

TITLE 11: BUSINESS REGULATIONS

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CHAPTER 1100: GENERAL LICENSING PROVISIONS

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§ 1100.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN BUSINESSES.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by Title 11 of this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority.

Penalty, see § 100.99

§ 1100.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:

- (1) The applicant's full name, address and telephone number, and the full name of each officer, partner or business associate, if applicable;
- (2) His or her present occupation and principal place of business;
- (3) His or her place of residence for the preceding five years;
- (4) The nature and location of the intended business or enterprise;
- (5) The period of time for which the license is desired;
- (6) A description of the merchandise, goods or services to be sold;
- (7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number and vehicle registration (VIN) number of the vehicle.
- (8) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Any change in the information required by division (A) of this section must be reported to the City Clerk or other authorized official within 14 days of that change.

(C) Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

(D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(E) It shall be unlawful to knowingly make any false statement or representation in the license application.
Penalty, see § 100.99

§ 1100.03 ISSUANCE OF LICENSE.

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk, shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk.

§ 1100.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

§ 1100.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.
Penalty, see § 100.99

§ 1100.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.
Penalty, see § 100.99

§ 1100.07 REVOCATION OR SUSPENSION.

(A) Any license may be suspended or revoked by the City Clerk or City Council at any time for the following reasons:

(1) For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;

(2) For any misrepresentation of a material fact in the application discovered after issuance of the license;

(3) For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;

(4) For violation of any provision of this chapter or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or

(5) Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

(B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

§ 1100.08 APPEAL AND REVIEW.

In case any applicant has been denied a license by the City Clerk, or if his or her license has been suspended or revoked by the City Clerk, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk or other authorized official, the Mayor shall call a special meeting of the City Council for the purpose of holding the hearing unless a regular meeting of the City Council will occur within the 21-day period, and who shall fix the time and place for a hearing which shall be held not later than 21 days thereafter. Notice of appeal shall be filed in writing with the City Clerk. Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

CHAPTER 1101: COMMERCIAL AMUSEMENTS

Section

- 1101.01 Bowling, billiards and pool
- 1101.02 Circuses, carnivals, shows and other entertainment
- 1101.03 Deposit required
- 1101.04 License fee for public entertainment or exhibition
- 1101.05 Fees and conditions of sexually oriented businesses and adult entertainment license
- 1101.06 Licensing and regulating dance halls
- 1101.07 Requiring a license to operate movie theater
- 1101.08 Licensing and regulation of mechanical amusement devices

§ 1101.01 BOWLING, BILLIARDS AND POOL.

Each proprietor of a billiard or pool table or of a bowling alley, or a combination of both, shall pay an annual license fee in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time. Penalty, see § 100.99; Cross Reference, see §1101.08

§ 1101.02 CIRCUSES, CARNIVALS, SHOWS AND OTHER ENTERTAINMENT.

(A) (1) Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game except amateur baseball, or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101 of this code, as that ordinance may be amended from time to time.

(2) Local school entertainment, charitable non-profit organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided, that the entertainment is not for profit.

(B) In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the police department or the fire department.

(C) No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

Penalty, see § 100.99

§ 1101.021 DEPOSIT REQUIRED.

(A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Clerk or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be

forfeited to the city to the extent of actual costs to the city for restoration and cleaning up of the grounds.

(B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place.
Penalty, see § 100.99

§ 1101.022 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for the license shall be in an amount as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101 of this Code, as that ordinance may be amended from time to time.

§ 1101.03 *RESERVED FOR FUTURE USE*

§ 1101.04 *RESERVED FOR FUTURE USE*

§ 1101.05 FEES AND CONDITIONS OF SEXUALLY ORIENTED BUSINESSES AND ADULT ENTERTAINMENT LICENSE.

§ 1101.051. FEES. The annual fee for a sexually oriented business or an adult entertainment license shall be as established under Chapter 101 of this Ordinance.

§ 1101.052. CONDITIONS OF LICENSE. The following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore no entertainment license shall be held at any premises where such conduct or acts are permitted:

(a) To employ or use any person in the sale or service of any alcoholic or non-alcoholic beverage in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the public hair, anus, cleft of the buttocks, vulva or genitals.

(b) To employ or use the services of any hostess while such hostess is unclothed or in such attire, costume, or clothing as described in paragraph (a) above.

(c) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, or genitals of any other person.

(d) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breasts, genitals, anus, public hair or any portion thereof.

(e) To permit any person to perform acts or of acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(2) The touching, caressing or fondling on the breast, buttocks, anus or genitals.

(3) The display of the pubic hair, anus, vulva, genitals, or the nipple or areola of the female breast.

(f) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

(g) To permit any person to remain in or upon the licensed premises who exposes to public view the pubic hair, anus, vulva, or genitals.

(h) To permit the showing of film, movies, still pictures, electronic reproductions or other visual reproductions depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

- (2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
 - (3) Scenes wherein a person displays the vulva or the anus or the genitals.
 - (4) Scenes wherein artificial devices or inanimate objects are employed to portray any of the prohibited activities described above.
- (i) To permit any employee, or person under contract, to perform on the premises, to dance on any table, bar or other elevated platform except on a duly designated stage designed exclusively for the entertainment of patrons of the premises; said stage to be located at least three (3') feet from any patron.

**§ 1101.053 LICENSING AND LOCATION OF SEXUALLY ORIENTED BUSINESSES
FOR ADULT ENTERTAINMENT.**

HISTORY: ADOPTED ORD. 2003-16

▪ 1101.0531 PURPOSE

In order to protect the City's community image, property values, public health, safety, welfare, and business environment, the City has found it necessary, in light of the harmful and unwanted secondary effects that certain businesses generate, to restrict where such businesses may locate within the city and to regulate those businesses. Only those businesses with secondary effects on neighboring properties and the City are intended to be regulated. This Section is not intended to restrict or regulate art.

▪ 1101.0532 DEFINITIONS

A. ADULT USE shall mean and include every type and variety of a Specified Adult Business, and any other premises, enterprise, establishment, business, operation, or place that is open to some or all members of the public, at, in, on, or from which materials, entertainment, or services are presented, displayed, depicted, described, distributed, sold, or rented that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities, and shall include each and every Specified Adult Business. Any activity or material that is classified as obscene under Minnesota Statute Section 617.241, as the same may hereafter be amended, does not constitute an adult use and are specifically prohibited.

1. Primary Adult Use. An Adult Use in, on, or from which the sole or a dominant activity involves the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

2. Accessory Adult Use. An Adult Use for which the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities is not a dominant activity. An Accessory Adult Use typically does not involve or include any activity except the sale or rental of merchandise.

3. Exempt Adult Use. An Adult Use wherein the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities is conducted only on a diminutive scale, such that it is extremely incidental to any dominant activity and, individually or in combination, occupies or comprises less than five (5) square feet of the total floor, wall, and shelf area of the Adult Use. Exempt Adult Uses shall not include or involve any activity except the sale or rental of merchandise, and no external or internal advertising of any adult or sexually-oriented merchandise shall be permitted.

