

CHAPTER 3. LICENSING**Section 300 – Cigarettes**

300.01 Purpose. Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of State laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Section shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

300.02 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 masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. The following terms shall have the definitions given to them:

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. The term shall also apply to any purchase or attempted purchase of tobacco, tobacco products, or tobacco related devices for training, education, or research purposes as authorized by State law. Compliance checks may involve the use of minors as authorized by this Section.

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

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

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

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

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 be limited to, grocery stores, convenience stores, and restaurants.

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

Self-Service Merchandising. “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any way where any person shall have access to the product without the assistance or intervention of an employee of the premise maintaining the self-service merchandising. Self-Service merchandising shall not include vending machines.

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 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 flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

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 product, or tobacco related device.

300.03 License. No person shall sell or offer to sell any tobacco, tobacco product, 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 address and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the council for action at its next regularly scheduled council meeting. If the Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2 Action. The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the Administrator shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant’s right to appeal the council’s decision.

Subd. 3 Term. All licenses issued under this Section shall be valid for the calendar year, or portion thereof, in which the license is issued.

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

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

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 Display. 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 before the expiration of the current license. The issuance of a license issued under this Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

300.04 Fees. No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license under this Section shall be as set from time to time by the Council in the fee schedule.

300.05 Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
- C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

300.06 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 Subsection 300.02 of this Code.
- C. Containing opium, morphine, jimpson 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, ordinance provision, or other regulation.

300.07 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 premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State law, or other applicable law or regulation.

300.08 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the city's designated law enforcement agent or other authorized city official during regular business hours. Other persons may also conduct compliance checks for training, educational, or research purposes as authorized by State law. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minors age asked by the license or his or her employee and shall produce any identification for which he or she is asked.

300.09 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 products, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check, or who have only temporary possession during a legal sales transaction.

Subd. 2 Illegal Use. It shall be a violation of this Section for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco products, or tobacco related device.

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 products, or tobacco related device, 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 violation of this Section for any person to sell or otherwise provide any tobacco, tobacco products, or tobacco related device to any minor, and 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 products, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the city.

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

300.10 Violations and Penalties. Upon discovery of a suspected violation, the violator shall be issued a citation by the city's designated law enforcement agent and given notice of his or her right to be heard on the accusation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. Any person found to be in violation of this Section shall be guilty of a misdemeanor and shall be subject to the maximum penalty authorized by State law for a misdemeanor. In addition to any fine or other penalty, whether administrative, civil, or criminal, violation of this Section by a licensee under this Section shall be grounds for the suspension or revocation of the license. Before any license is suspended or revoked under this Section, the licensee shall be given notice of the accused violation and shall be given the right to request a hearing on the matter and to appeal the findings of the hearing on suspension or revocation.

300.11 Exceptions and Defenses. Nothing in this Section shall prevent the providing of tobacco, tobacco products, 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.

Section 310 – Peddlers, Solicitors, and Transient Merchants

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

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

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.

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

Solicitor. The term “solicitor” shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term canvasser.

Transient Merchant. The term “transient merchant” shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling, or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than one hundred twenty (120) consecutive days.

310.02 Exceptions to Definitions. For the purpose of the requirements of this Section, the terms “peddler,” “solicitor,” and “transient merchant” shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer of the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, not shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemption from the definitions for the scope of this Section shall not excuse any person from complying with any other applicable statutory provision or local Section.

310.03 Licensing.

Subd. 1 County License Required. No person shall conduct business as a peddler, solicitor, or transient merchant within the City limits without first having obtained the appropriate license from the County as required by Minnesota Statutes Chapter 329 as amended.

Subd. 2 City License Required. Except as otherwise provided for by this Section, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City.¹

Subd. 3 Application. Application for a City license to conduct business as a peddler or transient merchant shall be made at least three (3) regular business days prior to the closest regularly scheduled council meeting before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the offices of the City Administrator. All applications shall be signed by the applicant. All applications shall include the following information:

¹ Court decisions prohibit licensing of Solicitors. See 310.08.

- A. Applicant's full legal name.
- B. All other names under which the applicant conducts business or to which applicant officially answers.
- C. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, etc.).
- D. Full address of applicant's permanent residence.
- E. Telephone number of applicant's permanent residence.
- F. Full legal name of any and all business operation(s) owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
- G. Full address of applicant's regular place of business (if any).
- H. Any and all business related telephone number(s) of the applicant.
- I. The type of business for which the applicant is applying for a license.
- J. Whether the applicant is applying for an annual or daily license.
- K. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City.
- L. Any and all address(s) and telephone number(s) where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.
- M. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violations of any state or federal statute or any local Section, other than traffic offenses.
- N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler, solicitor, or transient merchant.
- O. Proof of any required county license.
- P. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- Q. A general description of the items to be sold or services to be provided.
- R. If the license is on behalf of a group of people, the names or adequate identifying description of all parties intended to be authorized by the group license.
- S. All additional information deemed necessary by the City Council.

Subd. 4 Fee. All applications for a license under this Section shall be accompanied by the fee established in the City's fee schedule as adopted from time to time by the Council.

Subd. 5 Procedure. Upon receipt of the completed application and payment of the license fee, the City Administrator shall forward the application to the Council prior to the next regularly scheduled council meeting. An application shall be determined to be complete only if all required information is provided. The City Administrator, within two regular business days of receipt, shall determine if the application is complete. If the Administrator determines that the application is incomplete, the Administrator shall inform the applicant of the required necessary information which is missing. The Council shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. The Council shall, at the meeting following receipt of the application, vote whether or not to issue the license. If the Council approves the application, the Administrator shall be instructed to issue a license to the applicant. If the Council rejects the application, the applicant shall be notified in writing of the Council's decision, the reason for the denial, and of his or her right to appeal the denial by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

Subd. 6 Duration. An annual license granted under this Section shall be valid for one calendar year from the date of issue. All other licenses granted under this Section shall be valid only during the time period indicated on the license.

310.04 License Exemptions. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm. No license shall be

required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights (i.e., freedom of speech, press, religion etc.). Except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity. Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.²

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

- A. The failure of the applicant to obtain and show proof of having obtained any required County license.
- B. The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
- C. The conviction of the applicant within the past five years from the date of application, for any violation of any Federal or State statute or regulation, or of any local Section, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the City. Such violations shall include but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- E. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaint(s) against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or 6 such complaints filed against the applicant within the preceding five (5) years.

310.06 Suspension and Revocation. Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- A. Fraud, misrepresentation, or incorrect statements on the application form.
- B. Fraud, misrepresentation, or false statements made during the course of the licensed activity.
- C. Conviction of any offense for which granting a license could have been denied under Subsection 310.05 of this Code.
- D. Violation of any provision of this Section.

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

Subd. 1 Notice. Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

Subd. 2 Public Hearing. Upon receiving the notice provided in Subdivision 1, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Administrator within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or

² Court decisions prohibit licensing these types of activities.

revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled within twenty (20) days from the date of the request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

Subd. 3 Emergency. If in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this Section, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Subdivision 2 of this Section.

Subd. 4 Appeals. Any person whose license is suspended or revoked under this Section shall have the right to appeal that decision in court.

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

310.08 Registration. All solicitors, and any person exempt from the licensing requirements of this Section under Subsection 310.04, shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately 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-transferable.

310.09 Prohibited Activities. No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- B. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- C. Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.
- D. Conducting business before seven o'clock in the morning (7:00 a.m.), or after nine o'clock at night (9:00 p.m.).
- E. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

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

310.11 Violations and Penalties. Any person who violates any provision of this Section shall be guilty of a misdemeanor and upon conviction of any violation shall be subject to a fine not to exceed seven hundred dollars (\$700) or a jail sentence not to exceed ninety (90) days, or both, plus the cost of prosecution. Each day a violation exists shall constitute a separate violation for the purposes of this Section.

Section 320 – Garbage, Refuse and Recyclables

320.01 Declaration of Public Policies and Purpose. The City Council finds that it shall be in the best interest of the public to encourage, and in certain instances, compel, the use of methods of disposing of waste which help preserve and benefit our environment; and the benefits to be derived from the enactment of this Section shall be in the best interest of the public.

