creates a system of licensing Collectors; (2) regulates rates for collection; (3) mandates collection of Mixed Municipal Solid Waste; (4) provides residents an opportunity to recycle as required by Minn. Stat. Section 115A.552, Subd. 1 and 2; (5) supplies the District copies of all license applications for Collectors on a monthly basis; and (6) provides a certified copy of the ordinance to the District within five (5) days following enactment.

The City supports the goals of the Score Legislation and believes it is in the best interest of its residents to design methods of accomplishing the goals consistent with factors unique to the City.

6.13.02 Definitions. As used in this Section, the following terms shall be defined as follows, unless a different meaning clearly appears from the context:

Subd. 1 Administrator. "Administrator" shall mean the duly appointed Administrator of the City.

Subd. 2 Ashes. "Ashes" shall mean cinders and all solid products of complete combustion of wood, coal or other material; provided the same has been completely burned and shall not be mixed with other solid waste.

Subd. 3 Backyard Compost Site. "Backyard Compost Site" shall mean a site used to compost food scraps or Yard Waste from a single family or household, apartment building, or a single commercial office.

Subd. 4 Board. " Board" shall mean the Board of the Western Lake Superior Sanitary District.

Subd. 5 Bulky Items. "Bulky Items" shall mean items of Solid Waste which do not fit within a container, including major appliances.

Subd. 6 City. "City" shall mean the City of Cloquet.

Subd. 7 City Council. "City Council" shall mean the City Council of the City.

Subd. 8 Collector. "Collector" shall mean the person or entity specifically licensed by the City to collect Garbage, Rubbish, other Mixed Municipal Solid Waste and Recyclable Materials and to dispose of same.

Subd. 9 Composting. "Composting" shall mean the controlled microbial degradation of organic waste to yield a humus-like product.

Subd. 10 Construction Debris. "Construction Debris" shall mean waste building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads. Construction Debris does not include Solid Waste or Asbestos Waste.

Subd. 11 Container. "Container" shall mean a container for Solid Waste which meets the requirements set forth in this Section.

Subd. 12 District. "District" shall mean the Western Lake Superior Sanitary District.

Subd. 13 Facility. "Facility" shall mean the land, structures, monitoring devices, and other improvements on the land used for monitoring, treating, processing, storing, or disposing of Solid Waste, leachate, or residual from Solid Waste processing.

Subd. 14 Garbage. "Garbage" shall mean discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

Subd. 15 Hazardous Substance. "Hazardous Substance" shall mean:

- A. Any commercial chemical designated pursuant to the Federal Water Pollution Control Act, under United States Code, Title 33, Section 1321(b)(2)(A);
- B. Any hazardous air pollutant listed pursuant to the Clean Air Act, under the United States Code, Title 42, Section 7412; and
- C. Any other substance which constitutes a hazardous waste under Minnesota law Section 116.06, Subdivision 11 or Federal law.

Hazardous Substance shall not include natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of the synthetic gas and natural gas, nor shall it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste. Hazardous Substance shall not include Household Hazardous Waste as defined in this Section.

Subd. 16 Hospital Waste. "Hospital Waste" shall mean all Solid Waste generated by a hospital except Infectious Waste and Pathological Waste.

Subd. 17 Household Hazardous Waste. "Household Hazardous Waste" shall mean those waste chemicals and compounds which would be considered Hazardous Substances under State law and are generated by residential dwelling units.

Subd. 18 Industrial Waste. "Industrial Waste" shall mean all Solid Waste resulting from an industrial, manufacturing, service or commercial activity that is managed as a separate waste stream.

Subd. 19 Infectious Waste. "Infectious Waste" shall mean laboratory waste, blood, regulated body fluids, Medical Sharps, and research animal waste that have not been decontaminated. For purposes of this definition, laboratory waste shall mean waste cultures and stocks of agents that are generated from a laboratory and are infectious to humans; discarded contaminated items used to inoculate, transfer, or otherwise manipulate cultures or stocks of agents that are infectious to humans; wastes from the production of biological agents that are infectious to humans; and discarded live or attenuated vaccines that are infectious to humans. For purposes of this definition, regulated body human fluids means cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, and amniotic fluid that are in containers or that drip freely from body fluid soaked solid waste items. For purposes of this definition, research animal waste means carcasses, body parts, and blood derived from animals knowingly and intentionally exposed to agents that are infectious to humans for the purpose of research, production of biologicals, or testing of pharmaceuticals.