4. For purposes of this Section, the term ADOMINANT ACTIVITY@ shall mean any activity or activities that, individually or in combination, provide at least twenty (20%) percent of the gross receipts of the Adult Use=s entire business operation at that site; or, occupy or comprise up to ten (10%) percent or more of the total floor, wall, and shelf area within the site or 150 square feet or more of floor, wall, and shelf area within the site.

B. APROTECTED USE@ shall mean and include the following: licensed day care centers; public or private educational facilities classified as elementary, junior high, or senior high schools; public libraries; public parks; on-sale liquor establishments; churches and church-related facilities; and residential properties or uses.

C. ASPECIFIED ANATOMICAL AREA@ shall mean and include the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and

2. Human male genitals in a discern by turgid state, even if completely and opaquely covered.

D. ASPECIFIED SEXUAL ACTIVITY@ shall mean and include the following:

1. Actual or stimulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anillingus, buggery, coprophagy,

coprophilia, cunnilingus, fellatio, necrophilia, pederast, pedophilia, piquerism, sapphism, zoerasty; or

2. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

3. Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation; or

4. Fondling or touching nude human genitals, pubic region, buttocks or female breast; or

5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such person; or

6. Erotic or lewd touching, fondling or other sexually oriented conduct with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

E. ASPECIFIED ADULT BUSINESS@ shall mean and include the following:

1. Adult Bookstore. A business or commercial enterprise that provides for barter, rental, or sale items consisting of printed matter, pictures, slides, records, audio tape, videotape, motion picture film, or other visual or aural media, from which minors are excluded by reason of age or where a substantial or significant portion of such items are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

2. Adult Gift or Novelty Business. A business or commercial enterprise that has as a principal activity the sale of devices, implements, equipment, or novelties that are designed, marketed, used, or sold for the primary purpose of stimulating human genitals otherwise providing sexual stimulation.

3. Adult Health Club or Adult Sports Club. A business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health- or sports-related goods, services, or equipment, from which minors are excluded by reason of age or that is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

4. Adult Hotel or Motel. A business or commercial enterprise that provides rooms, facilities, or lodging on a short-term basis and wherein material or entertainment is presented, displayed, provided, or otherwise made available that

is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

5. Adult Mini-Motion Picture Theater. A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of less than 50 persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

6. Adult Modeling Studio. A business or commercial enterprise the primary or dominant activity of which is to provide for its customers to observe, paint, paint upon, sketch, draw, sculpt, photograph, videograph, or otherwise depict or portray, with the intent of providing sexual stimulation or sexual gratification to such customers. Specified Anatomical Areas of one or more models or subjects, or one or more models or subjects who are engaging in Specified Sexual Activities.

7. Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin-, slug-, electronically-, or mechanically-controlled or operated still or motion picture machines, projectors, or other image-producing devices are provided or maintained to show images to no more than one person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities. and the individual viewing areas are not screened, including, but not limited to, doors, and curtains, in any way to obstruct the viewing areas from monitoring.

8. Adult Motion Picture Theater. A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of 50 or more persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

9. Body Painting Studio. A business or commercial enterprise that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on any Specified Anatomical Area of any person.

10. Cabaret. A business or commercial enterprise that provides dancing or other live entertainment, from which minors are excluded by reason of age or where such entertainment is distinguished or characterized by an emphasis on description of Specified Anatomical Areas or Specified Sexual Activities.

11. Companion Establishment. A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion

between an owner, employee, or agent of the enterprise and a customer, if such service is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

12. Conversation/Rap Parlor. A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion, from which minors are excluded by reason of age or where such service is distinguished or characterized by Specified Anatomical Areas or Specified Sexual Activities.

13. Massage Parlor. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

14. Sauna, Steam Room, or Bathhouse Facility. A business or commercial enterprise that provides one or more steam or heat bathing rooms or sauna or steam room facilities, where the services provided are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, or from which minors are excluded by reason of age.

15. Other Adult Use. Any place to which the public is permitted, a business or commercial enterprise that is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

▪ **1101.0533 REGULATIONS**

A. Primary Adult Uses

1. All Primary Adult Uses shall require a Conditional Use Permit.
2. All Primary Adult Uses shall be located within the I-Industrial District.
3. All Primary Adult Uses shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the Primary Adult Use to the property line of a Protected Use or other Adult Use, whether the Protected Use is located in Dundas or an adjoining community:
 - a. a distance of at least 250 feet from the following:
 - (i) licensed day care centers.
 - (ii) public or private educational facilities classified as an elementary, junior high, or senior high schools.

- (iii) public libraries.
- (iv) public parks.
- (v) on-sale liquor establishments.
- (vi) churches and church-related facilities.

b. A distance of at least 400 feet from the following:

- (i) other Adult Uses.
- (ii) residential properties, unless separated from such residential properties by a railroad right-of-way or a State Highway.

4. No Primary Adult Use shall locate in any building which is also utilized for any Protected Use.

5. At the time of application for a Conditional Use Permit, any property that is proposed to be occupied by an Primary Adult Use must comply with all current zoning, health, fire, and building regulations that apply to the site and building.

6. No Primary Adult Use may occupy a lot with a lot width of less than 100 feet. In addition, each Primary Adult Use shall provide one parking space for each employee on duty, plus parking for customers.

a. Motion Picture Theater: one space per six seats actually provided or the maximum seating capacity of the theater.

b. Motion Picture Arcade: one space per machine.

c. All other Primary Adult Uses: one space per fifteen (15) square feet of floor area that is open to or used by the public or customers of the Primary Adult Use.

7. Sign Requirements. All Primary Adult Uses shall comply with the following sign requirements:

a. All signs shall be flat wall signs.

b. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street.

c. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

d. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

8. Hours of Operation. Primary Adult Use Businesses shall not be open between the hours of 1:00 a.m. and 12:00 noon.

B. Accessory Adult Uses

1. All Accessory Adult Uses shall require a Conditional Use Permit.

2. All Accessory Adult Uses shall be located only within the I and B-2 Districts.

3. All Accessory Adult Uses shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the Accessory Adult Use to the property line of a Protected Use or other Adult Use, whether the Protected Use is located in Dundas or an adjoining community:

a. A distance of at least 250 feet from the following:

(i) residential properties.

(ii) licensed day care centers.

(iii) public or private educational facilities classified as an elementary, junior high, or senior high schools.

(iv) public libraries.

(v) public parks.

(vi) on-sale liquor establishments.

(vii) churches and church-related facilities.

b. A distance of at least 500 feet from the following:

(i) other Adult Uses.