320.02 Definitions. As used in this Section the following words and phrases shall have the meanings ascribed to them:

Approved Landfill Site or Disposal Depot. “Approved Landfill Site or Disposal Depot” shall mean a site for the disposal of waste approved by the County, and operated in accordance with the rules and regulations of the Minnesota Pollution Control Agency (MPCA).

Collection. “Collection” shall mean the aggregation of mixed municipal solid waste from the place at which it is generated and shall include all activities up to the time the waste is delivered to a waste facility.

Collector. “Collector” shall mean any person or company collecting or hauling the waste, garbage, or rubbish of another for hire.

Commercial Establishment. “Commercial Establishment” shall mean any premise where a commercial, industrial or agricultural enterprise of any kind is carried on, and shall include clubs, churches and schools.

Commingled (e.g., dumpster-type) Residential Collection. “Commingled Residential Collection” shall mean collections from any building consisting of more than one dwelling unit wherein each unit has an individual kitchen and wherein the mixed municipal solid waste of each unit is mixed with the waste of other units prior to the collection efforts of licensed haulers.

Construction Debris. “Construction Debris” shall mean waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of building and roads.

Generator. “Generator” shall mean any person or company who produces or causes the production of mixed municipal solid waste.

Garbage. “Garbage” shall mean putrescible animal, vegetable or organic refuse resulting from the handling, preparation, cooking and consumption of food.

Individual (e.g., curbside) Residential Collection. “Individual (e.g., curbside) Residential Collection” shall mean collection from any building consisting of one or more dwelling units wherein each unit has an individual kitchen and wherein the mixed municipal solid waste of each unit is separately collected by licensed haulers.

Mixed Municipal Solid Waste. “Mixed Municipal Solid Waste” shall mean garbage, refuse, and other solid waste from residential, commercial, industrial and community activities which is generated and collected in aggregate, but excluding auto hulks or large auto parts, street sweepings, ash, construction debris, mining waste, sludges, household hazardous waste, tree and agricultural wastes, tires, lead acid batteries, used oil, yard waste, and other materials collected, processed, and disposed of as separate waste streams.

Multiple Dwelling. “Multiple Dwelling” shall mean any building used for residential purposes consisting of more than two (2) dwelling units with individual kitchen facilities for each.

Recyclable. “Recyclable” shall mean materials which can be separated from the mixed municipal solid waste stream for collection and preparation from reuse in their original form, or for other uses in manufacturing processes that do not cause the destruction of the recyclable materials in a manner that precludes further use.

Recycling Center or Recycling Depot. “Recycling Center or Recycling Depot” shall mean a site, either publicly or privately owned and operated, equipped to receive, handle, store and process recyclable materials.

Residential Dwelling. “Residential Dwelling” shall mean any single building consisting of two (2) or less dwelling units with individual kitchen facilities for each.

Rubbish. “Rubbish” shall mean nonputrescible solid waste of all kinds, combustible or noncombustible, consisting of tin cans, glass, paper, cardboard, yard clippings, wood, ashes, street sweepings and all other inorganic refuse.

Special Pick-up. “Special Pick-up” shall mean any collection of materials other than garbage, recyclables or yard waste, including white goods (e.g., large appliances), furniture, oversized materials, construction debris, and other materials collected, processed, and disposed of as separate waste streams.

Targeted Recyclables. “Targeted Recyclables” shall mean metal containers, glass containers, newsprint, or other materials described as follows:

- A. Aluminum Recyclables. “Aluminum Recyclables” shall mean clean aluminum foil and all disposable containers fabricated primarily of aluminum and commonly used for soda, beer, or other beverages.
- B. Bi-metal Recyclables. “Bi-metal Recyclables” shall mean cans containing or using two metals. More specifically, “tin” cans manufactured of steel and tin and which have all paper removed therefrom and both ends flattened. Bi-metal recyclables may be commingled with aluminum.
- C. Glass Recyclables. “Glass Recyclables” shall mean all glass bottles and jars which shall be rinsed clean. Glass recyclables shall be considered to be three colors: clear, green, brown; and, each color shall be placed in a separate bag or box according to color and placed in the recycling container.
- D. Paper Recyclables. “Paper Recyclables” shall mean paper of the type commonly referred to as newsprint. Bundled and tied, or placed in large brown paper grocery bags. Expressly excluded from paper recyclables; however, shall be all magazines with glossy paper or similarly constructed periodicals and paper products.
- E. Waste. “Waste” shall be all encompassing and shall include all discarded matter or materials.
- F. Yard Waste. “Yard Waste” shall mean organic materials consisting of grass clippings, leaves and other forms of organic garden waste, but excluding bushes, fibrous brush, woody materials, or other materials that are not readily compostible within a calendar year.

320.03 Compliance with Section Required. Every person occupying a residential dwelling, multiple dwelling, motel, store, restaurant, mobile home park, or commercial establishment, or combination thereof shall dispose of waste as provided in this Section.

320.04 Certain Accumulations Declared a Nuisance; Abatement. Any accumulation of garbage and other putrescible matter not stored in containers which comply with this Section or which has remained on the premises for more than one (1) week, or which is offensive by reason of appearance, odor or sanitation, or which creates a fire hazard, shall be hereby declared to be a nuisance and shall be abated as provided by Minnesota Statutes and

this Code. The cost of abatement may be assessed against the property where the nuisance was found as provided in said Sections.

320.05 Standards for Containers.

Subd. 1 Generally; Notice of Defective Container. It shall be the duty of each person owning or maintaining containers for waste to maintain them in a sanitary condition. The containers shall be located in such a manner as to prevent them from being overturned and shall be kept free from any substance which shall attract or breed flies, mosquitoes, other insects or rodents. No waste container for a residential dwelling unit shall have ragged or sharp edges, or any defects liable to impede or injure the person collecting the contents thereof. Containers not complying with the requirements of this Section shall be promptly replaced by the person owning or maintaining upon notice by the City. Whenever a container is in poor repair the collector shall tag the container with a notice of defects and the requirements to repair or replace the container. A copy of the notice shall be given to the City, and if, upon the next collection date, the container has not been repaired or replaced, the collector shall notify the City and discontinue collection from the premises. The City shall then enforce the provisions of the penal section of this Code against the person owning or maintaining the defective container.

Subd. 2 Garbage. Garbage containers shall be easily handled and contain waste in such a manner as to not leak or spill its contents.

Subd. 3 Recyclables. Recyclable containers shall be of a kind suitable for collection purposes, and shall be of such size and weight that they can be handled by one (1) person.

320.06 Container Requirements for Multiple Dwellings. Multiple dwellings having more than two (2) family units shall either be equipped with waste containers and pickup service as provided in this Section or be equipped with a commercial incinerator complying with the requirements of the MPCA. Waste containers provided as an alternative to or in addition to the incinerator shall be at least one (1) cubic yard in capacity, shall be conveniently located in relationship to the residence units for which they are provided, shall be watertight, insectproof, rodentproof, and fireproof, and provided with a lid with the exception of recyclable containers. The person or company owning or operating the multiple residence shall provide for pickup from the containers. Waste discard shall not be permitted to accumulate at or near the enclosure except in the container.

320.07 Reservation of Right to Alter Method Waste Collection. No collector licensed pursuant to this Section shall acquire a vested right in the license issued, and the City may, upon a finding that the public necessity requires, establish other means of waste collection.

320.08 Duty of Collectors Generally.

- A. It shall be the duty of each licensed waste collector to pick up all waste of the licensee's customers which has been deposited for collection in the manner provided in this Section.
- B. All waste, waste bags, wrappings, cans and disposable containers deposited for pickup as provided in this Section shall be picked up by the licensed collector so that no items shall be left adjacent to the street or alley. After pickup, reusable waste cans and containers shall be returned by the collector to the same place where deposited or situated for pickup.
- C. Each licensee shall be responsible for his or her own billings, however, the licensee shall submit with his or her application for a license or renewal, a copy of the rates to be charged so that the city may verify compliance with State law.