Subd. 20 Institutional Facilities. "Institutional Facilities" shall mean schools, courthouses, hospitals, "in-house" municipal programs, etc., for collecting Recyclable Materials.

Subd. 21 Major Appliances. "Major Appliances" shall generally have the meaning given it in Minn. Stat., Section 115A.03, Subd. 17a, and shall also include boilers and commercial furnaces.

Subd. 22 Medical Sharps. "Medical Sharps" shall mean:

- A. Discarded items that can cause subdermal inoculation of infectious agents, including needles, scalpel blades, pipettes, and other items derived from human or animal patient care, blood banks, laboratories, mortuaries, research facilities, and industrial operation; and,
- B. Discarded glass or rigid plastic vials containing infectious agents.

Subd. 23 Mixed Municipal Solid Waste. "Mixed Municipal Solid Waste" shall mean garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agriculture wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Subd. 24 Owner and Occupant. "Owner" and "Occupant" shall mean the person(s) or entity(s) which hold legal or beneficial title to a property and the person(s) or entity(s) which have or exercise possession or occupancy of a property, respectively.

Subd. 25 Pathological Waste. "Pathological Waste" shall mean human tissues and human body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste shall not include teeth.

Subd. 26 Recyclable Materials. "Recyclable Materials" for purposes of this Section shall mean materials that are separated from mixed municipal Solid Waste for the purpose of recycling. Recyclable Materials shall generally have the meaning set forth in Minn. Stat., Section 155A.03. However, the City of Cloquet acknowledges the need for the Executive Director of the Western Lake Superior Sanitary District to adjust to changing technology and inter-governmental requirements and, therefore, directs that recyclable materials for purposes of this Section shall include those materials which the Executive Director deems necessary and for which the Executive Director has established and posted a list. Each list shall be effective upon publication once in a newspaper having general circulation within the District.

Subd. 27 Recycling Facility. "Recycling Facility" shall mean a site permitted by the Minnesota Pollution Control Agency, used to collect, process, and prepare Recyclable Materials and reuse them in their original form or use them in manufacturing processes.

Subd. 28 Rubbish. "Rubbish" shall mean non-putrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind. Rubbish does not include Recyclable Materials.

Subd. 29 Solid Waste. "Solid Waste" shall mean Garbage, Refuse, sludge from a water supply treatment plant or air contaminant treatment facility and other discarded waste materials and sludges, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rocks; sewage sludge; solid or dissolved material in domestic sewage or other, pollutants in water resources such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point source subject to permits under Sec. 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flow; or source, special nuclear, or byproduct material as defined by The Atomic Energy Act of 1954 as amended.

Subd. 30 Solid Waste Collection Officer. "Solid Waste Collection Officer" shall mean the City official or employee designated by the Council to administer this Section.

Subd. 31 Unacceptable Waste. "Unacceptable Waste" shall mean Solid Waste designated as Unacceptable Waste by regulation of the District.

Subd. 32 Yard Waste. "Yard Waste" shall mean garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

Subd. 33 Yard Waste Compost Facility. "Yard Waste Compost Facility" shall mean a site used for the Composting of Yard Waste which is (I) operated by the District or the City or (ii) operated by a private person or entity and permitted by the Minnesota Pollution Control Agency to accept Yard Waste.

6.13.03 Licensing Collectors of Solid Waste and Recyclable Materials. For the health, safety and welfare of the residents of the City, the following regulations applicable to all Mixed Municipal Solid Waste removal and disposal and handling of Recyclable Materials shall be continued:

Subd. 1 Collector's License Required. No person shall engage in the business of collecting or removing Garbage, Rubbish, other Mixed Municipal Solid Waste and Recyclable Materials within the City without first obtaining a license to do so. Charitable, religious, fraternal and other eleemosynary organizations may collect Recyclable Materials without compliance with this section.

The Administrator shall be empowered to issue the licenses, upon approval by the City Council, after the person or entity seeking the license has proved compliance with the provisions of this section.