4. No Accessory Adult Use shall locate in any building which is also utilized for any Protected Use.

5. Accessory Adult Uses shall restrict and prohibit access to minors by the physical separation from areas of general access of items that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

a. Movie Rentals. Display areas for movies that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities shall be restricted from general view and shall be located within a separate room, the access or entrance to which is in clear view and under control of the persons responsible for the operation or controlled in some other effective manner which meets with the approval of the Zoning Administrator.

b. Magazines. Magazines that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.

c. Other adult materials or services. Accessory Adult Uses offering or providing items that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities and that are not specifically cited above shall comply with the intent of this section, subject to the final approval of the City Council.

6. Accessory Adult uses shall be prohibited from external advertising and signing of items that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

7. At the time of application for the Conditional Use Permit, any property that is to be occupied by an Accessory Adult Use must comply with all the current zoning, health, fire, and building regulations that apply to the site and building.

• **1101.0534** *LICENSING REQUIRED*

A. It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Ordinance.

B. The application for a license must be made on a form provided by the City.

C. All applicants must be qualified according to the provisions of this Ordinance. The application may request and the applicant shall provide such information (including

fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in the Ordinance.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the applicant for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual, then each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is at least 18 years of age;

b. A partnership, the partnership shall state its complete name and the names of all partners whether the partnership is general or limited, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors, and principle stock holders, and the name of the registered corporate agent and the address of the registered office for service of process;

(2) The name of the owner of the property where the business will be located.

(3) If the applicant intends to operate a sexually oriented business under a name other than that of the applicant; he or she must state:

a. The sexually oriented business= fictitious name; and

b. Submit the required registration documents.

(4) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in the Ordinance, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(5) Whether the applicant, or a person residing with the applicant, has had a previous license under this Ordinance or other similar sexually oriented business Ordinances, from another City or County denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or

revocation, and whether the applicant, or person residing with the applicant, has been a partner in a partnership or an officer, director or principal stock holder of a corporation that is licensed under this Ordinance whose license has previously been denied, suspended or revoked including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(6) Whether the applicant, or a person residing with the applicant, holds any other licenses under this Ordinance or other similar sexually oriented business Ordinances from other cities and counties and if so the names and locations of such other licensed businesses.

(7) The location of the proposed sexually oriented business, including the legal description of the property, street address and telephone, if any.

(8) The applicant=s mailing address and residential address.

(9) The applicant=s drivers license number, social security number, and his or her state or federally issued tax ID number.

(10) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6") inches.

(11) A straight-line drawing prepared within thirty (30) days prior to the application depicting the property lines and the structures containing any existing sexually oriented businesses within five hundred (500') feet of the property to be licensed; the property lines of any established religious institution, school, or public park or recreation area, within four hundred (400') feet of the property to be licensed. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the City Building Inspector for accuracy. In the event of a dispute between the applicant and the City as to the accuracy of the drawing, the Building Inspector may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.

(12) A copy of the lease and all financing documents; all business related contracts for supply of materials and consulting management.

▪ **1101.0535** *ISSUANCE OF LICENSING*

A. Upon the filing of said application for a sexually oriented business license, said application shall be referred to the Chief of Police for investigation to be made on such

information as is contained in the application. The application process shall be completed within sixty (60) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined that one or more of the following findings is true:

1. The applicant is under 18 years of age;
 2. The applicant, or person with whom the applicant is residing, is over-due in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any business.
 3. An applicant has failed to provide information reasonably necessary for the issuance of a license or has falsely answered a question or request for information on the application form.
 4. An applicant, or person with whom the applicant is residing, has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 5. An applicant, or person with whom the applicant is residing, has been convicted of a specified criminal activity defined in this Ordinance.
 6. The premises to be used for the sexually oriented business has not been approved by the health department, fire department or the building official as being in compliance with applicable laws and Ordinances.
 7. The license fee required by this Ordinance has not been paid.
 8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to section 1101.0532 all licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- C. The health department, fire department, and building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.
- D. Every application for a sexually oriented business license (whether for a new license or for a renewal of an existing license) shall be accompanied by a \$1,000.00 non-refundable application and investigation fee.

E. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee of \$1,000.00 within thirty (30) days of license issuance or renewal.

F. All license applications and fees shall be submitted to the City Clerk.

▪ **1101.0536** *INSPECTION*

A. An applicant or licensee shall permit representatives of the Police Department, Fire Department, Zoning Department, or other City Departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

B. A person who operates a sexually oriented business or his agent or employee commits a violation of this chapter if he refuses to permit such lawful inspection of the premises at any time it is open for business.

▪ **1101.0537** *EXPIRATION OF LICENSE*

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date.

B. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

▪ **1101.0538** *SUSPENSION / REVOCATION*

A. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. violated or is not in compliance with any section of this Ordinance;
2. refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

B. The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.

C. The City shall revoke a license if it determines that:

1. a licensee gave false or misleading information in the material submitted during the application process;
2. a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. a licensee has knowingly allowed prostitution on the premises;
4. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
5. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, other sex act to occur in or on the licensed premises; or
6. a licensee is delinquent in payment to the City, County, or State for any taxes or fees past due.

D. When the City revokes a license, the revocation shall continue for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted license if at least ninety (90) days have elapsed since the date the revocation became effective.

E. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court or competent jurisdiction. The administrative action shall be promptly reviewed by the court.

▪ **1101.0539 TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license any place other than the address designated in the application.

▪ **1101.0540 PENALTY.** Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this Ordinance is guilty of a misdemeanor and is subject to a penalty of 90 days in jail and/or \$700 fine for each such violation. Each day such violation continues shall constitute a separate offense.

▪ **1101.0541 SEVERABILITY.** In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court or competent jurisdiction on its face or as applied, such holding shall

not affect the validity or effectiveness of any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the City that this Ordinance would have been adopted had such unconstitutional, invalid, or ineffective provisions not been included herein.

§ 1101.06 LICENSING AND REGULATING DANCE HALLS.

§ 1101.061. DEFINITIONS

PUBLIC DANCE. A “public dance” shall mean any dance wherein the public may participate and admission is charged, either directly or indirectly, but shall not include, when conducted upon its own premises, a dance sponsored by any religious, fraternal, charitable or educational institution or organization.

PUBLIC DANCE HALL. “Public dance hall” shall mean any room, place or space open to public patronage for private gain, in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment either directly or indirectly of an admission fee or price for dancing, excepting a cabaret as defined herein.

CABARET. A “cabaret” shall mean any room, place or space wherein intoxicating liquor is sold pursuant to a valid “on-sale” liquor license and where members of the public are allowed to dance.

§ 1101.062. LICENSE. It shall be unlawful for any person, corporation, organization or association to conduct a public dance or operate a public dance hall or cabaret in the city, unless such person shall previously have obtained a license as hereinafter provided in this article.

§ 1101.063. CROWD CONTROL. In any of the three categories listed in § 1101.065, if the dance floor exceeds 1,000 square feet or the capacity of more than 300 people is possible, at least one uniformed law enforcement officer shall be on duty from the beginning of said dance until one-half hour after closing.