320.09 Preparation of Waste for Collection; Prohibited Substances. Except as otherwise provided in this Section, all waste accumulated on any property shall be drained of all liquids, shall be wrapped or bagged and placed and kept in containers. No explosive or highly inflammable materials shall be prepared and placed in

containers for collection. The explosive and highly inflammable materials shall only be disposed of as directed by the fire marshal of the City at the expense of the owner or possessor thereof.

320.10 Frequency of Disposal.

Subd. 1 Residential and Multiple Dwellings. Waste shall be disposed of at least once each week from residential dwellings and multiple dwellings.

Subd. 2 Commercial Establishments. Waste at any commercial establishment shall be disposed of at least once each week and at more frequent intervals if deemed necessary to protect the public health, and by order of the City.

320.11 Place Containers for Collection. In those areas where the premises are served by an alley, on the day of collection the waste containers shall be deposited for pickup adjacent to the alley from which the pickup is to be made. In those areas where the premises are not served by an alley, on the day of collection the waste or containers shall be deposited for pickup in a place on the premises, at a place either adjacent to the curbside or the building in accordance with the agreement between generator and collector.

320.12 Disposal of Waste to Be at Approved Sites Only. No person or company shall dispose of waste anywhere within the City except at an approved landfill site or disposal depot, recycling center or depot as defined in Section 320.01.

320.13 Owners Permitted to Dispose of Garbage. Nothing in this Section shall be construed so as to prohibit the owner or occupant from disposing of waste by delivering same to an approved landfill site, disposal depot, recycling center or depot.

320.14 Collection Vehicles. A licensed collector shall comply with the following requirements. Failure to observe these provisions may be grounds for the suspension or revocation of a license:

- A. The licensee shall operate in a manner consistent with the application materials submitted to the City and shall provide notice to the City within ten (10) days of any change in the information.
- B. No collection of mixed municipal solid waste or recyclable material shall be made except between the hours of 6:00 a.m. and 4:30 p.m., Monday through Friday. Operations during these hours may also be conducted on Saturday, to accommodate recognized national holidays or a special pick-up. No collection of yard waste shall be made except between the hours of 6:00 a.m. and 4:30 p.m., Monday through Saturday. Customers shall be reasonably notified by the licensee of the specific day and hours for the collection of their yard waste, mixed municipal solid waste and/or recyclables and the licensee shall collect the materials within those time periods.
- C. Each licensed collector shall only use vehicles and equipment so constructed that the contents shall not leak or spill. The vehicles and equipment shall be kept clean and as free from offensive odors as possible, and shall not stand in any street, alley, or public place longer than is reasonably necessary to collect mixed municipal solid waste, yard waste, and/or recyclables. The licensee shall also ensure that the collection site shall be left tidy and free of litter.
- D. Each licensed collector shall provide its customers with an opportunity to recycle through the weekly curbside collection of targeted recyclables. The curbside collection of targeted recyclables shall be on the same day as the collection of the customer's mixed municipal solid waste, but may occur at a different time within that day. The targeted recyclables collection shall be from a location at or near the customer's mixed municipal solid waste collection site, or such other location mutually agreeable to the hauler and the customer. The licensee may specify how a customer is to place and prepare their targeted recyclables for collection. Upon collection the licensee shall also be deemed the owner of the recyclables and upon collection, the licensee may market or sell them. Nothing in this Section shall be construed to

prevent a licensee from offering curbside collection for other recyclable material or other “special” pickups, in addition to the targeted recyclables.

320.15 License Required.

- A. No person shall collect or haul mixed municipal solid waste or recyclables collected in the City without first securing a license from the City. No more than two concurrent licenses shall be issued in any calendar year.
- B. The license shall be valid for three years and shall expire on December 31 of the third year unless revoked sooner. Each license shall be renewable.
- C. An applicant for a license shall make application to the City Administrator through forms and procedures prescribed by the City Administrator.
- D. The annual license fee shall be as established by resolution of the City Council from time-to-time and shall be payable in full in certified funds at the time of application.
- E. The City Administrator shall issued a license only after receipt, review, and approval by the Council of all required forms and fees.
- F. The license requirements of this Section shall not apply to persons who haul garbage, refuse, or recyclables from their own residents or business properties, provided that the following conditions shall be met:
 - 1. Garbage shall be hauled in containers equipped with tight fitting covers and which shall also be watertight on all sides and the bottom;
 - 2. Waste and recyclables shall be hauled in a manner that prevents leakage or any possibility of a loss of cargo;
 - 3. Garbage and waste, except recyclables, shall only be dumped or unloaded at designated sanitary landfills or other facilities authorized by Carver County;
 - 4. Recyclables shall only be dumped or unloaded at a recycling facility, an organized recycling drive, or through licensed collectors;
 - 5. Yard waste shall be privately composted or shall only be dumped or unloaded at a composting facility authorized by Carver County, or through a licensed collector.

320.16 Contents of Application. Each application for license required by this Section shall include:

- A. The name, address, telephone number, Social Security number and Minnesota Tax Identification number of the owner or owners of the business;
- B. A description of the types and makes of motor vehicles and equipment used;
- C. The extent and source of public liability and property damage insurance carried on the motor vehicles and equipment used;
- D. A schedule of the charges to be made to customers and the time period that the charges shall remain effective;
- E. The place of disposal of waste collected; and
- F. Such other information as may be required.

320.17 Insurance Requirements.

- A. The minimum limits of coverage for insurance required by this Section shall be:
 - 1. Each person injured, at least \$250,000.00.
 - 2. Each accident, at least \$500,000.00.
 - 3. Property damage, at least \$100,000.00.

- B. The insurance shall be kept in force during the term of the license and shall provide for notification to the City prior to termination or cancellation. The license shall provide evidence of effective insurance coverage to the City within five (5) days of a written request for certification of coverage.
- C. Any license issued pursuant to this Section shall automatically be revoked upon notice of termination or cancellation of the insurance and shall remain revoked until and unless other insurance shall be provided as required in this Section.

320.18 Suspension or Revocation of License. Upon the recommendation of the City Administrator or on its own motion, the City Council may suspend or revoke the license of any person whose conduct shall be found to be in violation of the provisions of this Chapter. Suspension or revocation may also be based on other health, safety, or welfare concerns arising out of the performance of the licensee, its employees and agents, and/or its vehicles and equipment. Revocation or suspension of a license by the Council shall be preceded by a public hearing conducted in accordance with Minnesota Statutes, Sections 14.57 to 14.70. The City Council may appoint a hearing examiner or may conduct a hearing itself. The hearing notice shall be given at least ten (10) days prior to the hearing, include notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

320.19 Unlawful Collection. It shall be a misdemeanor for any person or business to scavenge, collect, or otherwise remove mixed municipal solid waste, recyclables, or yard waste that has been placed at the curb or in recycling containers, without a license from the City and an account relationship with the owner, lessee, or occupant of the premises.

320.20 Additional Recyclables. Additional recyclable materials may be designated as targeted recyclables by resolution of the City Council after the effective date of the enactment of this Code. The designation process shall be as follows:

- A. Each licensed collection shall be given 120 days written notice of proposed additions to the list of targeted recyclables. The notice shall specifically describe the material(s) proposed for addition and also describe how the addition might affect the duties and obligations of a licensee.
- B. Each licensed collector shall also be given written notice at least ten (10) days in advance of the time and date of the City Council meeting that shall consider the proposed addition to the list of the targeted recyclables.
- C. Notice shall be deemed given by regular mail, to the address provided on the most recent license application or renewal form.

Section 330 – Telecommunications

330.01 Definitions. The terms defined in this Section have the meanings given them.

Company. “Company” shall mean a natural or corporate person, business association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove or relocate facilities in the city.

Director. “Director” shall mean the director of public works or his or her designated representative.

Facilities. “Facilities” shall mean telecommunications equipment of any kind, including but not limited to audio, video, paging, facsimile or similar service, not governed by Minnesota Statutes, chapter 238, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased or operated by a company on, over, in, under, across, or along public ground.