Subd. 2 License Application. All persons or entities applying for a Collector's license, as set forth above shall be required to provide to the Administrator, with the license application, the following:

- A. A letter of certification signed by the Applicant verifying that the vehicle(s) to be utilized for collection conform to the requirements of the District and the City. Vehicular requirements of the City, if any, shall be recommended by the Chief of Police, and if adopted by the City Council, added to this Section as amendments. Pending adoption of any vehicular requirements by the City, the vehicular requirements of the District shall be applicable in the City.
- B. Certificate(s) of an insurance company authorized to do business in the State of Minnesota certifying (I) that each vehicle used by the applicant or its agents is insured by the company in the amount of Five Hundred Thousand Dollars (\$500,000.00) for bodily injuries to any person, One Million Dollars (\$1,000,000.00) for bodily injuries in any one accident, and One Hundred Thousand Dollars (\$100,000.00) for property damage in any one accident; and (ii) that the applicant is insured by the company under a comprehensive general liability policy in the amount of One Million Dollars (\$1,000,000.00) for bodily injury in any one year and One Hundred Thousand Dollars (\$100,000.00) for property damage in any one year. The insurance shall not be subject to cancellation or modification without fifteen (15) days written notice to the City.

Subd 3. License Fee. No license shall be issued under this section until the appropriate license fee shall be paid in full. The fee for license under this section shall be established by resolution as adopted from time to time by the City Council.

Subd. 4. License Term. Each license shall be issued for a maximum period of time of one year. All such licenses under this article shall expire on December 31st of each calendar year or portion thereof.

Subd. 5. Transfers. No license shall be transferred or sold. No refund shall be made for the unexpired portion of any license surrendered to the City or revoked as provided in this section.

Subd. 6. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

Subd. 7 Approval. Upon receipt of a completed application, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled Council meeting. If the Administrator shall determine that an application is incomplete, the Administrator shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 8 Issuance of License. Upon receipt and approval by the City Council of the application, the City Administrator shall issue a license to the applicant in conformity to and with the provisions of this section.

Subd. 9 Continuing Obligations of Licensee. All Collectors, in addition to any other requirements contained in this Section, shall comply with the following:

- A. All vehicles used by the Collectors shall be inspected on a semiannual basis by the Minnesota State Patrol, Commercial Vehicle Inspection Division or any State certified or State approved inspector. Inspection reports shall be forwarded to the Solid Waste Collection Officer. The Collector shall maintain the vehicles in good repair and shall comply with all laws, rules and regulations applicable to the vehicles.
- B. Insurance specified in this Section shall be maintained and the Collector shall provide evidence of maintenance of insurance upon request by the Administrator.
- C. Any Collector shall notify the Administrator in writing within thirty (30) days of any change in ownership, name or location of business offices.
- D. Any Collector shall notify the Administrator in writing immediately upon loss of liability insurance coverage.
- E. A Collector shall accept assignment of collection duties for residential and commercial structures as provided in this Section.

Subd. 10 Suspension of License. Any license issued pursuant to this Section may be suspended for not longer than sixty (60) days by the City Council for violation of any provision of this Section. Suspension shall not occur earlier than ten (10) calendar days after written notice of suspension has been personally served on the Collector, or, if a hearing is requested, until the written decision of the City Council has been served on the Collector by certified mail with return receipt. The written notice shall contain the effective date of suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations have occurred and a statement that the Collector shall be entitled to a hearing provided that it request the hearing in writing by serving the request personally on the City Council within ten (10) calendar days of service of the notice, exclusive of the day of service. If the Collector fails to request a hearing within the time prescribed, it shall forfeit any right to a public hearing. Following receipt of a request for a hearing, the City Council shall set a hearing date which shall be set at a time convenient for the City Council. The hearing shall be conducted pursuant to the procedures established in Chapter 15. If the suspension is upheld and the Collector has not demonstrated within the sixty (60) day period that full compliance with this Section has been attained and that the compliance shall be continued, the City Council may serve Notice of Suspension once again or initiate the revocation procedures in this Section.

Subd. 11 Revocation of License. Any license issued pursuant to this Section may be revoked by the City Council for violation of any provision of this Code. Without excluding other sufficient grounds for revocation, the filing of an application containing any statement of information known to the applicant to be false, the failure to comply with any rule or requirement in this Section or the failure to remain in compliance with Federal or State laws, rules or regulations shall each be sufficient cause for revocation. Revocation shall not occur earlier than ten (10) calendar days after written notice of revocation has been personally served on the Collector, or, if a hearing is requested, until the written decision of the City Council has been served on the Collector by registered mail. The written notice shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for revocation, the facts which support the conclusions that a violation or violations have occurred, and a statement that the Collector shall be entitled to a hearing provided that it request the hearing in writing by serving the request personally on the City Council within ten (10) calendar days of service of the notice, exclusive of the day of service. If the Collector fails to request a hearing within the time prescribed, it shall forfeit any right to a public hearing. Upon receipt of a written request of a hearing, the City Council shall set a hearing not earlier than ten (10) days and not later than thirty (30) days from the date of receipt of the request.

