

Chapter 4
AMUSEMENTS

Art. I. In General, Sections 01 through 15

Art. II. Coin-Operated Devices, Sections 16 through 38

Art. III. Performances and Exhibitions, Sections 39 through 55

Art. IV. Gambling, Sections 56 through 62

Art. V. Adult Oriented Businesses, Sections 101 through 115

ARTICLE I. IN GENERAL

Sections 01 through 15. Reserved.

ARTICLE II. COIN-OPERATED DEVICES

Section 16. "Coin-operated" devices defined.

For the purpose of this article "coin-operated" devices or games of skill shall be defined as follows: Any machine or device which, upon the insertion of a coin, token or slug operates the device or for the use thereof a fee is charged and the devices may be operated by the public generally for use as a game, entertainment or amusement. Said term shall include pinball machines, pool, billiards, football, motion picture devices, video games, jukeboxes or any other such mechanical or electronic games or devices. (Ord. No. 109, Sec. 1, 6/7/37; Ord. No. 240, Sec. 1, 8/2/76; Ord. No. 324, Sec. 1, 4/5/82)

Section 17. Licenses required.

No person shall operate or keep for operation any game of skill without having applied for and received a license therefor from the City Council as provided in this article. (Ord. No. 109, Sec. 2, 6/7/37; Ord. No. 240, Sec. 2, 8/2/76)

Section 18. Application; contents.

(a) Each application for a license required by this article shall be made to the City Clerk upon a form to be supplied by the City and shall include the following:

- (1) The name and address of the owner and applicant;

- (2) The name, number and description of the game to be licensed;
- (3) The fee for playing the game and price, if any; and
- (4) Such other information as the Council may require.

(b) If the license is for a place of business the application shall contain, in addition to the foregoing, the following:

- (1) A description of the premises;
- (2) What business is conducted at that place; and
- (3) The name of the proprietor thereof. (Ord. No. 109, Sec. 2, 6/7/37)

Section 19. License fees.

The owner of the game of skill or coin-operated device shall pay an annual license fee of fifteen dollars (\$15.00) per location and fifteen dollars (\$15.00) for each coin-operated device so kept or operated on the premises. (Ord. No. 662, Sec. 1, dated 11-15-99)

Section 20. When licenses commence; prorating of fees.

The annual license issued pursuant to this article shall commence on the first day of October of each year. A license may be issued for a fractional part of a year, provided that each such license shall end the thirty-first (31st) day of December of the fiscal year for which it is issued. License fees are not subject to pro-rating. (Ord. No. 585, Sec.1, dated 10-16-95 and Ord. No. 662, Sec. 2, dated 01-15-99)

Section 21. Reserved.

Editor's note - Ord. No. 240, Sec. 5, adopted 8/2/76, repealed former Sec. 21, dealing with reissuance of the same license for a different game of skill, derived from Ord. No. 109, Sec. 3, adopted 6/7/37.

Section 22. Licenses to be displayed.

Every license granted pursuant to this article for a game of skill shall be attached to the same and every license granted hereunder to the owner or proprietor of a place of business in which a game of skill is kept and operated shall be posted in a conspicuous place within the place of business. (Ord. No. 109, Sec. 5, 6/7/37)

Section 23. Games not to be operated in unlicensed places of business.

The owner of a coin-operated device shall not place or operate the same in any place of business within the City until the proprietor of the place of business has first obtained a license as provided in this article and has posted the license within the place of business. (Ord. No. 109, Sec. 5, 6/7/37; Ord. No. 240, Sec. 6, 8/2/76)

Section 24. Minimum distance games may be located to schools.

No license shall be issued for any game of skill located within one hundred (100) feet of any school building. (Ord. No. 109, Sec. 5, 6/7/37)

Section 25. Minors not permitted to use.

No minor under the age of twelve (12) years, unless accompanied by his parent or guardian, shall operate a coin-operated device as defined in this article. (Ord. No. 109, Sec. 5, 6/7/37; Ord. No. 240, Sec. 7, 8/2/76)

Section 26. Use of devices for gambling purposes prohibited.