Public Ground. “Public Ground” shall mean highways, roads, streets, alleys, public ways, utility easements and public grounds in the city.

330.02 Permit Required. A company may not construct, install, repair, remove, or relocate facilities, or any part thereof, in, on, over, under, or along public ground without first obtaining a permit from the city.

Subd. 1 Application. Application for a permit is made to the director.

Subd. 2 Issuance. If the director determines that the applicant has satisfied the requirements of this Section the director may issue a permit to the company. An applicant may contest a permit denial or the conditions of approval by written notice to the Administrator requesting a city council review within fourteen (14) days of the director’s action. The Council shall hear any contest of the director’s actions under this Section within forty-five (45) days of the City Administrator’s receipt of the contest notice. Nothing in this Section precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to the issuance of a permit set forth herein.

Subd. 3 Permit Fee. The application shall be accompanied by the permit fee set by the city council by resolution.

330.03 Security for Completion of Work. Prior to commencement of work, the company shall deposit with the city security in the form of certified check, letter of credit or construction bond, in a sufficient amount as determined by the director for the completion of the work. The securities shall be held until the work is completed plus a period of one (1) month thereafter to guarantee that restoration work has been satisfactorily completed. Upon application of the company, providing such information as the director may require, if two or more work projects are to be constructed during a calendar year, the director may accept, in lieu of separate security for each project, a single security for multiple projects in such form and amount as determined, in the discretion of the director, to be sufficient to assure completion of all projects which may be in progress at any one time during that calendar year and to guaranty that restoration work will be satisfactorily completed. The security will then be returned to the company with interest if required by law and then interest at the applicable statutory rate.

330.04 Inspection of Work. When the work is completed the company shall request an inspection by the director. The director shall determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval.

330.05 Restoration. Upon completion of the work, the company shall restore the general area of the work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for two years thereafter. The work shall be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and restore the public ground to the same condition, the city may put it in the same condition at the expense of the company. The company shall, upon demand, pay to the city the direct and indirect cost of the work done for or performed by the city, including but not limited to the city’s administrative costs. To recover its costs, the city shall first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy shall be in addition to any other remedies available to the city.

330.06 Company Initiated Relocation. The company shall give the city written notice prior to a company initiated relocation of facilities. A company initiated relocation shall be at the company’s expense and shall first be approved by the city, such approval not to be unreasonably withheld.

330.07 City Required Relocation. The company shall promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the city requires such relocation.

330.08 Relocation Where Public Ground Vacated. The vacation of public ground shall not deprive the company of the right to operate and maintain its facilities in the city. If the vacation proceedings are initiated by the company, the company shall pay the relocation costs. If the vacation proceedings are initiated by the city or other persons, the company shall pay the relocation costs unless otherwise agreed to by the city, company and other persons.

330.09 Company Default.

Subd. 1 Notice. If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements, for more than 30 days after receiving written notice from the city of the default, the city may terminate the rights of the company under the permit. The notice of default shall be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice shall be served on the company by personally delivering it to an officer thereof at its principal place of business in Minnesota or by certified mail to that address.

Subd. 2 City Action on Default. If the company is in default in the performance of the work authorized by the permit, the city may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company shall reimburse the city for the city's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under this Section shall be applied by the city first toward payment for such reimbursement.

330.10 Indemnification.

Subd. 1 Scope. The company shall indemnify, keep and hold the city, its elected officials, officers, employees, and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, removal, relocation or operation of the facilities affecting public ground, unless such injury or damage is the result of the negligence of the city, its elected officials, employees, officers, or agents. The city shall notify the company of claims or actions and provide a reasonable opportunity for the company to accept and undertake the defense.

Subd. 2 Claim Defense. If a claim or action is brought against the city under the circumstances where indemnification applies, the company, at its sole expense, shall defend the city if written notice of the claim or action is given to the company within a period wherein the company is not prejudiced in the defense of such claim or action by lack of such notice. If the company undertakes the defense, the company shall have complete control of such claim or action, but it may not settle without the consent of the city, which shall not be unreasonably withheld. This section shall not, as to third parties, a waiver of any defense or immunity otherwise available to the city. In defending any action on behalf of the city, the company is entitled to assert every defense or immunity that the city could assert in its own behalf.

330.11 Other Conditions of Use.

Subd. 1 Use of Public Ground. Facilities shall be located, constructed, installed, maintained or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground. The facilities shall be subject to additional conditions of the permit as established by the director including but not limited to (i) the right of inspection by the city at reasonable times and places; (ii) the obligation to relocate the facilities pursuant to Section 3, Subdivision 3 and 4; and (iii) compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission and other state and federal law, including prompt compliance with the requirements of the Gopher State One Call program, Minnesota Statutes Chapter 216D.

Subd. 2 Location. The facilities shall be placed in a location agreed to by the city. The company shall give the city forty-five (45) days advanced written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the city's receipt of the company's written notice the city shall notify the company in writing of the city's acceptance or rejection of the proposed location. If the city rejects the company's proposed location, the city shall propose alternative locations. The city shall not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

Subd. 3 Emergency Work. A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In such event the company shall request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event, may the company undertake such an activity which will result in the closing of a street or alley without prior notification to the city.

Subd. 4 Street Improvements, Paving, or Resurfacing. The city shall give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice shall contain (i) the nature and character of the improvements; (ii) the streets upon which the improvements are to be made; (iii) the extent of the improvements, the time when the city will start the work; and , (iv) if more than one street is involved, the sequence in which the work is to proceed.

Subd. 5 Company Protection of Facilities. The company shall take reasonable measures to prevent the facilities from causing damage to persons or property. The company shall take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company shall take specific protective measures when the city performs work near the facilities.

Subd. 6 Prior Service Connections. In cases where the city is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five year period following the paving or resurfacing.

Subd. 7 Effective Date and Applicability to Existing Facilities. Companies with facilities in, on, over, under, or along public ground on the effective date of this Code shall take prompt action to comply with this Section and the permits authorized by this Section. A company, however, shall not be required to reapply for a permit obtained from the city prior to the effective date of this Code. A company shall not be required to pay the difference between the permit fee of a previously obtained permit and the equivalent newly obtained permit under this Section. All other provisions of this Section shall apply to existing facilities.

Subd. 8 Acceptance of Requirements. By receiving a permit pursuant to this Section, the company shall accept and agrees to comply with all of the requirements of this Section.

Subd. 9 Public Ground Other Than Right-of-Way. Nothing in this Section shall be intended to grant to the company authority beyond that given by Minnesota Statutes Section 222.37 for use of the public right-of-ways for construction and operation of facilities. If the city allows the company to use its non-right-of-way public ground, the terms of this Section apply to the extent they are consistent with the contract, statutory and common law rights the city owns in such property.

330.12 Regulations; Permit Schedules. The director shall be authorized and directed to prepare suitable regulations and schedules for the administration of permits issued under this Section.

Section 340 – Adult Entertainment Uses/Sexually Oriented Business

340.01 License Required. All establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate Adult Entertainment Uses/Sexually Oriented Businesses, shall apply for and obtain a license from the City of Norwood Young America. A person is in violation of the City code if he or she operates an Adult Oriented Business without a valid license, issued by the City. *(Amended by Ord.153, 7-28-03)*

340.02 Application. An application for a license must be made on a form provided by the City and shall include:

- A. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation.
- B. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's.
- C. The address and legal description of the premises where the adult establishment is to be located.
- D. A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or business by the applicant, operator, or manager. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation.
- E. Whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, whether or not those owners of more than five percent of the issued and outstanding stock have ever applied for or held a license to operate a similar type of business in another community.
- F. The activities and types of business to be conducted.
- G. The hours of operation.
- H. The provisions made to restrict access by minors.
- I. A building plan of the premises detailing all internal operations and activities. *(Amended by Ord.153, 7-28-03)*

340.03 License Fee. The license fee provisions for adult establishments are:

- A. The annual license fee shall be set by resolution.
- B. An application for a license must be accompanied by payment of the required license fee. Upon rejection of an application, the license fee shall be refunded. *(Amended by Ord.153, 7-28-03)*

340.04 License Expiration. The license shall be valid for a year beginning on January 1st and ending December 31st. If the application is made during the license year, a license may be issued for the remainder of the license year for a monthly pro-rata fee. The unexpired fraction of a month shall be counted as a complete month. *(Amended by Ord.153, 7-28-03)*

340.05 Refund of License Fee. The City Council may refund a pro-rata share of the license fee within thirty days from the occurrence of one of the events specified in this Section provided that the event occurs more than thirty days before the expiration of the license. A licensee must submit an application for a refund.