§ 1101.064. APPLYING.

1. An applicant for any such license shall pay the appropriate license fee with his application. Any holder of a valid cabaret license under this article shall not be required to apply for and obtain a separate dance hall permit or license.
2. No license under this article shall be issued to any person convicted of a violation of any law or ordinance relating to dances, dance halls or cabarets within a period of one year following such conviction.

3. The council shall consider and investigate each license application for a dance hall or cabaret and may grant or refuse to grant such license. In the event the Council shall grant such license, the City Clerk shall issue license to the applicant which shall be valid for one year from the date of issuance.

§ 1101.065. FEES. The Council shall establish the amount of the license fees for the following licenses under section § 300.11 and Chapter 101 of this code.

- (1) Temporary public dance license
- (2) Annual dance hall license
- (3) Annual cabaret license

§ 1101.066. PENALTY. Violation of any law or ordinance relating to dances shall be grounds for revocation of any license issued under this article

§ 1101.067. STATE LAW REFERENCE. Authority of city to adopt state statutes by reference, M.S. 471.62.

§ 1101.07

[SAVED FOR FUTURE REFERENCE]

§ 1101.08 LICENSING AND REGULATION OF MECHANICAL AMUSEMENT DEVICES.

§ 1101.081. DEFINITION. A mechanical amusement device is hereby defined as a machine which, upon the insertion of a coin, chip or slug, operates or may be operated for use as a game, contest or amusement of any description, or which may be used for any such game, contest or amusement and which contains no automatic pay-off device for the return of money, coins, checks, tokens or merchandise, or which provides for no such pay-off by any other means or manner, except that this provision shall not prohibit the licensing of a machine which returns chips or slugs which may be used only in the machine licensed, and which in itself does not constitute a gambling device. The term shall include so-called pinball machines, music machines, motion picture machines, and all other machines which, by the insertion of a coin or token, operate for the entertainment or amusement of the player, except weighing machines.

§ 1101.082. LICENSE REQUIRED. No person, firm or corporation shall own, operate, maintain or keep for operation within the City of Dundas any such mechanical amusement device as hereinbefore defined without first having applied for and received a license therefor as hereinafter provided. No license shall be issued for any gambling device.

§ 1101.083. APPLICATIONS FOR LICENSE. Applications for licenses required herein may be granted by the City Council in its discretion to persons applying to it by personal interview. Such applicant shall be prepared to make full disclosure to the Council of all matters relating to persons interested in such device, a general description of the device, the location of the building or premises where the same will be used and by whom. If the applicant is not the owner of such device he shall be prepared to produce the contract, or a duplicate copy thereof, that he has for its use and possession, the applicants name, age, citizenship, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business and said devices, how long he has been in that business at that place, representations as to the applicant's character with such references as may be required, and such other information as the Council may require from time to time. Each license shall be issued to the applicant only and shall not be transferable to another holder or premises.

§ 1101.084. LICENSE FEES. The fee for such license shall be established pursuant to Chapter 101 of this Ordinance for each such device which the applicant is licensed to keep upon his place of business. The license shall expire on December 31 of each year; provided that if a license is issued for a period of six months or less, the fee shall be prorated. Such license fees shall be paid into the General Fund of the City.

§ 1101.085. TRANSFERS. Such license may be transferred to another location in this City upon filing notice with the Clerk of such transfer, upon the payment of a fee of \$1.00, and upon the approval of the City Council. Upon application to the Clerk and approval of the Council any license issued hereunder may be reissued for a device

maintained or kept in place of the device originally licensed, provided that all provisions of this Ordinance shall be complied with in reissuance of said license. The fee for such reissuance shall be \$1.00.

§ 1101.086. LICENSE TO BE DISPLAYED. Every license granted hereunder shall be posted in a conspicuous place on or near the game so licensed and shall identify the same by number or description.

§ 1101.087. PROHIBITED PRACTICES AND RESTRICTIONS. No license hereunder shall be issued for any game of skill within 500 feet of any school building. No person shall use any device licensed under this Ordinance as a gambling device and no licensee shall permit any person to use any game licensed hereunder for gambling purposes. The operation of any lottery or gambling device is declared to be contrary to this Ordinance.

§ 1101.088. PENALTY. Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed \$1,000.00 or by imprisonment for not more than ninety (90) days. Upon conviction for the violation of any law of the State, relating to gambling involving any such game or device, the license to operate the same shall be forthwith revoked.

CHAPTER 1102: LIQUOR REGULATIONS

Section

- 1102.01 Nudity on the premises of licensed establishments prohibited
- 1102.02 Possession or sale of wine, liquor or 3.2 malt liquor
- 1102.03 Licensing and regulating the sale and consumption of non-intoxicating malt liquors
- 1102.04 Licensing and regulating the sale and consumption of intoxicating liquor
- 1102.05 Regulating sale of wine
- 1102.06 Sale and possession of wine and intoxicating liquors on public sidewalks

§ 1102.01 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds it be in the best interests of the public health, safety and general welfare of the people of this city that certain types of activities are prohibited as provided in this section upon the premises of licensed liquor, wine and 3.2 malt liquor establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The Council also finds that the standard set forth in this section reflect the prevailing community standards of the city. The provisions of this section are intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council also intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct.

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

(C) A violation of this section is a misdemeanor and is justification for revocation or suspension of any liquor, wine or 3.2 malt beverage license.

§ 1102.02 POSSESSION OR SALE OF WINE, LIQUOR OR 3.2 MALT LIQUOR.

All ordinances of the city dealing with the possession or sale of wine, liquor or 3.2 malt liquor and any municipal liquor store remain in force and effect until amended or replaced by ordinance or amendments to this code.

§ 1102.03 LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS.

§ 1102.031. DEFINITION OF TERMS.

1. As used in this Ordinance, the term **PERSON** includes a natural person of either sex, co-partnership, corporation, and association of persons, and the agent or manager of any of the aforesaid.
2. **BEER or NON-INTOXICATING MALT LIQUOR** means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths per cent of alcohol by weight.
3. **INTOXICATING LIQUOR** means any distilled, fermented or vinous beverage containing more than three and two-tenths percent of alcohol by weight.

4. **ORIGINAL PACKAGE** means the bottle or sealed container in which the liquor is placed by the manufacturer.
5. **OFF-SALE** means retail sale in the original package for consumption away from the premises only.
6. **ON SALE** means retail sale for consumption of beer on the licensed premises.
7. **SALE and PURCHASE** include all barbers, gifts, sales, and other means used to obtain or furnish beer, or any other beverage, in violation or evasion of this Ordinance.
8. **MINOR** means any person under 21 years of age.

§ 1102.032. LICENSE REQUIRED FOR OFF-SALE AND ON-SALE. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any beer within the City without first having received a license as hereinafter provided.