Subd. 12 Hearing. Whenever a hearing shall be requested in regard to an application, renewal, suspension or revocation of a license, the hearing shall be governed by the procedures as set forth in Chapter 15 of this Code.

Subd. 13 Removal of Suspension. In the case of suspension, upon written notification from the Collector that all violations for which the suspension was invoked have been corrected, the City shall re-inspect the licensee within five (5) working days after receipt of the notice from the Collector. If the City finds on the re-inspection that the violations constituting the grounds for suspension have been corrected, the City shall immediately terminate the suspension by written notice to the Collector and the City Council.

SECTION 6.14: LICENSING OF EXCAVATION WORK ON PUBLIC PROPERTY

6.14.01 Definitions. The following terms, phrases, words and their derivatives shall have the meaning given them in this subsection. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Subd. 1 "City" shall mean the City of Cloquet, Minnesota.

Subd. 2. "City Attorney" shall mean that person designated by the City Council as the City Attorney.

Subd. 3. "City Council" shall mean the City Council of the City of Cloquet.

Subd. 4. "City Engineer" shall mean that person designated by the City Council as the City Engineer.

Subd. 5. "City Superintendent" shall mean that person designated by the City Council as the City Street Superintendent.

Subd. 6. "Excavating contractor" shall mean any person who shall be issued an excavating contractor license pursuant to this section.

Subd. 7. "Excavating contractor license" shall mean the annual license required to be obtained by an excavating contractor under this section.

Subd. 8. "Excavating permit" shall mean the permit required to be obtained by a licensed excavating contractor under this section before the excavating contractor performs any work in any City street.

Subd. 9. "Person" shall mean any corporation, partnership, proprietorship or any natural person.

Subd. 10. "Public property" shall mean any real property owned by the City or any other governmental unit, other than a street.

Subd. 11. "Public utility" shall mean the companies providing basic utility services to the community which include, but are not limited to, Minnesota Power, Aquila, Mediacom and various phone companies.

Subd. 12. "Street" shall mean the surface of and the space above and below any public street, road, cartway, col de sac, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the City.

6.14.02 Excavating Contractor License and Excavating Permits Required. No person shall make any excavation for any purpose or perform any other construction work in any street or on any public property without first having applied for and obtained an excavating contractor license and an excavating permit covering the work to be performed. Notwithstanding anything to the contrary contained in this section, no excavating contractor's license or permit shall be required for any work performed on behalf of the City by any employee of the City; any work performed by any person for the purpose of completing a contract awarded by the City; or work performed by or on behalf of any public utility, provided that the public utility shall have complied with all other applicable Code or Ordinances, regulations and franchise or other agreements between the public utility and the City.

6.14.03 Fees.

Subd. 1. Excavating Contractor License. The fee for an excavating contractor license shall be \$100 but may be modified by resolution as adopted from time to time by the City Council. License fees shall not be prorated for fractions of a year.

Subd. 2. Excavating Permit Fee. The fee for an excavating permit shall be \$10 but may be modified by resolution as adopted from time to time by the City Council for each excavating permit issued by the City Superintendent under this section.

Subd. 3. City Engineer Fee. Where any work done pursuant to an excavating permit requires an inspection from the City Engineer, the excavating contractor, as a condition to the issuance of an excavating permit, shall agree to pay the cost incurred by the City in connection with the City Engineer inspecting the work. The City Superintendent may require, as a condition to issuing an excavating permit to an excavating contractor in such situation, that the excavating contractor deposit an amount of cash equal to an estimate made by the City Engineer of the costs of inspecting the work.

6.14.04 Excavating Contractor License.

Subd. 1. Application. Any person desiring to obtain an excavating contractor's license shall make written application to the City Superintendent for the license on a form provided by the City Superintendent.

Subd. 2. Procedure. Upon presentation to the City Superintendent of an application for an excavating contractor license, the City Superintendent shall issue the excavating contractor license to the applicant upon the applicant filing with the City Superintendent the bond and insurance certificates required under this section in form and substance acceptable to the City Attorney, and paying the required license fee.