- A. Destruction or damage of the license premises by fire or other catastrophe.
- B. The licensee's illness if such illness renders the licensee unable to continue operating the licensed establishment.
- C. The licensee's death.
- D. A change in the legal status making it unlawful for the licensed business to continue. *(Amended by Ord.153, 7/28/03)*

340.06 False Information. An application must contain a provision in bold print indicating that withholding

information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the City in writing. Failure by an applicant or licensee to report such a change may result in a denial or revocation of a license. *(Amended by Ord.153, 7/28/03)*

340.07 Investigation Fee.

- A. At the time an initial application is filed, the applicant shall pay in full an investigation fee. The fee shall be established by resolution. The investigation fee shall not be refunded.
- B. The licensee shall pay an additional investigation fee at any time that an additional investigation is required because of change in the ownership or control of a business or enlargement, alteration, or extension of previously licensed premises. The fee shall be established by resolution. *(Amended by Ord.153, 7/28/03)*

340.08 Granting of License. The procedures for granting an adult establishment license are:

- A. The City will conduct and complete an investigation within thirty days after the application is received and all license and investigative fees are paid.
- B. If the application is for a renewal, the applicant will be allowed to continue business until the City has determined whether to renew or refuse to renew a license.
- C. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license will be granted by the City Council within thirty days after the investigation is completed. If the City Council fails to act within the thirty days, the application will be deemed approved. *(Amended by Ord.153, 7/28/03)*

340.09 Licensed Location. A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this Section must obtain an annual license. *(Amended by Ord.153, 7/28/03)*

340.10 Ineligible Persons and Places.

- A. A license will not be granted to or held by a person who:
 - 1. Is under 21 years of age;
 - 2. Is overdue or whose spouse is overdue in payments to the city, County, or State of taxes, fees, fines or penalties assessed against them or imposed upon them;
 - 3. Has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this State or local ordinance relating to sex offenses, obscenity offenses; or adult establishments;
 - 4. Is not the proprietor of the establishment for which the license is issued.
 - 5. Is residing with a person who has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment;
 - 6. Is residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding twelve months; or,
 - 7. Has not paid the license and investigative fees required by this Article.
- B. An adult establishment license will not be granted for:

1. Premises where the applicant or any of its officers, agents or employees has been convicted of violation of this Article;
2. Premises where during the preceding twelve months a license hereunder has been revoked for cause;
3. Any establishment that is not in full compliance with the City Code and all provisions of State and Federal law; or
4. Any premises that are licensed under Chapter 4 of this Code. *(Amended by Ord.153, 7/28/03)*

340.11 Restrictions.

- A. A license is subject to the provisions of this Article and of any applicable sections of the City Code and all provisions of State and Federal law.
- B. Licensed premises must have the license posted in a conspicuous place at all times.
- C. A minor may not be permitted on the licensed premises.
- D. Any designated inspection officer of the City has the right to enter, inspect, and search the premises of a licensee during business hours.
- E. The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.
- F. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor. Further, such goods may not be displayed in a fashion that allows them to be viewed by a minor whether or not the minor is on the licensed premises. *(Amended by Ord.153, 7/28/03)*

340.12 Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise. Such records shall be retained for at least one year after the transaction. At a minimum, the records must include the date of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request. *(Amended by Ord.153, 7/28/03)*

340.13 Denial, Suspension, or Revocation of a License. Suspensions, revocations, and nonrenewals of adult establishment licenses are governed by:

- A. A violation of this Article is a basis for the suspension or revocation of a license. In the event that the City Council proposes to revoke or suspend a license, the licensee must be notified in writing of the basis for the proposed revocation or suspension. The City Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be held within thirty days of the date of the notice. The City Council shall make its determination within thirty days after the close of the hearing or within sixty days of the date of the notice, whichever is sooner. The City Council must notify the licensee of its decision within that period.
- B. If the City Council determines to suspend or revoke a license, the suspension or revocation shall be effective fifteen days after notification of the decision to the licensee. If, within that fifteen days, the licensee files and serves an action in State or Federal court which challenges the City Council's action, the suspension or revocation shall be stayed until the conclusion of the action.
- C. If the City Council determines not to renew a license, the licensee may continue its business for fifteen days after receiving notice of such non-renewal. If the licensee files and serves an action in State or Federal court within that fifteen days, for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.
- D. If the City Council does not grant a license to an applicant, the applicant may, within fifteen days, commence an action in State or Federal court for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in its favor. *(Amended by Ord.153, 7/28/03)*

Section 345- Penalties and Violations

345.01 Penalty. The conducting of any business or activity for which a license or permit shall be required without paying the established fee and securing the license shall be a misdemeanor. *(Amended by Ord.153, 7/28/03)*

Section 350 – Rental Housing Licensing

350.01 Purpose and Scope.

Subd. 1 Purpose. The purpose of this ordinance is to provide minimum standards to safeguard life or limb, health, and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the City used for the purpose of rental housing. The purpose of this ordinance is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Scope. The provisions of this ordinance shall apply to all buildings or portions thereof used, or designed or intended to be rented, leased, or let for human habitation. All provisions of this ordinance shall apply to dwellings in existence at the time of adoption of this ordinance. Rest homes, convalescent homes, nursing homes, hotels, motels, and units rented, let or leased to direct family members of the property owner are exempt from the provisions of this ordinance. *(Amended by Ord.184, 7/10/2006)*

Subd. 3 Application to Existing Buildings. Additions, alterations or repairs, shall be done in compliance with the Building, Fire, Plumbing and Mechanical Codes. Applicable permits shall apply as required by these Codes.

All properties, whether pre-existing as Rental Property at the time of adoption of this ordinance or afterward becoming Rental Property shall comply with all terms of this ordinance. *(Amended by Ord. 222, 8/16/10)*

350.02 Definitions. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster’s Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. *(Amended by Ord.161, 9/27/04)*

Apartment Building. A building or portion of a building that contains three or more dwelling units.

Board of Appeals. The Board of Appeals shall be a three-member board consisting of a City Council representative, the Fire Chief, and a Planning Commission representative. *(Amended by Ord. 222, 8/16/10)*

Building Code. “Building Code” is the Minnesota State Building Code.

Code Official. “Code Official” is the official who is charged with the administration and enforcement of this ordinance, or any duly authorized representative.

Condemn. “Condemn” shall mean to adjudge unfit for occupancy.

Direct Family Member. “Direct Family Member” is a parent, child, sibling, grandparent, grandchild, step-parent, step-child, step-grandparent, or step-grandchild of the property owner. *(Amended by Ord. 222, 8/16/10)*

Dwelling. “Dwelling” is a building wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants; but not including hotels and motels.

Dwelling Unit. “Dwelling Unit” is a room or a group of rooms located within a dwelling forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating purposes.

Egress. “Egress” is an arrangement of exit facilities to assure a safe means of exit from a building.

Electrical Code. “Electrical Code” is the Minnesota State Electrical Code.

Extermination. “Extermination” is the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the code official; and to remove all signs of extermination thereafter.

Fire Code. “Fire Code” is the Minnesota State Fire Code.

Health Officer. “Health Officer” is the legally designated health officer or official of the State, County and/or City.

Infestation. “Infestation” is the presence of insects, rodents, or other pests within or around the dwelling on the premises.

Kitchen. “Kitchen” is a room or an area equipped for preparing and cooking food.