§ 1102.033. APPLICATIONS FOR LICENSE. “Off-sale” licenses may be granted by the City Council in its discretion to persons applying to it by personal interview. The personal interview may be waived by the City Council for individuals requesting renewal licenses. Such applicant shall be prepared to make full disclosure to the Council of all matters relating to the applicant’s name, age, citizenship, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he/she has been in that business at that place, representations as to the applicant’s character with such references as may be required, and such other information as the Council may require from time to time. Each license shall be issued to the applicant only and shall not be transferable to another holder or premises.

§ 1102.034. LICENSE FEES.

1. The annual fee for an “off-sale” license shall be payable to the City Clerk. All fees shall be paid into the General Fund of the municipality.
2. All licenses issued hereunder shall expire on the last day of June of each year after issuance, at midnight. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

§ 1102.035. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to any person who is a minor; or who has been convicted of a felony, or of violating any law of this State or local ordinance relating to the manufacture or transportation of intoxicating liquors; or who is a manufacturer of beer or who is interested in the control

of any place where beer is manufactured; or who is not of good moral character; or who is not the proprietor of the establishment for which the license is issued.

§ 1102.036. *PENALTY.* Any violation of this ordinance or any part thereof shall be a misdemeanor and shall constitute imprisonment for not more than ninety (90) days or a fine of not more than \$1,000.00.

§ 1102.04 LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR.

§ 1102.0401. *PROVISIONS OF STATE LAW ADOPTED.* The provisions of Minnesota Statutes Chapter 340A, relating to the definition of terms, licensing, assumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

§ 1102.0402. *LICENSE REQUIRED.*
HISTORY: Amended by Ord. 2002-05

1. No person, except wholesalers or manufacturers to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale, any intoxicating liquor without first having received a license to do so as provided in this ordinance. Licenses shall be of two kinds: “On-Sale” and “Off Sale”.

2. On-Sale licenses shall permit “On-Sales” of liquor only. Not more than Four “On-Sale” licenses shall be granted at any one time.

3. Off-Sale licenses shall permit “Off-Sale” of liquor only. Not more than Five “Off-Sale” licenses shall be granted at any one time.

HISTORY: Amended by Ord. 2007-__

4. Special Sunday On-Sale License. Special Sunday On-Sale License for the sale of intoxicating liquor on Sunday shall be issued only to hotels, restaurants and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, subd. 3.

§ 1102.0403. *APPLICATION FOR LICENSE.*

1. Every application for a license to sell liquor shall be verified and filed with the City Clerk. It shall state the name of the applicant, his age, representations as to his character, with such references as may be required, his citizenship, whether the application is for “On Sale” or “Off Sale”, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such

information, each application for a license shall be in the form prescribed by the Liquor Control Commissioner. No person shall make a false statement in an application.

2. Financial Responsibility. No liquor license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as defined in M.S.A. 340A.409 with regard to liability under the statutes, Section 340A.801. Such proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this paragraph shall conform to M.S.A. Section 340A.409.

3. Approval Security. The security offered under paragraph 2 shall be approved by the City Council and in the case of applicants for “Off Sale” licenses, by the State Commissioner of Public Safety. Liability insurance policy is required by this ordinance but not by State law, and surety bonds required under paragraph 2 shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times the security as required in paragraphs 2 and 3, is a cause for revocation of the license.

§ 1102.0404. LICENSE FEES

1. Fee. The annual fee for a liquor license, for an “On Sale” license, for a temporary “On Sale” license, for a Special Sunday “On Sale” license, and for an “Off Sale” license, shall be established by section 300.11 and Chapter 101.

2. Payment. Each application for a license shall be accompanied by a receipt from the city treasurer for at least ½ (50%) of the license fee. The remainder of the license fee shall be paid to the city no later than June 30 of each year. No license shall be issued unless the license fee has been paid in full. All license fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the treasurer shall refund the amount paid for the license fee.

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

4. Refunds. Pro Rata refunds of liquor license fees shall be permitted as authorized by Minnesota Statute, § 340A.408 Subd. 5.

§ 1102.0405. GRANTING OF LICENSES.

1. On an initial application for an “On Sale” license, and on application for transfer of an existing “On Sale” license, the applicant shall pay with his application an investigation fee of not more than \$250.00, and the city shall conduct a preliminary background financial investigation of the applicant. The application in such case shall be

made on a form prescribed by the State Bureau of Criminal Apprehension, and with such additional information as the City Council may require.

If the City Council deems it in the public interest to have an investigation made on a particular application for renewal of an "On Sale" license, it shall so determine. In any case, if the City Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation.

No license shall be issued, transferred, or renewed if the results show to the satisfaction of the City Council, the issuance would not be in the public interest. If an investigation outside the State is required, the applicant shall be charged with the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be paid by the applicant whether or not the license is granted.

2. Hearing and Issuance. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council shall, in its discretion, grant or refuse the application. No "Off Sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

3. Person and Premises License Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed to transfer of the license, and the transfer of stock without prior City Council approval is a ground for revocation of the license.

§ 1102.0406. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or be held by any person made ineligible for such a license by State law.

§ 1102.0407. PLACES INELIGIBLE FOR LICENSE.

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

2. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

3. No license shall be granted within 350 feet of any school, or within 350 feet of any church.

§ 1102.0408. *CONDITIONS OF LICENSE.*

1. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the City or State Law.
2. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and other in it.
3. Any peace officer, health officer, or any properly designated officer or employee of the City shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a warrant.

§ 1102.0409. *RESTRICTIONS ON PURCHASE AND CONSUMPTION.*

HISTORY: Amended Ord 2003-04; Amended Ord 2003-10

The sale of On-Sale Intoxicating Liquor for consumption on the licensed premises may be made between the hours of 8:00 a.m. and 2:00 a.m., Monday through Saturday.

The sale of On Sale Intoxicating Liquor on Sunday is allowed between the hours of 10:00 a.m. on Sunday and 2:00 a.m. on Monday. Establishments serving Liquor on Sundays must obtain a Special License under §1102.0402 (4) of this Ordinance.

Last call for consumption of On-Sale Intoxicating Liquor shall be made at 1:45 a.m. No person shall consume or possess liquor within a licensed business after 2:00 a.m. No customer or patron shall be allowed within the licensed premises after 2:00.

§ 1102.0410. *SUSPENSION AND REVOCATION.* The City Council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000.00, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in case of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S.A. Section 14.57 to 14.70 of the Administrative Procedures Act.

Lapse of required dram shop insurance or bond, or withdrawal of required deposit of cash or securities, shall effect an immediate suspension of any license pursuant to this ordinance without any action of the City Council. Notice of Cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee to the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the clerk, a hearing shall be granted within ten days, or such longer period as may be requested. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirement of this ordinance has again been met.

§ 1102.0411. PENALTY. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700.00 or an imprisonment in the Rice County Law Enforcement for not more than ninety (90) days plus the costs of prosecution in either case.

§ 1102.05 REGULATING SALE OF WINE.