No person shall use any device licensed under this article as a gambling device, and no license shall permit any person to use any machine licensed hereunder for gambling purposes. The operation of any lottery or gambling device is declared to be contrary to this article. (Ord. No. 109, Sec. 5, 6/7/37)

Section 27. Revocation.

Upon conviction for the violation of any law of the State relating to gambling involving any game or device required to be licensed by this article or for violating the provisions of this article, the license to operate the same shall be forthwith revoked. (Ord. No. 109, Sec. 6, 6/7/37)

Sections 28 through 38. Reserved.

ARTICLE III. PERFORMANCES AND EXHIBITIONS

Section 39. License required.

No person shall operate any menagerie, circus, show, concert or theatrical performance within this City without obtaining a license. (Ord. No. 10, Sec. 1, 6/12/1875)

Section 40. Application.

Each person desiring a license required by this article shall present an application to the City Clerk which shall contain the name, address, show to be performed and such other information as the City Council may require.

Section 41. Fees.

The fee for a license required by this article shall be paid to the City Treasurer and shall be in the following amounts:

- Menageries or circuses\$25.00 per day
 - Shows, concerts or theatrical performances\$5.00 per day
- (Ord. No. 10, Sec. 1, 6/12/1875)

Section 42. Receipt for fees.

Upon payment of the fees required by this article, the City Treasurer shall issue a receipt for such fees to the applicant. (Ord. No. 10, Sec. 1, 6/12/1875)

Section 43. Issuance.

Upon approval of the application and upon presentation of the receipt for the required fee, the City Clerk shall issue a license. (Ord. No. 10, Sec. 1, 6/12/1875)

Sections 44 through 55. Reserved.

ARTICLE IV. GAMBLING

Section 56. Purpose.

The City Council recognizes that though "lawful gambling" as set forth in Minnesota Law, Section 349.11 to 349.22, may not appeal to all members of society, it is an activity that is engaged in by a significant portion of the population and the financial profits thereof without the aid of Minnesota Statutes, Section 349.11 to 349.22, may or may not be used to the benefit of society.

The City Council of the City of Chaska further recognizes that most charitable organizations and their members provide a much needed and useful service to mankind; and the City Council is especially appreciative of the goals and objectives of all of the charitable or non-profit organizations established or organized within the Chaska community; the Council commends these organizations for their contribution to worthy causes within and without the Chaska community and, therefore, the Council supports the purposes for which Minnesota Laws, Section 349.11 to 349.22 were adopted.

The ability to obtain a license under Minnesota Statutes, Section 349.11 to 349.22 to conduct lawful gambling in the City of Chaska is a privilege granted by the State of Minnesota and the City of Chaska and not a right guaranteed by the Constitutions of the United States of America or the State of Minnesota. The City Council feels that there are many areas within the Chaska community wherein the profits derived from lawful gambling within the City could well be spent to the benefit of the community; and, therefore, would encourage such funds to be used within the Chaska community. (Ord. No. 275, Sec. 1, 2/5/79; Ord. No. 378, Sec. 1, 3/4/85; Ord. No. 381, Sec. 1, 6/3/85)

Section 57. Adoption of Minnesota laws as to lawful gambling.

Minnesota Laws, 1984, Chapter 502, Article 12, Section 1, through and including Section 23, is hereby adopted by reference the same as if it were fully set forth herein except as said Laws are hereinafter modified or amended. (Ord. No. 381, Sec. 2, 6/3/85)

Section 58. Limitations on certain gambling sites.

No more than one licensed organization may conduct lawful gambling on any premises at which there is a gambling site during the same period or periods of time that another licensed organization is

conducting lawful gambling. All leases pertaining to lawful gambling shall state the days of the week during which a licensee may conduct lawful gambling on said premises. This prohibition shall, however, not apply to the conduct of raffles. (Ord. No. 38 1, Sec. 3, 6/3/85)

Section 59. Limitations on certain leases.

The following forms of lawful gambling consisting of paddlewheel, tipboard and pull-tabs may only be conducted by a licensed organization on premises owned by said organization or on premises leased by said organization and which premises has a valid "on-sale" license issued by the City of Chaska pursuant to Chapter 3 of the Code of Ordinances, Chaska, Minnesota. (Ord. No. 381, Sec. 4, 6/3/85).

Section 60. Licenses.