Lease, Leased, or Let. “Lease, Leased, or Let” is to give the use of a dwelling, dwelling unit or rooming unit by an owner or manager to a tenant in return for rent.

License Period, Year One. The first year of the three-year rental license period, starting in 2013 and occurring every three years thereafter. (*Amended by Ord. 222, 8/16/10*)

License Period, Year Three. The third year of the three-year rental license period. (*Amended by Ord. 222, 8/16/10*)

Manager. “Manager” is a person or firm who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

Mechanical Code. “Mechanical Code” is the Minnesota State Mechanical Code.

Nuisance. The following shall be defined as nuisances:

- A. Any public nuisance as defined in Chapter 6 of the City Code.
- B. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
- C. Whatever is dangerous to human life or is detrimental to health, as determined by the code official or health officer.
- D. Overcrowding a room with occupants.
- E. Insufficient ventilation or illumination.
- F. Inadequate or unsanitary sewage or plumbing facilities.
- G. Un-cleanliness, as determined by the health officer.

H. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

Occupancy. “Occupancy” is the purpose for which a building or portion thereof is utilized or occupied.

Occupant. “Occupant” is a person living alone, or two or more persons all related by blood, marriage or adoption, including foster children, occupying and maintaining a common household in a single dwelling unit, or a group of not more than 5 persons, any 2 of whom are not related by blood, marriage or adoption, including foster children, occupying and maintaining a common household in a single dwelling unit.

Owner. “Owner” is a person, firm or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city.

Plumbing Code. “Plumbing Code” is the State of Minnesota Plumbing Code.

Premises. “Premises” are the dwelling and its land and all buildings thereon and areas thereof.

Refuse. “Refuse” is all putrescible and non-putrescible waste solids including garbage and rubbish. Refuse is liable to undergo bacterial decomposition when in contact with air and moisture at normal temperatures.

Rent. “Rent” is a stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. The return or payment may be money or service or property.

Safety. “Safety” is the condition of being reasonably free from danger and hazards, which may cause injury or illness.

Substandard Building. “Substandard Building” means any rental dwelling or portion thereof that is not safe due to inadequate maintenance, dilapidation, physical damage, unsanitary condition, abandonment or any other reason.

Substandard Property Condition Citation. “Substandard Property Condition Citation” shall be issued in the event of a ‘Substandard Building’ and shall, upon posting of the citation, prohibit the occupancy of the building or unit until such time as corrections are made and verified by inspection. *(Amended by Ord.184, 7/10/2006)*

Tenant. “Tenant” can be a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Variance. “Variance” is a difference between that which is required or specified and that, which is permitted. *(Amended by Ord.161, 9/27/04)*

350.03 Rental Housing License.

Subd. 1 License Required. No person may operate, let, or cause to be let, a rental dwelling unit without first having obtained a rental housing license from the City as hereinafter provided. Further, no owner or manager shall allow the occupancy of a rental dwelling unit by a tenant after the expiration of the rental housing license for the rental dwelling in which the rental dwelling unit is located unless the license has been properly renewed. *(Amended by Ord. 222, 8/16/10)*

A. **Temporary License.** The code official may issue a temporary rental housing license not exceeding 3 months in duration in order to bring the unit into compliance with this ordinance. *(Amended by Ord.161, 9/27/04)*

- B. **Licensing Period.** The licensing period shall encompass three calendar years. *(Amended by Ord. 222, 8/16/10)*

Subd. 2 Application contents. Owners of one or more rental dwelling units who have not yet received a license are responsible for applying to the City for a license. With the application the owner must supply the following information:

- A. Name, address, and telephone number of dwelling owner, owning partners if a partnership, or corporate officers if a corporation;
- B. Name, address, and telephone number of designated resident agent, if applicable;
- C. Legal address of the dwelling;
- D. Number of dwelling units with the dwelling;
- E. At least one emergency telephone number;
- F. The names, telephone numbers and addresses of principal tenants
(Amended by Ord. 222, 8/16/10)

Subd. 3 Fees.

- A. **Inspection Fee.** A Rental Housing License-inspection fee shall be established by the City Council.
(Amended by Ord.161, 9/27/04)
- B. **Additional Fees.** The City shall have the right, and just cause, to bill or to assess owner for additional costs associated with:
 - 1. Required additional follow up Rental Inspections, beyond the prescribed number allowed, for a single Rental Inspection cycle.
 - 2. Failure of the responsible party to appear for a scheduled inspection without prior notification of the inspector.
 - 3. After hours, weekend or holiday inspections. *(Amended by Ord.184, 7/10/2006)*
 - 4. Complaint Inspections *(Amended by Ord. 222, 8/16/10)*

Subd. 4 Rental Dwelling Inspections No license may be issued or renewed unless the City determines, following an inspection conducted pursuant to this section, that rental dwelling unit(s) conform to the provisions of this Section 350. As more specifically provided below, the code official and his or her agents may cause inspections, follow-up inspections, and reinspections on rental dwelling units within the city on a scheduled basis, and on rental dwelling units when reason exists to believe that a violation of an applicable subdivision of this Section 350 exists, has been, or is being committed. *(Amended by Ord. 222, 8/16/10)*

- A. **Consent.** The code official and his or her agents are authorized to contact owners, tenants and/or managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. If the City is unsuccessful in securing consent for an inspection pursuant to this Section 350, the City shall seek permission, from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Section shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant.
(Amended by Ord. 222, 8/16/10)
- B. **Inspections not Required.** Inspection for the issuance or renewal of a license may be waived by the City if the owner of a dwelling unit:
 - 1. Proves that within the previous 12 months the dwelling unit(s) passed an inspection required by the County, State, or Federal regulations that is at least as stringent as the inspection required under this Section 350.

2. Has, within the 12 months preceding the licensing period deadline as defined in Subd. 6 below, applied for and received a rental dwelling license from the city. *(Amended by Ord. 222, 8/16/10)*

Subd. 5 Issuance. The code official shall issue a rental housing license for each dwelling, dwelling unit or rooming unit, when upon inspection finds such unit meets or exceeds the minimum requirements set forth by this ordinance; also a rental housing license shall be issued for each dwelling, dwelling unit or rooming unit, when a variance has been granted by the Board of Appeals, pursuant to Section 350.06 of this Chapter; provided, however, it is found that no condition exists, in a shared or public area of the building or in any other part of the unit, which could endanger the health or safety of the occupants of such unit or of the public. Such license shall show the number of occupants for which the dwelling, dwelling unit or rooming unit is approved for and once issued shall remain valid until it expires or such time as the code official or housing inspector determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 6 Licensing period Deadline. The licensing period deadline shall be January 1 of the Year-One License Period. All properties required to be licensed by this Ordinance shall have applied for licensing with the City Office, shall have paid the required fee or fees, and shall have satisfactorily completed the required Rental Housing Inspection by the deadline date. Failure to comply with this section may result in fines and/or denial of a Rental Housing License for the property in violation. *(Amended by Ord.184, 7/10/2006)*

Subd. 7 Renewals. A rental housing license shall expire December 31 of the Year-Three License Period. Re-inspection of all dwellings, dwelling units or rooming units shall be required prior to issuance of a new certificate, pursuant to Subd. 4 above. In order to allow sufficient time to complete the renewal process, applications for licenses shall be made in writing on forms provided by the City and accompanied by the required fee at least sixty (60) days prior to the licensing period deadline. *(Amended by Ord. 222, 8/16/10)*

Subd. 8 License and Inspection Report Posting. Every registrant of a rental dwelling shall post the license issued by the City. The license shall be conspicuously posted (in a frame with a glass covering) by the registrant, in a public corridor, hallway, or lobby of the rental dwelling for which they are issued. In addition to posting the license, the owner shall post the inspection report completed for the license renewal or any complaint inspection next to the posting of the rental license for a period of 30-days after receipt of the license.