Subd. 3. Excavations Permitted. An excavating contractor license shall entitle the holder thereof to engage in the business of making excavations or performing other work in any street or public property, subject to the provisions of this section and subject to the provisions of other applicable Code or Ordinances, laws, rules and regulations.

Subd. 4. Excavating Permit Required. The holder of an excavating contractor license shall be required to obtain an excavating permit for any excavation or work performed in any street or public property, in addition to the excavating contractor license.

A. Bond Required.

1. With each application for an excavating contractor license, the applicant shall file with the City Superintendent a surety bond in the amount of \$5,000 in favor of the City. The required surety bond shall be:
 - a. With good and sufficient surety by a surety company authorized to do business in the State of Minnesota;
 - b. Satisfactory to the City Attorney in form and substance;
 - c. Conditioned that the applicant shall faithfully comply with all the terms and conditions of this section; all other applicable rules, regulations and requirements of the City or any other governmental body;
 - d. Conditioned that the applicant shall secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising out of any work performed pursuant to the excavating contractor license or any excavating permit issued to the applicant pursuant to this section or for which the City, the City Council or any City officer or employee may be made liable by reason of any accident or injury to persons or property through the fault of the applicant;

- e. Conditioned that the applicant in all material, equipment and appliances furnished by him or her, and in all work done or performed by him or her, or all work to be performed, which shall be subject to the provision of this section, shall fully conform to the revisions of this section.
2. With each application for an excavating contractor license, the applicant shall file with the City Superintendent a certificate of an insurance company duly authorized by the laws of the state to transact business as an insurance company, duly certifying to the fact that the applicant shall have in force with the company a comprehensive general liability policy, including completed operations, products liability coverage and collapse and underground property damage coverage to cover applicant's operations under the excavating contractor license. If any excavating permit is issued that authorizes blasting, the insurance policy shall have explosion, collapse and underground property damage coverage in addition to the coverage stated above.
3. All policies shall have a combined single limit of coverage of at least the same as the statutory tort liability limits of the city or \$1,000,000 for any one incident and shall name the City of Cloquet as an additional insured.
4. The certificates of insurance shall be approved as to form, correctiveness and validity by the City Attorney.

B. Cancellation Requirements of Bond; Insurance.

1. The insurance certificates required shall contain the following provision: "The above-described policies shall not be canceled, materially altered or not renewed unless 30 days written notice of the cancellation, material alteration or non-renewal shall be given to the City."
2. The bond required by this section shall be non- cancellable and shall be for a term extending one year beyond the expiration date of the excavating contractor license for which the bond was filed.

C. Expiration of Licenses. All excavating contractor licenses issued pursuant to this section shall expire on the 31st day of December of the year for which it was issued.

D. Use of Licenses; Subletting.

1. No person licensed under this section who has been issued an excavating permit for a particular job shall sublet or assign any work contemplated by the excavating permit to any person not licensed under this section, and any such attempted subletting or assignment shall be void.
2. In the event the person holding any excavating permit sublets any portion of the work to be done under the excavating permit to any other person holding an excavating contractor license, the person holding the excavating permit shall remain responsible for the completion of all work under the excavating permit in accordance with the provisions of this section, and he or she and the person so doing the work shall be subject to prosecution for the violation of any provision of this section.

- E. **Maintenance of Bond and Insurance.** If any person to whom an excavating contractor license has been issued pursuant to this section fails to maintain in full force and effect the bond and insurance required by this section, the excavating contractor license issued to the person shall become void immediately upon the bond or insurance ceasing to be in full force and effect.
- F. **Fraud or Error in Issuance.** Any excavating contractor license issued shall be null and void if the license was obtained through fraud or error.

6.14.05 Excavating Permit.

Subd. 1. Permits. Any person holding an excavating contractor license issued pursuant to this section shall obtain all required permits from the City and other appropriate government units before commencing any work on any street or public property.

Subd. 2. Procedure for Excavating Permit.