Lawful gambling licenses in the City of Chaska may only be granted to an organization qualified under Minnesota Statutes, Section 349.11 to 349.22 and which such organization has either fifty percent (50%) or more of its active members residing within the City of Chaska or which meet regularly at least once a month, and at least ninety percent (90%) of such regularly scheduled meetings are conducted within the City of Chaska. (Ord. No. 275, Sec. 5, 2/5/79; Ord. No. 381, Sec. 5, 6/3/85)

Section 61. Reports.

Each licensee shall annually, within sixty (60) days after the close of each annual licensing period, file a report with the City Clerk in such form as prescribed by the City, which reports shall show how the profits derived from lawful gambling conducted by such licensee have been spent for lawful purposes as defined by Minnesota Statutes. At least fifty percent (50%) of said profits shall be spent for lawful purposes within the City of Chaska or benefiting persons within the Chaska community. Failure to do so shall be sufficient cause for immediate termination of such license by the City Council. (Ord. No. 381, Sec. 6, 6/3/85)

Section 62. Severability.

If any section, paragraph, phrase, or provision of this ordinance shall be determined invalid for any reason, such determination of invalidity shall not affect the remaining provisions of this Ordinance. (Ord. No. 381, Sec. 7, 6/3/85)

Sections 63. through 100. Reserved

ARTICLE V. ADULT ORIENTED BUSINESSES

PREAMBLE

Whereas, the City of Chaska recognizes the sanctity and fundamental nature of free speech; and

Whereas, the City of Chaska does not intend to regulate or ban speech based on content; and

Whereas, the City has reviewed the State Attorney General's Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses: dated June 6, 1989, which details the effects and impacts of sexually oriented businesses; and

Whereas, the Cities of Shakopee, Hopkins, St. Louis Park, and numerous other cities in the Minneapolis-St. Paul metropolitan area have studied the reports and conducted their own studies and have come to similar conclusions on behalf of their respective communities; and

Whereas, the City of Chaska is similar to the cities in the Attorney General's study and the numerous other cities in the metropolitan area and will experience the same impacts from sexually oriented businesses; and

Whereas, sexually oriented businesses have an impact on the neighborhoods surrounding them distinct from the impact caused by other uses; and

Whereas, residential neighborhoods located within close proximity to sexually oriented businesses experience increased crime rates (sex-related crimes in particular), lowered property values, increased transience, and decreased stability or ownership; and

Whereas, the adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented use increases; and

Whereas, studies of other cities have shown that among the crimes which tend to increase either within or in the near vicinity of sexually oriented businesses are rapes, prostitution, child molestation, indecent exposure and other lewd and lascivious behavior, and

Whereas, sexually oriented businesses are not appropriate in or near locations or areas that attract children, such as parks, pedestrian paths, schools, recreation areas, libraries, and churches; and

Whereas, studies of other cities have shown that the values of both commercial and residential properties either are diminished or fail to appreciate at the rate of other comparable properties when located in proximity to sexually oriented businesses; and

Whereas, the adverse impacts of sexually oriented uses are exacerbated when the uses are located near each other; and

Whereas, the presence of liquor establishments in the immediate vicinity of sexually oriented uses also compounds the adverse impacts on the neighborhood; and

Whereas, the risk of public health and safety problems can be significantly reduced by careful regulation of such businesses.

Section 101. Purpose and Intent

Subdivision 1. Findings It is the purpose of this ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- a. Prevent additional criminal activity within the City;
- b. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate valued of properties within the neighborhood

- c. To locate Adult Oriented Businesses away from residential areas, schools, churches, parks and playgrounds
- d. Prevent concentration of Adult Oriented Businesses within certain areas of the City of Chaska

Subdivision 2. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

Section 102 . Definitions

Subdivision 1. For purposes of this section the terms defined in this section have the meanings given them.

Subdivision 2. Adult Oriented Business. An adult oriented business is a business that is engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- a. A business that is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage, either by operation of law or by the owners of such business, except any business licensed under Chapter 3 of the Code of Ordinances, City of Chaska.
- b. Any business that has at least 30% or 3000 sq ft, whichever is less, of its floor area (not including storerooms, stock areas, bathrooms, basements, attics or any portion of the business not open to the public) or at least 30% of its merchandise on display to the public, devoted to items, merchandise or other materials that is distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to "specified sexual activities" or "specified anatomical areas"; or
- c. Any other use of business defined in Subdivision 3 through 10 of this subsection.