Subd. 9 Transfer of Rental Property. A license is not transferable to another person or to another rental dwelling. Every person holding a license must give notice in writing to the city within 72 hours after having legally transferred or otherwise disposed of the legal control of any rental dwelling. The notice must include the name and address of the person(s) succeeding to the ownership or control of such rental dwelling(s). The person succeeding to the ownership or control of the rental dwelling(s) must obtain a temporary permit or operating license in order to continue operating the rental dwelling(s). An inspection is not required to obtain this temporary permit or license unless the rental dwelling(s) have not been inspected within two years of the transfer of ownership or control. *(Amended by Ord. 222, 8/16/10)*

Subd. 10 Revocation. A Rental Housing License may be suspended or revoked as prescribed in this ordinance.

- A. A rental housing license may be suspended or revoked by the City Council if the City Council finds that the provisions of this ordinance have been violated in regard to the rental dwelling for which the license was issued. Before any suspension or revocation occurs, the City shall send written notice to the license holder specifying the ordinance violations alleged. This notice shall also specify the date for a hearing before the Board of Appeals, which shall not be less than ten (10) days from the date of the notice.

- B. At such hearing before the Board of Appeals, the license holder or their attorneys may submit and present witnesses on their behalf.
- C. After a hearing, the City Council shall act upon the Board of Appeals recommendation at the next available meeting and may suspend or revoke the license if the Council deems it necessary to protect public health, safety or general welfare. *(Amended by Ord.222, 8/16/10)*

350.04 Requirements.

Subd. 1. Substandard Buildings. No substandard buildings are allowed.

Subd. 2. Condition. No owner or manager shall allow infestation if extermination is not the tenant's responsibility by law.

Subd. 3. Improper Occupancy. No rental dwelling shall be used in manner inconsistent with its design or construction.

Subd. 4. Smoke Detectors. No smoke detector installed in a rental dwelling shall be allowed to remain disabled or nonfunctional. The tenant of a rental dwelling shall notify the owner or manager within 24 hours of discovering that a detector is disabled or not functioning. The owner or manager shall take immediate action to render the smoke detector operational or replace it.

Subd. 5. Carbon Monoxide Alarms. Each rental dwelling shall have an approved and operational carbon monoxide alarm installed with ten feet of each room used for sleeping purposes as required by Minnesota Statutes §§ 299F.50 and 51, as amended, unless an exception listed in Section 299F.51, Subd. 5, applies.

Subd. 6. Refuse. Each rental dwelling shall have an adequate number of refuse containers to hold the amount of refuse produced by the occupants of the rental dwelling or as required elsewhere by the Waconia Code. Containers shall be rodent and animal proof plastic, fiberglass or rust resistant metal with a tight fitting cover. Tenants shall properly dispose of their recyclables, rubbish, garbage and other organic waste.

Subd. 7. Nuisance. No rental dwelling premise shall be kept in any state which creates a nuisance.

Subd. 8. Storage of Items. Large amounts of combustible items and materials shall not be stored in attics, basements, common areas, or any other underutilized areas of a rental dwelling. Storage shall be maintained two (2) feet or more below ceilings and floor joists. Combustible materials and items shall not be stored within one (1) foot of any fuel burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. A minimum three (3) foot wide aisle shall be maintained to all exits, furnaces, water heaters, water meters, gas meters or other equipment serving the rental dwelling.

Subd. 9. Fuel Storage. LP tanks shall only be stored outdoors.

Subd. 10. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment shall only be stored outdoors or in the garage of a rental dwelling.

Subd. 11. Barbecues and Open Flames. No person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, on any roof, or on any ground floor patio within 15 feet of any structure. Further, no person shall store or use any fuel, barbecue, torch, or similar heating or lighting chemicals or device in such locations.

Subd. 12. Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas on a premises shall be kept in a proper state of repair and maintained free from hazardous conditions.

Subd. 13. Defacement of Property. If a rental dwelling is defaced by graffiti, it shall promptly be removed.

350.05 Enforcement.

Subd. 1 Authority. The building official is hereby authorized and directed to enforce or cause the enforcement of all of the provisions of this ordinance. For such purposes, the building official or his/her designated representative shall have the powers of a code official. The code official shall have the power to render interpretations of this ordinance. Such interpretations shall be in conformity with the intent and purpose of this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Responsibilities Defined. Property owners remain liable for violations of duties imposed by this ordinance even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this ordinance. *(Amended by Ord. 222, 8/16/10)*

- A. Buildings and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.
- B. Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.
- C. Owners shall, when required by this ordinance, health laws or the health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling. *(Amended by Ord 161, 9/27/04)*

Subd. 3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the code official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this ordinance, the code official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such building or premises are occupied that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry, pursuant to Section 350.04, Subd. 4.A. of this Chapter. *(Amended by Ord.161, 9/27/04)*

Subd. 4 Complaint Inspections. When the code official or a health officer has reasonable cause to believe that a condition exists in regards to a rental dwelling or premises that violates this ordinance including, but not limited to, a written tenant complaint made in good faith, the code official or health officer may enter the rental dwelling to inspect, re-inspect, or otherwise perform the duties imposed by this ordinance. No such entry shall be made, however, until: i) the owner, manager or tenant permits entry; ii) the code official or health officer secures an administrative warrant from a court with jurisdiction; or iii) an emergency exists.

Subd. 5 Compliance Order. Upon completion of a complaint inspection and finding of a violation(s), the code official shall prepare a compliance order, listing all violations and the date or dates when such violations shall be corrected. The property owner shall have the responsibility to correct such alleged violations and have them re-inspected and verified by the Code Official for compliance with this Ordinance within the time period as set forth:

- A. Smoke Detector Violations. Corrections must be completed immediately and re-inspected within three (3) working days.
- B. All Other Violations. Preparations for the actual work for correcting the alleged violations shall be commenced immediately and work re-inspected within twenty-five (25) working days OR within the time period as specified by the Code Official.
- C. Follow-Up Inspection. Upon completion of the second follow up inspection:
 - 1. If the infraction(s) have been satisfactorily addressed or corrected the City will, at its discretion, levy a reinspection fee to cover the cost of the second follow up inspection. The fee will be set by the City Council.
 - 2. If the infractions remain, the following penalties shall be imposed upon the property owner(s) if the alleged violations are not corrected and verified by the Code Official within the time period allowed by this Ordinance:
 - a. A \$50.00 fine.
 - b. The assessment of \$5.00 per day, each and every day thereafter until a satisfactory follow up inspection is conducted.
 - 3. The \$50.00 fine and subsequent \$5.00 per day assessment must be paid in full to the city within 14 days of the satisfactory follow up inspection or, pursuant to Section 350.04 Subd 10, the City of Norwood Young America shall have the right and just cause to revoke or deny licensing the property as Rental Housing Property.
 - 4. The property owner or agent shall be notified in writing of Section 350.06, indicating his or her right of appeal. *(Amended by Ord.184, 7/10/2006)*
- D. Extensions. Extensions may be granted by the Code Official. The request shall be made in writing and justifiable cause must be demonstrated for the requested extension. All requests shall be made and delivered to the Code Official prior to the expiration date of the violation or violations.

Subd. 6 Substandard Property Condition.

- A. When, during the course of a Rental Housing Inspection or complaint investigation, the code official encounters or observes a condition or conditions that are considered dangerous to life, safety, health, or the welfare of the occupants, the inspector shall, if the situation warrants, issue a Substandard Property Condition Citation.
- B. Prior to, or immediately after, the issuance of the Substandard Property Condition Citation, the code official will be required to notify the City of the posting and the reason for the posting.
- C. The code official shall have the authority to require immediate evacuation of the premises in the event of immediate danger to life or safety.
- D. The removal or defacing of, or tampering with, a Substandard Property Condition Citation posting shall be punishable as a criminal offense and subject to the provisions of State Statutes regulating misdemeanors and as outlined in this ordinance.
- E. The Property shall remain unoccupied until such time as the condition is, or conditions are, corrected and satisfactorily reinspected. *(Amended by Ord. 184, 7/10/2006)*

Subd. 7 Substandard Buildings. Buildings or portions thereof that are determined to be substandard as defined in this ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal, pursuant to Chapter 6, Nuisances, of the Norwood Young America City Code.