§ 1102.051. Pursuant to the authority of Minnesota Statutes 340A.404 subd. 5, there is hereby authorized an On Sale Wine License to permit the sale by the glass or drink. Wine not to exceed 14% alcohol by volume for consumption on the licensed premises only in conjunction with the sale of food. Such licenses shall be issued only to “restaurants” defined by Minnesota Statutes 340A.101 subd. 25, which have facilities for the seating of not fewer than 25 guests at one time.

HISTORY: Amended by Ord. 2002-05

§ 1102.052. The fee for an On Sale Wine License as authorized by this ordinance shall be set by resolution of Dundas City Council.

1. All licenses shall be issued on an annual basis. Licenses shall expire on the last day of June of each year after issuance, at midnight, including such approval by the Liquor Control Commission as required by statute.

2. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the City Council shall grant or refuse the application in its discretion. No license shall be granted to or held by any person made ineligible for such a license by Minnesota State Law. Owner or manager shall be a permanent resident of the City of Dundas.

§ 1102.053. PLACES INELIGIBLE FOR LICENSE.

1. No license shall be issued for any place or for any business ineligible for such a license under Minnesota State Law.

2. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

3. No license shall be granted within 350 ft. of any school, or within 350 ft. of any church.

§ 1102.054. RESTRICTION OF PURCHASE AND CONSUMPTION.

1. No minor shall misrepresent his age for the purpose of obtaining wine.

2. No person shall induce a minor to procure or purchase wine.

3. No person shall consume wine in any place not licensed to sell wine.
4. No wine shall be sold or consumed, and no person shall have in his possession an open container of wine, on a public highway, or in any automobile or in public streets, sidewalks and public property.
5. Shall include hours of sale as set by the State of Minnesota Liquor Commission. Sunday sale prohibited unless approved by vote of City at General Election.

§ 1102.055. Any violation of this ordinance or Minnesota Statute 340, shall constitute a misdemeanor and grounds for revocation of license.

§ 1102.06 SALE AND POSSESSION OF WINE AND INTOXICATING LIQUORS ON PUBLIC SIDEWALKS.

HISTORY: Adopted by Ord. 2002-05

§ 1102.061. Notwithstanding section 1102.0409 (4); and section 1102.054 (4), the holder of an “On-Sale” License for premises which is located in the B-1 zoning district of the City, may apply for a temporary expansion of the licensed premises permit to allow sale and possession of alcoholic beverages on public sidewalks directly adjacent and contiguous to the permanently licensed premises.

The City Council may grant such a permit on the terms and conditions specified in this section, and such other terms and conditions as the City Council may determine are necessary or advisable to protect the public health, safety and welfare. Applications shall be subject to the following requirements and procedures.

§ 1102.062 APPLICATION. Application for a temporary expansion of the licensed premises shall be made on forms provided by the City and shall contain the following information, and such other information as the Council may require from time to time:

- a. The names, addresses and telephone numbers of the license holders, the owner of the premises, and the manager of the licensed establishment;
- b. A specific description and diagram of the area in which the temporary expansion activity is to occur. The description and diagram must include dimensions, barriers proposed to be used, ingress and egress arrangements, seating capacity, and other relevant information;
- c. The purpose for which the temporary expansion is sought and a description of planned activities, including food and beverage service, security plans (including lighting, sanitation, liquor control, etc.), and days and hours of operation;
- d. A detailed description of the methods that the licensee will use to ensure that consumption of alcoholic beverages is restricted to the licensed premises and the

temporary expansion area, and that alcoholic beverages are not removed from those areas;

e. Such other information as the City may deem necessary.

§ 1102.063 *CONDITIONS.* Approval of an application may be made subject to any appropriate restrictions or conditions, which may vary from establishment to establishment depending on the circumstances. As a minimum, the following restrictions and conditions shall apply:

a. The temporary expansion area located on the public sidewalk must be immediately at the front of an establishment and not encroach on the sidewalk of any neighboring premises;

b. Hours of operation shall be limited to between 11 a.m. and 10 p.m., subject to other limitations of the underlying on-sale license and subject to any greater restrictions which the City Council may determine should apply to a temporary expansion area due to its particular circumstances;

c. The City Council may determine the specific days of operation, which shall be specified in the permit. Sale or possession of alcoholic beverages within the temporary expansion area shall only be permitted between May 1st and October 1st;

d. Service of alcoholic beverages shall be only at tables and limited to the approved seating capacity in the temporary expansion area. Food service shall be available in the temporary expansion area during all hours of operation;

e. The City Council may specify the type of beverage containers which may be used in a temporary expansion area, and may require a specific type and number of refuse containers to be provided within the area;

f. An approved temporary barrier at least 30 inches in height shall be placed at the line of the temporary expansion area which adjoins any other neighboring premises, during the hours of operation;

g. The licensee shall have submitted adequate plans addressing liquor control and other public safety concerns, and shall comply with all such plans which are approved by the City when the permit is issued under this section, at all times.

h. At least 4 feet of sidewalk must be maintained outside the temporary expansion area for barrier free (including wheelchair accessible) pedestrian traffic;

i. All temporary barriers, tables and chairs, and other property of the licensee shall be removed from any public sidewalk within the temporary expansion area at all times other than the hours of operation;

j. The licensee shall be responsible for picking up trash and litter generated in the operation of the temporary expansion area, and within a reasonable distance (minimum of 20 feet) from the area;

k. All applicable liquor laws shall be strictly observed by the licensee and his or her employees;

l. The licensee shall maintain general liability insurance expressly covering any temporary expansion area which is on public property or sidewalks, with the minimum of \$500,000.00 combined single limit, and shall name the City of Dundas as an additional insured thereon. The licensee shall provide proof of such insurance to the City prior to the issuance of any permit under this section, and from time to time upon reasonable request of the City;

m. Issuance of the permit under this section shall indicate that the licensee has agreed to defend, indemnify and hold the City, its officers, employees and agents, harmless from any claims, damages, losses, costs and expenses which may arise as a result of the use of temporary expansion area by the licensee and his or her employees, agents and customers.

Additionally, the licensee shall be responsible for the cost of any clean-up required by reason of such use, whether within or outside the temporary expansion area, which may be incurred by the City. The City shall have a lien against the licensed premises for any such claim, damage, loss, cost or expense which is paid by the City.

n. The licensee shall post notice to all patrons, that they must remain within the temporary expansion area while possessing or consuming any alcoholic beverages. The notice shall also advise patrons that they are subject to citation by the City of Dundas if they leave the temporary expansion area with any alcoholic beverage.

§ 1102.064 VIOLATION. In addition to any other penalties which may be available under the general liquor ordinances, and regardless of any other limitations or sanctions which may be imposed by the City, any violation of this section, or of a material term or condition of a permit issued hereunder, or any applicable liquor law or ordinance, shall be cause for the immediate suspension of a temporary expansion permit by the Dundas Police Department, subject to review by the City Council at its next regular meeting upon request by the licensee. If the City Council finds that a material violation of this section, or of a material term or condition of a permit issued hereunder, or of any other applicable liquor law or ordinance has occurred, the City Council may suspend or revoke a temporary expansion permit in its sole discretion.