- A. **Application.** Any person holding an excavating contractor license who desires to obtain an excavating permit shall make written application to the City Superintendent for the permit on a form provided for such purpose by the City Superintendent.
- B. **Procedure.** Upon presentation to the City Superintendent of an application for an excavating permit, the City Superintendent shall issue the permit to the applicant if the applicant has an excavating contractor license in full force and effect, pays the required permit fee and if the work to be done pursuant to the permit complies with all applicable codes, rules and regulations.
- C. **Excavation Permit.** An excavating permit shall entitle the holder thereof to perform the work described on the permit.
- D. **Other Requirements; Card with Permit Number; Posting.**
 - 1. The City Superintendent, before granting an excavating permit, may require the applicant to furnish a drawing of the area proposed to be excavated, occupied or obstructed in any street or public property and an estimate of the length of time of the excavation, occupation or obstruction.
 - 2. The City Superintendent, at the time of granting an excavating permit, shall assign to the applicant a number, and shall give to the applicant a card or board upon which shall be plainly written or printed, in letters at least one inch high, the following: "Street Department Permit No. _____ Expires _____." In the first blank space shall be inserted the number of the permit. After the word "Expires," the time when the permit expires shall be stated. Any person receiving the permit shall keep posted in a conspicuous place at the excavation or obstruction the card or board. No person or his or her agents shall misstate upon any such board or card the number of the permit or the time when the permit expires.
- E. **Additional Authorization Required for Work on Water and Sewer Mains.** If the application for an excavating permit under this section is for excavations to be used for the purpose of making water or sewer connections to City water or sewer mains, prior approval must be obtained from the City Engineer. All work done and materials used in installing the connections shall conform to the rules, regulations and specifications as required by the City Engineer as of the date of the commencement of the work.

- F. **Blasting.** If blasting is to be performed in conjunction with any excavating or work performed pursuant to an excavating permit issued pursuant to this section, the excavating permit shall state on the face of the permit that the permit authorizes blasting provided other required permits have been obtained from all other appropriate governmental units and agencies.

6.14.06 Suspension and Revocation of Licenses. Upon notice to the City Council that a person holding an excavating contractor license has been convicted of a violation of this section, and that the conviction has become final, the City Council may suspend the person's excavating contractor license for such period of time as the City Council may deem proper under the circumstances, or the City Council may revoke said excavating contractor license and order that no new excavating contractor license shall be granted to the person for a period not to exceed six months from the date that the action is ordered by the Council.

6.14.07 Notice of Hearing upon Revocation. Before the City Council shall revoke any excavating contractor license, the person holding the excavating contractor license shall be entitled to a hearing by the City Council upon ten days written notice to the person holding the excavating contractor license by regular mail addressed to that person's place of business, or by serving notice upon the person holding the excavating contractor license in the manner prescribed by statute for serving summons in the district court.

6.14.08 Hold Harmless Agreement. The person holding any excavating contractor license or excavating permit shall defend, indemnify and secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by an excavating permit issued to the person to whom the permit was issued or for which the City, the City Council or any City officer or employee may be made liable by reason of any accident or injury to persons or property through the fault of the person to whom the excavating permit was issued for the work giving rise to the injury or damage either in not properly guarding the excavation or for any other injury resulting from the negligence of the person to whom the excavating permit was issued. In the event of any suit or claim against the City by reason of the negligence or default of the person to whom the excavating permit was issued for the work giving rise to the injury or damage, upon the City giving written notice to the person to whom the excavating permit was issued for the work giving rise to the injury or damage of the suit or claim, any final judgment against the City requiring it to pay for the damage shall be conclusive upon the person to whom the excavating permit was issued for the work giving rise to the injury or damage.

6.14.09 City Liability. This section shall not be construed as imposing upon the City or any official or employee of the City of any liability or responsibility for damages to any person imposed by the performance of any work for which an excavating permit shall be issued under this section; nor shall the City or any official or employee of the City be deemed to have assumed any such liability or responsibility by reason of any inspections authorized under this section or the issuance of any licenses or permits under this section.

6.14.10 Other Regulations.

*(See Chapter 9: Public Works Section 9.1 Street Excavation;
and Chapter 14: Public Property Section 14.1 - Use of Public Property)*

SECTION 6.15 - HUNTING DEER BY BOW AND ARROW IN CLOQUET CITY LIMITS

6.15.01. Definitions.

- A. "Bow and arrow" means a bow and arrow which is held and used manually.
- B. "Hunt" or "hunting" means the taking, pursuing, stalking, chasing, driving or tracking of deer while in possession of a bow and arrow.

6.15.02 Prohibitions Against Hunting: Discharge of Bow and Arrow. Except as hereinafter provided, it shall be unlawful to hunt or discharge any bow and arrow within the City limits.

- A. The hunting or discharge of a bow and arrow is permitted within the areas of the City as provided in this section upon securing a permit to do so from the City. An application for such permit shall be obtained from the Chief of Police or his/her designated representative. The permitted areas in which a permit holder will be allowed to hunt are as follows:
 - 1. In any platted or un-platted portion of the City in specific hunting zones approved by the City Council and in such other areas outside of those zones as are annually and specifically approved by the Chief of Police or his/her designated representative which are deemed safe for such activity.