Subdivision 3. Adult Book and/or Media Store. An establishment that has at least 30%, or 3000 sq ft, whichever is less, of its of its floor area (not including storerooms, stock areas, bathrooms, basements, attics, or any portion of the business not open to the public), or at least 30% of its merchandise on display to the public devoted to books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

Subdivision 4. Adult Cabaret. An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other lived entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of "specified sexual activities" or "specified anatomical areas."

Subdivision 5. Adult Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and where in material is presented which is

distinguished or characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

Subdivision 6. Adult Mini-Motion Picture Theatre.

- a. A theatre in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities: or "specified anatomical areas" for observation by patrons therein.
- b. Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas", for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpts of motion pictures offered for sale or rent.

c.

Subdivision 7. Adult Modeling Studio. An establishment which excludes minors from all or part of the establishment, whose major business is the provision, to customer, 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 or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

Subdivision 8. Adult Motion Picture Arcade. Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

Subdivision 9. Adult Motion Picture Theater. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but no limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities": or "specified anatomical areas" for observation by patrons therein.

Subdivision 10. Adult Novelty Business. A business, from which minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devised which simulate human genitals or devices which are designed for sexual stimulation.

Subdivision 11. Specified Anatomical Areas. Are any of the following conditions:

- a. Less than completely and opaquely covered:
 - 1. human genitals, pubic region, or pubic hair;
 - 2. buttocks; and
 - 3. female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernable turgid state, even if opaquely covered.

Subdivision 12. Specified Sexual Activities. Are any of the following conditions:

- a. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
- b. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
- c. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.
- d. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Subdivision 13. Youth Facility. Any facility, or outdoor area where a substantial portion of its use or programs are devoted to, or offered for, activities or recreation for minors, regardless of whether such facility is public or private. Such facilities include, but are not limited to, playgrounds, swimming pools, libraries, or day care facilities.

Section 103. Application of this Ordinance

Except as in this ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this ordinance.

No adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Chaska, the laws of the Sate of Minnesota, or the United States of America. Nothing in this ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinance prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

Section 104. Location

- 1. Adult Oriented Businesses may locate only in the I-Industrial, PID-1, and PID-2 zones,
- 2. No person shall operate an Adult Oriented Business on property, any part of which is located less than 350 feet from community trails, as defined in the City of Chaska’s Comprehensive Plan, or within 1000 feet from any of the uses listed below:
 - a. property used or zoned for residential uses;
 - b. a day care facility, school, library, park, playground, or religious institution;

- c. premises licensed under City Code Chapter 3, relating to liquor, beer, and wine licensing; and
- d. another Adult Oriented Business.

Distances shall be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines or the property parcels where the two uses are located.

Section 105. Hours of Operation.

No Adult Oriented Business site shall be open to the public from the hours of 10:00 p.m. to 8:00 a.m.

Section 106. Operation.

Subdivision 1. Entrances. All entrances provided for the general public shall be visible from a public street with the exception of emergency fire exits which are not usable by patrons.

Subdivision 2. Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing, including but no limited to books, magazines, photographs, video tapes, or any other material.

Subdivision 3. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

Subdivision 4. Signs. In order to protect children from exposure to lurid signs and materials and to avoid the appearance that the windows are boarded-up and that the property is deteriorating, the following sign regulations shall apply to all Adult Oriented Businesses, in addition to the provisions of the City's sign ordinance.

- 1. No merchandise, photos, pictures of the products or TV monitors on the premises shall be displayed in, or immediately behind, window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.
- 2. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A sign no larger than one-square-foot must be placed on the main entrance door and must state, "Adults Only." The letters of this message shall be a minimum of 2 inches high. The only other information on this sign may be the hours of operation.
- 3. Signs shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.

Subdivision 5. Off-Site Viewing. No owner, manager, or employee shall allow any sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

Subdivision 6. Underage Patrons. No owner, manager, or employee shall allow a person under the age of 18 to enter the business.