Subd. 8 Notice to Vacate. The code official shall have the authority to issue a NOTICE TO VACATE order on any building that is, in the opinion of the code official and as defined in this ordinance, deemed substandard. *(Amended by Ord.161, 9/27/04)*

350.06 Appeals.

Subd. 1 Appeal. Any person may appeal from any notice and order or any action of the code official under this ordinance by filing an appeal to the City Administrator. A written appeal to the City a brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Time Allotted for Appeal. The appeal shall be filed within 10 days or within the time of correction as allowed by the code official, whichever is shorter, from the date of the service of such order or action of the code official. *(Amended by Ord.161, 9/27/04)*

Subd. 3 Scheduling and Noticing Appeal for Hearing. In the event that an appeal is filed with the City Administrator, the Board of Appeals shall fix a date for a hearing, which shall be held within ten (10) business days from the date the appeal is filed. *(Amended by Ord. 222, 8/16/10)*

Subd. 4 Notice. The City Administrator shall mail a notice of the date, time, place and subject of the hearing to the owner, occupant(s) and any other known responsible parties. *(Amended by Ord. 222, 8/16/10)*

Subd. 5 Orders after an Appeal. Following a hearing, any order of the Board of Appeals made pursuant to this ordinance shall be forwarded to the City Council who shall act upon the Board of Appeals recommendation at its next available meeting. The City Council shall issue a decision in writing to the appealing party within 10 days of the hearing. Any fines or penalties imposed must be paid no later than 30 days of the date of the order. The decision of the City Council is final and may only be appealed to the Minnesota Court of Appeals by petitioning for a writ of certiorari pursuant to Minnesota Statute Section 606.01.

350.07 Violation and Penalties.

Subd. 1 Administrative Charge. Failure to obtain a license pursuant to this Section 350 will subject the owner of a dwelling unit to an administrative service charge up to \$250 per unit, plus \$10 per unit per day each and every day thereafter until a license is obtained. *(Amended by Ord. 222, 8/16/10)*

Subd. 2 Violation. Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid license, or permits new occupancy in violation of this Section 350, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the City may impose an administrative fee in an amount set in the City Fee Schedule. An administrative fee may be appealed pursuant to Subsection 350.06 of this Section. Upon the failure to appeal an administrative fee within the period established in Subsection 350.06 of this Section, the City may post the dwelling unit as illegal for habitation. Thereafter, all persons must vacate the premise and the dwelling unit may not be occupied by anyone other than the primary homestead owner and that person's immediate family until (a) the administrative fee has been paid and (b) a rental license is obtained or the City is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense. *(Amended by Ord. 222, 8/16/10)*

Subd. 3 Assessment of Unpaid Fees. Any fees imposed under the authorization of Section 350 shall be paid in full. In the event of non-payment, the City Clerk may certify the entire unpaid amount and any penalty to the County Auditor to levy the charges in the same manner as special assessments against the real estate involved, or the real estate of the person or entity responsible for the fee. *(Amended by Ord. 222, 8/16/10)*

Section 360 – Fire Works**360.01 Definitions.**

Subd. 1 Fireworks. For the purpose of this section, “fireworks” will have the definition as contained in Minnesota Statute 624.20 Subd. 1 or any superseding statute.

360.02 Authority.

- A. The authority to enforce this code shall lie with the local Fire Chief or his designate.
- B. This ordinance uses as its base elements: the *International Fire Code 2000 Edition* and *NFPA 1124 2003 Edition*.
- C. Issues beyond the scope of this ordinance shall be addressed according to the *International Fire Code 2000 Edition* and *NFPA 1124 2003 Edition* in their entirety.

360.03 Permit Required.

- A. No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.
- B. An application for the permitted manufacture, storage for commercial purposes or sale of fireworks shall be made to the City a minimum of thirty (30) days prior to operating.
- C. Included with the Permit Application, the applicant must provide a floor plan or plot plan indicating the approximate location of the Fireworks display, tent or stand.
- D. Permits shall be issued for a period of one calendar year.
- E. The inspections department **must be notified immediately** upon any of the following:
 - 1. If the Fireworks display is moved, stored or otherwise removed from the area of original inspection, to another location within the same building or on the same property.
 - 2. Upon removal of the Fireworks display from the building and/or property.
 - 3. If, within the permitting period addressed in 360.03 section D, the display is removed from the premises and then reinstalled at a later date still within the permitting period.
- F. For the temporary use of property for transient/non-permanent Fireworks stands the permit application shall include a letter from the person legally responsible for the property on which the fireworks related activity will occur. Said letter shall grant permission to the applicant for the use of said property.
- G. Prior to processing the application, a criminal records check may be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire/fireworks-related misdemeanor within the last three (3) years.
- H. The annual permit cost shall be \$350.00 for a temporary tent and \$100.00 for a permanent store. These fees shall not be pro-rated.

360.04 Inspection Requirements.

- A. An initial inspection of the proposed sales facility or property shall be required to determine whether the property or facility will meet the minimum safety requirements relative to the occupancy, proximity to hazardous materials, etc.
- B. Upon satisfactory completion of the initial inspection and within three (3) days of the installation of the fireworks display, tent or stand, a follow up inspection of the actual display, tent or stand will be required after which the inspector will sign and validate the permit for the retail sales of the fireworks.

- C. If, within the permitting period addressed in 360.03 section D, the display is removed from the premises and then reinstalled at a later date still within the permitting period. The display must be inspected within three (3) days of the reinstallation.

360.05 Sales and Storage of Fireworks.

- A. No person shall sell or store fireworks within fifty (50) feet of any fuel dispensing apparatus.
- B. No smoking will be permitted within fifty (50) feet of any consumer fireworks retail sales area. "No Smoking" signs shall be conspicuously posted and approved fire extinguishers must be available for use.
- C. A minimum of one portable pressurized water fire extinguisher with a minimum 2A rating (or 1-2.5 gal. extinguisher) and a minimum of one dry chemical fire extinguisher with a minimum 4A rating shall be located not more than seventy five feet from the hazard.
- D. Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.
- E. Only interior (under roof, tent etc.) storage, display, sales and/or transient sales of fireworks are permitted. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or properties used for educational purposes or assemblies.
- F. A list of all fireworks displayed and/or stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.
- G. The requirements of this ordinance are supplemental to any requirements imposed by any building and zoning regulations, fire codes or state law.
- H. Retail Fireworks stands must be NFPA 1124 compliant.
- I. Where transient/non-permanent fireworks stands are used for the retail sales of fireworks, signage with lettering at least two (2) inches in height shall be conspicuously posted on the exterior of the stand or structure stating: NO FIREWORKS DISCHARGE WITHIN 300 FEET.
- J. The area located within thirty (30) feet of a consumer fire works sales facility shall be kept free of excessive combustible material including: dry grass, dry weeds or other combustible debris considered a potential fire hazard.
- K. No consumer fireworks shall be displayed for sale or stored within ten (10) feet of any entrance or exit door in an enclosed building or structure.
- L. No person shall knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.

360.06 Use and Possession.

- A. It shall be unlawful to use, fire or discharge any fireworks along the route of, or during any parade, public gathering or at any place of public assembly or in any commercial/industrial district.
- B. It shall be unlawful at any time to throw, toss or aim any fireworks at any person, animal, or vehicle or to use in such manner that could threaten or cause harm to life or property.
- C. The discharge of fireworks shall be prohibited inside of, or within three hundred (300) feet of a retail fireworks stand or store.
- D. Banning the use of fireworks shall be at the discretion of the Fire Chief if weather or other conditions occur that could create a hazardous situation.
- E. Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.
- F. Fireworks may not be discharged between the hours of 11:00 p.m. and 7:00 a.m.

360.07 Penalties.

- A. Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be passed on to the property owner or permit holder.

- B. Violations of this ordinance or of the State statute regulating the use or sale of fireworks may result in revocation of the permit.
- C. Violation of this Fireworks Ordinance could result in the offender being charged with a misdemeanor offense punishable by the guidelines prescribed by State Statute. *(Amended by Ord. 177, 4/24/2006)*