6.15.03. No bow and arrow shall be discharged in any of the following areas within the permitted hunting areas:

- A. Within any park or industrial park located in the City unless specifically allowed;
- B. Within 250 feet of any dwelling or other building (residential or commercial) occupied by or intended for human habitation;
- C. Within 500 feet of any property owned by Independent School District No. 94, the Cloquet School District;
- D. On any other land owned by the City of Cloquet other than parcels on which hunting is particularly permitted;
- E. Within 100 feet of any publicly maintained City trail or improved public roadway.

6.15.04. No hunting of bears with a bow and arrow shall be allowed within the City.

6.15.05. No hunter shall attempt to shoot a deer that is beyond the effective range of the bow being discharged by that particular hunter.

6.15.06. Each hunter must repair or pay for any damage to the property of another that arises from his/her hunting activities and the use of ATV's is not permitted.

6.15.07. No carcass or entrails shall be allowed to remain in open view to the public.

6.15.08. Any hunter that is successful in taking a deer with a bow and arrow within the City shall report that fact to the Chief of Police or his or her designated representative within 24 hours after taking the deer. In addition to any other remedies available to the City, no permit shall be issued to any hunter who has failed to report the taking of a deer in any prior year.

6.15.09. In addition to reporting harvested deer to the Chief of Police or his or her designated representative, the hunter must also register his/her harvested deer with the Minnesota Department of Natural Resources through the Big Game Registration process as prescribed by Minnesota State law.

6.15.10. A hunter may hunt within the permitted areas only on the land described on the application made by the hunter for a permit under this section and only on lands as permitted by the City Council. The applications for permits and the number of hunters allowed per permitted zone will be determined and limited by the Chief. If the number of applications for permits exceeds the number of permits available, the Chief may give preference to residents of the City of Cloquet.

6.15.11. The City of Cloquet requires hunters to first harvest, register through the State of Minnesota - DNR Big Game Registration Process, and report to the Chief of Police and/ or his or her designee one (1) antler-less deer (as defined by the State of Minnesota - "those without an antler at least three inches long") prior to being allowed to harvest an antlered buck. Harvesting more than one antler-less deer is encouraged. The Chief of Police and/or his or her designee will also check hunter records through the State of Minnesota registration process to confirm the harvest of antler-less deer.

6.15.12. The City of Cloquet hunt shall run concurrent with the State of Minnesota's archery hunting season.

6.15.13. Exceptions.

- A. The provisions of this section shall not apply to the discharge of any bow and arrow when discharged within a "bow and arrow" practice range or facility.
- B. The provisions of this section shall not prohibit the use of any bow and arrow in the lawful defense of the person, property, family or in the defense or enforcement of the laws of the City, county, state or United States.
- C. The provisions of this section shall not prohibit the use of any bow and arrow for archery practice.
- D. The provisions of this section shall not prohibit the taking of deer by the Chief of Police or his or her designee by the use of any bow and arrow or any other weapon authorized by the Chief of Police or his or her designee, provided, that such taking of deer is made in compliance with all other applicable State laws, rules or regulations.

6.15.14. Chief of Police to Report.

- A. The Chief of Police shall regularly provide a report to the Council with respect to the operation and effect of this section.
- B. This report shall include the number of deer taken, a description of any incidents, conflicts or problems that occurred with respect to this section during the preceding bow-hunting season and any recommendations for the modifications or the continuation of this section.

6.15.15. Penalty for Violations

- A. Any violation of this ordinance shall constitute a misdemeanor and shall also entitle the Chief to permanently terminate the violating hunter's privilege to hunt within the City of Cloquet.

SECTION 6.16: REGULATION AND LICENSING OF BOWLING ALLEYS

6.16.01 Applicability and Purpose.

Subd. 1 Purpose. The purpose of this Section shall be to establish municipal regulatory powers which will allow the City to regulate bowling alley activities in furtherance of the City's interest to promote the public health, safety, morals and welfare relating to the existence and operation of public bowling alleys.

Subd. 2 Intent. The intent of this Section shall be:

- A. To regulate bowling alleys located and operated in the City.
- B. To provide for administrative procedures as shall be necessary for implementation of the various provisions of this Section.
- C. To provide for administrative fees and penalties necessary for the enforcement of this Section.