Subdivision 7. Underage Employees. No owner or manager shall employ a person under the age of 18 on the licensed premises.

Subdivision 8. Limitation on Certain Rooms. No business shall have any booths, stalls, partitioned portions of a room, or individual rooms, except as follows:

1. Rest rooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a rest room, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
2. Storage rooms and private offices are allowed, if such storage rooms and offices are used solely for running the business and no person other than the owner, manager, and employees is allowed in them.

Section 107. Additional Conditions for Adult Cabarets

Subdivision 1. Information on Performers. The owner, operator, or manager of an adult cabaret shall provide the following information to the City concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth, and any aliases.

Subdivision 2. Stage. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.

Subdivision 3. Limitation on performance. No dancer, live entertainer, or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.

Subdivision 4. Touching Performer. No dancer, live entertainer, or performer shall be allowed individual physical contact with any patron.

Subdivision 5. Solicitation or Acceptance of Gratuity. No dancer, live entertainer, or performer shall solicit or accept any pay or gratuity from any patron.

Section 108. Licenses

Subdivision 1. License Required. All establishments, including any business operating at the time this ordinance become effective, operating or intending to operate an Adult Oriented Business, shall apply for and obtain a license with the City of Chaska. A person is in violation of this code if he or she operates an Adult Oriented Business without a valid license issued by the City.

Subdivision 2. Applications. An application for a license must be made on a form provided by the City.

- a. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram 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 inches.

- b. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the appropriate state, county, and local laws and codes by the health official, fire marshal, and building official.
- c. Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, and date of birth of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, and nature of such crime or offense, including the disposition thereof; the names and addresses of creditors of the applicant, owner, lessee, or manager insofar as and regarding the credit which has been extended for the purposes of constructing, equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the business.
- d. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, address, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, and acquisition, maintenance and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the Board of Directors, as well as any creditors who have extended credit for the acquisition, maintenance, operation or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in said operation.
- e. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise.

Subdivision 3. Issuance or Renewal of License The City Administrator shall issue or renew a license to an applicant within thirty (30) days after receipt of an application unless the City Administrator denies the application, having found one or more of the following to be true:

- a. An applicant is under eighteen (18) years of age
- b. An applicant is overdue in his payment to the City, County, or State of taxes, fees, fines, or penalties assessed against him or her or imposed upon him or her in relation to an Adult Oriented Business, or if the State of Minnesota prohibits the issuance of such a license because of taxes, fees, fines or penalties assessed against him or her.

- c. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- d. An applicant has been convicted of a violation of a provision of this chapter, other than the offense of operating an Adult Oriented Business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- e. The premises to be used for the Adult Oriented Business have not been approved by the health official, fire marshal, and the building official as being in compliance with applicable laws and ordinances; such inspections shall be completed within thirty (30) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the inspections shall be completed within thirty (30) days from the date the deficiency has been corrected.
- f. The license fee required by this chapter has not been paid.
- g. An applicant has been convicted of a crime involving any of the following offenses:
 - 1. Any sex crimes as defined by Minnesota Statutes 609.29 through 609.352 inclusive, or as defined by any ordinance or statute in conformity therewith;
 - 2. Any obscenity crime as defined by Minnesota Statutes 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which:
 - Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
 - Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction are of the two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.
 - 3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

Subdivision 4. Requalification. An applicant who has been convicted of an offense listed in Section 108 Subdivision 3 (g) (1) (2) may qualify for an Adult Oriented Business license only when the time period required by Section 108, Subdivision 3 (g) (2) has elapsed.

Subdivision 5. Notice of Decision on Application. The City Administrator shall send notice of a decision on the application within the thirty (30) day review period to the applicant by mail, postage prepaid, at the address on the application. The notice shall state whether the City Administrator finds the application acceptable and a license is to be issued or renewed, or whether the application is denied and the reasons for the denial.

Subdivision 6. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.

Subdivision 7. Council Action. If an application is denied by the City Administrator, the applicant may appeal to the City Council by filing a written notice of appeal with ten (10) days after the notice of decision. Any such appeal must be acted on by the Council with thirty (30) days after the notice of appeal is received by the City. If the Council denies the appeal, the application is denied. Reapplication may be pursued according to the provisions of this chapter. If the Council determines to grant the appeal, the Council shall instruct the City Administrator to issue the license.