CHAPTER 1103: PEDDLERS AND SOLICITORS

History: Amended Ord 2003-05

Section

- 1103.01. Definitions
- 1103.02. Exceptions to Definitions
- 1103.03. Licensing; Exemptions
- 1103.04. License Ineligibility
- 1103.05. License Suspension and Revocation
- 1103.06. License Transferability
- 1103.07. Registration
- 1103.08. Refusal to Register or Permit
- 1103.09. Prohibited Solicitation Practices
- 1103.10. Exclusion by Placard
- 1103.11. Use of Streets
- 1103.12. Private Property

1103.01 DEFINITIONS:

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **BUSINESS SOLICITATION:** Means an attempt by a solicitor, engaging in transactions of the same kind to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except:

(A) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity of kinds of goods, services or things of value offered.

(B) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor.

(C) An attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper.

(D) An attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

(2) **CONTRIBUTION SOLICITATION:** Means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except:

(A) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization.

(B) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

(3) **ESTABLISHED PLACE:** Means real estate in the City owned, leased on a month-to-month or term-certain longer than (30) thirty days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

(4) **GOODS:** Any tangible thing of value including money if the selling price exceeds the face value thereof. The term includes such chattels as are furnished or used at the time of the sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom.

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

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

(7) **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.

(8) **SOLICITEE:** Means the person solicited.

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

(10) **TRANSIENT MERCHANT:** 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 14 consecutive days.

' 1103.02 EXCEPTIONS TO DEFINITIONS

(1) For the purpose of the requirements of this chapter, 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 items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(2) 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 PEDDLER, SOLICITOR, 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 chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(3) Girl Scouts, Boy Scouts, and other charitable tax-exempt organizations, who register with the City Administrator, shall be exempt from the definitions of PEDDLER, SOLICITOR, and TRANSIENT MERCHANTS.

' 1103.03 LICENSING; EXEMPTIONS

(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 M.S. Ch. 329 as it may be amended from time to time.

(2) *CITY LICENSE REQUIRED.* Except as otherwise provided for by this chapter, no person shall conduct business as a peddler, solicitor or transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to ' 1103.07.

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

(A) The full legal name and date of birth of the applicant. Applicants shall provide a current driver=s license or identification card issued by the State of Minnesota or other state, which license or card must include a picture of the person to whom it was issued.

(B) The business and residence address(es) and telephone number(s) of the applicant, including a street or rural route address, the city or town, and the state. A post office box number shall not be accepted as an address for the applicant. Address information shall include both the applicant=s permanent address and, if different the applicant=s temporary address in the vicinity of Dundas.

(C) The address to which all notices required under this chapter shall be sent.

(D) The age, sex, weight, height, and color of eyes and hair of the applicant.

(E) A description of any vehicle and license number to be used in the regulated activity.

(F) The name, phone number and address of the person, firm, association or corporation that the applicant represents or is employed by, or whose merchandise is being sold, and the name, phone number and address of the manager or supervisor to whom the applicant reports to during the course of undertaking the regulated activity. Such address information shall indicate a street or rural route address, the city or town, and the state at which the firm is located. A post office box number shall not be accepted as an address for the business entity. Address information shall include both the business entity=s permanent address and, if different, the business entity=s temporary addresses in the vicinity of Dundas.

(G) A description of the kind and nature of the property, goods, wares, merchandise or services sold or solicited for sale by the applicant, and an itinerary identifying the intended dates and areas of the city in which the applicant will be undertaking any regulated activity along with the proposed method of delivery.

(H) The signature of the applicant.

(I) Whether or not the applicant has ever been convicted of a violation of any ordinance of the city or any other municipality; and if so, a description of the nature of the violation, the date of the conviction, and the name of the city involved.

(J) Whether or not the applicant has ever been convicted of a violation of any statute of the United States, the state of Minnesota, or any other state; and if so, a description of the nature of the violation, the date of the conviction, and the name of the sate or other jurisdiction involved.

(K) The length of time during which the regulated activity is to be conducted, but no event is to exceed fourteen (14) days from the date of registration.

(L) The names of other municipalities, not to exceed three, where the applicant has carried on a similar business, and the addresses from which the business was conducted in those municipalities.

At the time of filing the application, a nonrefundable fee of \$75.00 shall be paid to the City Administrator cover administrative fees and the cost of investigation of the facts stated therein.

Each application shall be referred to the Dundas Police Department for investigation, the results of which shall be reported to the City Clerk. The peace officer shall have (10) ten business days within which to investigate and make a recommendation thereon.

(4) *PROCEDURE.* Upon receipt of the completed application and payment of the license fee, the City Administrator, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the required necessary information that is missing. If

the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Administrator must issue the license unless there exist grounds for denying the license under ' 1103.04, in which case the City Administrator must deny the license. If the City Administrator denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant=s right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within twenty (20) days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

(5) *DURATION.* An annual license granted under this chapter shall be valid for one calendar year form the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(6) *LICENSE EXEMPTIONS.* This section does not apply to:

- (A) The sale of the products of the farm or garden occupied or cultivated by the seller.
- (B) Person=s going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person=s State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, that this exemption may be lost if the person=s exercise of Constitutional rights is merely incidental to a commercial activity.
- (C) Sales of personal property at wholesale to dealers in such articles.
- (D) The sale of newspapers.
- (E) The acts of merchants or their employees in delivering goods in the regular course of business
- (F) A sale required by statute or by order of any court, or the conduct of a bona fide auction sale pursuant to law.
- (G) An organization that desires to use a solicitor to solicit money, donations of money or property, or financial assistance of any kind, or that desires to sell or distribute any item of literature or merchandise for which a fee is charged or solicited, for a charitable, religious, patriotic, political, or philanthropic purpose is exempt from the provisions of this section, provided the organization files the following information with the City Administrator.
 - 1. The organization=s name and the specific cause for which an exemption is sought.
 - 2. The names and addresses of the officers and directors of the organization.

3. The period during which the solicitation is to be carried out.
4. Whether any commission, fee or wage will be expended in connection with the solicitation, and the amount thereof.

Upon being satisfied that the organization is acting for a charitable, religious, patriotic, political, or philanthropic purpose, the City Administrator shall issue a license without fee to the organization. The organization shall furnish credentials to all of its members, agents, or representatives participating in solicitation. The credentials shall state the name of the organization, the name of the agent, and the purpose of the solicitation.