6.16.02 Business License Required. No person shall own, operate or permit operation of a bowling alley on any part of the premises owned, leased or operated by him/her or engage in the business of operating a bowling alley in the City without being licensed by the City pursuant to this section.

6.16.03 Application and Procedure.

Subd. 1 Application. Every application for a license shall be made to the City Administrator on a form provided by the City. It shall be accompanied by payment to the City Administrator of the required license fee.

Subd. 2 Content. The application for a license under this Section shall, at a minimum, contain the following information:

- A. The name and address of the owner or owners of the property in which the bowling alley is located.
- B. The name and address of the person or persons who intend to operate the bowling alley.
- C. Names and addresses of any and all other persons having any ownership interest in the premise upon which the bowling alley shall be located, any ownership interest in the business that is being conducted upon the premise.
- D. The location of the bowling alley and legal description of premise to be licensed.
- E. Evidence that the applicant and property being licensed are not delinquent in property taxes, assessments, or other financial claims of the City.

6.16.04 Insurance. A licensee of any bowling alley shall be required to have in force a policy of liability insurance. Satisfactory evidence of coverage by insurance shall be filed with the City Administrator before the license shall be issued. Unless otherwise provided in this Section, a required policy of liability insurance shall provide for protection in at least the following amounts:

- A. For injuries, including death there from, sustained by any one person - \$100,000.00
- B. For property damage - \$10,000.00

6.16.05 License Terms and Fees.

Subd. 1 License Fee. Each applicant shall pay an annual license fee for each bowling alley business. The amount of the license fee for each shall be established by resolution as adopted by the City Council from time to time.

Subd. 2 License Term. Each license shall be issued for a maximum period of time of one year. All licenses shall expire on the last day of June of each calendar year regardless of when the license was issued.

Subd. 3 License Transfers. No license shall be transferred or sold. No refund shall be made for the unexpired portion of any license surrendered to the City or revoked as provided in this section.

Subd. 4 Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

6.16.06 Inspection. Any premise proposed to be licensed shall be first inspected by the City's building official, police department, and/or fire department. The premise must comply with all applicable building codes, fire codes, and health codes of the City of Cloquet, Carlton County and State of Minnesota.

6.16.07 Approval. If, after investigation, the City Administrator and the Chief of Police are satisfied that all requirements of law and this Code have been met, he or she shall present the application to the City Council for action.

6.16.08 Issuance of License. Upon receipt and approval by the City Council of the application, the City Administrator shall issue the appropriate license to the applicant in conformity to and with the provisions of this Section. The license shall be displayed in a conspicuous place on the premises.

6.16.09 Capacity To Be Posted. It shall be the responsibility of the licensee to see that the licensed premises shall not become overcrowded so as to constitute a hazard to the health or safety of persons on the premises. The City fire chief, or designee, may designate the maximum number of persons to be permitted on the licensed premises. Such facility shall post the capacity limitation for their premise in a conspicuous place.

6.16.10 Conduct Of Business.

Subd. 1. Truants. Truants from school shall not be permitted to enter and remain on the premises.

Subd. 2. Curfew. No person violating any curfew law or ordinance shall be permitted to enter or remain on the licensed premises.

Subd. 3. Unlawful Purpose. No person soliciting to or any other unlawful purpose shall be permitted to enter or remain on the licensed premises.

Subd. 4. Controlled Substances. No person selling, transferring, giving, using or in possession of any controlled substance as defined by Minnesota Statutes Chapter 152 shall be permitted to enter or remain on the premises or remain in the area directly adjacent to premises.

Subd. 5. Harassment. No person shall be permitted to harass, threaten or annoy any persons including the use of profanity, and obscene or indecent language.

Subd. 6. Gambling. No person shall be permitted to use the premises for gambling or for the making of bets or wagers.

6.16.11 Persons On Duty. There shall be on duty at all times that the operation of a bowling alley is open to the public, an adult operator or manager who understands the operation of all equipment on the premises. It shall be the duty of the licensee and his/her manager(s) to remain on the premises at all times and enforce the provision of Section 6.16.10 above.

6.16.12 Suspension And Revocation. If an owner or operator and/or anyone under their direction is convicted of any violation of any of the ordinances of the City of Cloquet or the laws of the State of Minnesota in connection with the operation of said bowling alley, the City Council may revoke said license or cause the same to be suspended for a time to be determined by the Council based upon the severity of the violation.