Subdivision 8. Correction of deficiency. If the application is denied by the City Administrator, the applicant may correct any deficiency and the Administrator shall act on the corrected application within thirty (30) days from the date the deficiency has been corrected. If the determination of deficiency has been appealed to the City Council the Council shall act on the corrected application within thirty (30) days from the date that the City receives the appeal.

Subdivision 9. Appeals. If the City Council denies the appeal, the applicant may commence an action in state or federal court within fifteen (15) days after notification by the City of the denial for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in his favor.

Subdivision 10. Notification. Any notification required to be sent by the City is deemed completed when mailed by first class mail to the applicant or licensee at the address listed in the application.

Section 109. Fees.

Fees shall be set by City Council Resolution.

Section 110. Inspection.

Subdivision 1. Access. An applicant or license shall permit health officials, representatives of the police department, fire department, and building inspection division to inspect the premises of an Adult oriented Business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

Subdivision 2. Refusal to Permit Inspections. A person who operates an Adult Oriented Business or his agent or employee commits an offense if she or he refused to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 112.

Subdivision 3. Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Section 111. Expiration and Renewal.

Subdivision 1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 108, Subdivision 1. Application for renewal should be made at least sixty (60) days before the expiration date and, when made less than sixty (60) days before the expiration date, the license may expire, depending on the timing of the application and possible appeals, as described above in Section 108, Subdivision 1.

Subdivision 2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for 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 denial became final.

Section 112. Suspension.

Subdivision 1. Causes of Suspension. The City Council may suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

- a. Violated or is not in compliance with any provisions of this chapter.
- b. Engaged in the use of sale of alcoholic beverages or controlled substances while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.
- c. Refused to allow an inspection of the Adult Oriented Business premises as authorized by this section.
- d. Knowingly permitted gambling by any person on the Adult Oriented Business premises.
- e. Demonstrated inability to operate or manage an adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

Subdivision 2. Notice. A suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

Subdivision 3. Appeal. If the City Council suspends a license, the licensee may commence an action in state or federal court within fifteen (15) days after notification by the City of the suspension for purposes of determining whether the City Council acted properly. The licensee may continue doing business until the conclusion of the action.

Section 113. Revocation.

Subdivision 1. Causes of Revocation. The City Council may revoke a license if it determines that:

- a. A licensee gave false or misleading information in the material submitted to the City during the application process;
- b. A licensee or an employee has knowingly allowed possession, use or sale of alcoholic beverages or controlled substances on the premises;
- c. A licensee or an employee has knowingly allowed prostitution on the premises;
- d. A licensee or an employee knowingly operated the Adult oriented Business during a period of time when the licensee's license was suspended;

- e. A licensee has been convicted of an offense listed in Section 108, Subdivision 3 (g) (1) (2), for which the time period required in Section 108, Section 3 (g) (2), has not elapsed.
- f. On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 108, Subdivision 3, for which a conviction has been obtained, and the person or persons were employees of the Adult Oriented Business at the time the offenses were committed.
- g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, or masturbation to occur in or on the licensed premises.
- h. If a cause of suspension in Section 112 occurs within thirty-six (36) months after suspension of a license.

Subdivision 2. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subdivision 3. Exceptions. Section 113, Subdivision 1 (g) does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

Subdivision 4. Granting a License after Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one-year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Section 113, Subdivision 1, an applicant may not be granted another license until the appropriate number of years required under Section 108, Subdivision 3 has elapsed.

Subdivision 5. Notice. A revocation by the City Council shall be by written notice to the licensee and a hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

Subdivision 6. Appeal. If the City Council revokes a license, the licensee may commence an action in state or federal court within fifteen (15) days after notification by the City of the revocation for purposes of determining whether the City Council acted properly. The licensee may continue doing business until the conclusion of the action.

Section 114. Transfer of License.

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

Section 115. Severability.

Every section, provision, or part of this ordinance or any permit issued to this ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this ordinance or any permit issued pursuant to this ordinance shall be held invalid

by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.
(Ord. No. 636, Article V, Section 101-115, 04-20-98)