(7) *PENALTY*. See ' 100.99

' 1103.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

- (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 the application.
- (C) Conviction of the applicant for a violation under this chapter within five (5) years immediately preceding the filing of the application.
- (D) The prior revocation of registration or permit under this chapter for cause within five (5) years immediately preceding the filing of the application; or the revocation of any other license, permit or registration issued by the United States, the State of Minnesota, any other state, or any other municipality within the United States based upon or involving fraud or misrepresentation and within five (5) years immediately preceding the filing of the application.
- (E) The applicant is under suspension under this chapter.
- (F) The conviction of the applicant within the past five (5) years from the date of the application for any violation under any statute of the United States, the State of Minnesota or any other state, or under any ordinance of the City of Dundas or any other municipality within the United States, which violation involved acts which if they occurred in Minnesota would constitute fraud, misrepresentation, embezzlement, burglary, possession of burglary or theft tools, criminal sexual conduct, robbery, kidnapping, false imprisonment or assault and which conviction occurred within five (5) years immediately preceding the filing of the application.

(G) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three (3) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three complaints filed against the applicant within the preceding five (5) years.

▪ **1103.05 LICENSE SUSPENSION AND REVOCATION.**

(A) The City Administrator shall by service of notice suspend for a period of not more than sixty (60) days, or revoke any registration or permit under the authority of this chapter for any of the following reasons:

- (1) The conviction of the registrant of any of the offenses set forth in ' 1103.04.
- (2) The conviction of the registrant or permittee under any ordinance of any city or the laws of the United States, the State of Minnesota, or any other state involving fraud, misrepresentation or embezzlement during the effective period of the registration or permit.
- (3) The use of any fraud, misrepresentation, trick, or deception in carrying out or promoting a regulated activity.
- (4) The refusal of the registrant or permittee to exhibit proof of registration under this chapter to any official or law enforcement officer of the City.
- (5) The representation upon the application form or otherwise that the registrant or permittee is an employee, agent, or representative of any person whom the registrant does not, in fact, represent.
- (6) The refusal or failure of the registrant or permittee to leave the property or premises of others when requested to leave by the owner or occupant thereof.
- (7) The making of any false statement or misrepresentation by the registrant or permittee to gain entrance to any building or structure within the City.
- (8) The use of any false or fraudulent statement, whether written or oral, or any misrepresentation concerning the price, terms of payment, quality, quantity, or delivery of personal property, goods, wares, merchandise or services.
- (9) The violation by the registrant or permittee of any other provisions of this chapter.

(B) *MULTIPLE PERSONS UNDER ONE LICENSE.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each

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

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

(D) *PUBLIC HEARING.* Upon receiving the notice provided in division (3) of this section, the licensee shall have the right to request a public hearing. If no request is received by the City Clerk within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated 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.

(E) *EMERGENCY.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (3) of this section.

(F) *APPEALS.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(G) *PENALTY.* See ' 100.99

' 1103.06 LICENSE TRANSFERABILITY

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

Penalty, see ' 100.99

' 1103.07 REGISTRATION

Upon being furnished with the required information, payment of the prescribed fee and the completion of the Dundas Police Department investigation, the City Administrator shall register the applicant forthwith and issue a receipt of registration except as provided in Section 1103.08. The City Administrator shall make a reasonable effort to complete the registration process promptly. Such receipt shall contain the signature of the issuing officer and shall show the name, address and description of the registrant, the kind of goods to be sold there under, the

amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such regulated activity. The City Administrator shall record the registration in a permanent record.

All solicitors, and any person exempt from the licensing requirements of this chapter under ' 1103.03, 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 "Solicitors, Peddlers, Transients Permit" as proof of the registration. "Solicitors, Peddlers, Transients Permit" shall be non-transferable.

Penalty, see ' 100.99

' 1103.08 REFUSAL TO REGISTER OR PERMIT.

The City Administrator shall refuse to register any person or issue a permit to any organization for any of the reasons set forth in ' 1103.04.

If registration or permitting is refused, the City Administrator shall notify the applicant in writing setting forth the grounds for such refusal. The applicant may appeal from the City Clerk's decision by filling a written notice of appeal with the City Administrator within ten (10) days after receipt of notice from the City Administrator.

' 1103.09 PROHIBITED SOLICITATION PRACTICES.

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

- (A) To engage in solicitation for any unlawful business or organizational purpose or activity.
- (B) To engage in threats, harassment, theft or deceit or otherwise unlawful activities during the course of solicitation and to continue to solicit after solicitee has indicated further solicitations are not welcome.
- (C) To refuse to leave any premise in the City of Dundas when requested by the owner, lessee, or person in charge thereof.
- (D) To engage in contribution solicitation without completion of licensing or registration as herein provided.
- (E) To engage in business solicitation without a license as herein provided.

(F) To call 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.

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

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

(I) Conducting business before 8:00 AM or after 10:00 PM Monday through Saturday & 10:00 AM until 6:00 PM on Sunday.

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

(K) 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.

' 1103.10 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 four (4) inches long and four (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.

Penalty, see ' 100.99

' 1103.11 USE OF STREETS.

A person licensed under this section does not have any exclusive right to any location in the public streets and it is not permitted a stationary location thereon. A person licensed under this section may not operate in a congested area where doing so might impede or inconvenience the public use of streets.

'1103.12 PRIVATE PROPERTY.

Issuance of a license under this section does not permit the license holder to conduct the licensed activity on private property without the permission of the owner or the owner=s authorized agent.

CHAPTER 1104: TATTOO AND BODY PIERCING SERVICES

Section

- 1104.01 Definitions
- 1104.02 Prohibitions
- 1104.03 Application for license; fees; issuance
- 1104.04 Inspection of facilities
- 1104.05 Suspension or revocation of license
- 1104.06 Consent for performing procedures on persons under 18
- 1104.07 Prohibitions relating to persons under 18
- 1104.08 Defenses to violations
- 1104.09 Training standards; records; safety and sanitation; equipment

§ 1104.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF HEALTH. A Board of Health established under the provisions of M.S. § 145A.03, as it may be amended from time to time. If the city does not have a Board of Health, then this term means the authority having the duties of a Board of Health in the city, including but not limited to the County Board of Health.

BODY PIERCING. Includes ear piercing except when the ear piercing procedure is performed with an ear piercing gun.

BUSINESS. Any entity that provides services for compensation.

EAR PIERCING GUN. A mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.

GUARDIAN. Has the same meaning as in § 1300.15.

PARENT. Has the same meaning as in § 1300.15.

TATTOO. Has the same meaning given in M.S. § 609.2246, Subd. 2, as it may be amended from time to time.

§ 1104.02 PROHIBITIONS.

No person shall do any of the following:

(A) Operate a business that offers tattooing or body piercing services unless the City Council issues it a license to do so;

(B) Perform a tattooing or body piercing procedure in a manner that does not meet the safety and sanitation standards established by this chapter and any federal, state or local laws, rules or regulations;

(C) Perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this chapter and any federal, state or local laws, rules or regulations.

Penalty, see § 100.99

§ 1104.03 APPLICATION FOR LICENSE; FEES; ISSUANCE.

(A) A person seeking approval to operate a business that offers tattooing or body piercing services shall apply to the city on forms the city or the Board of Health shall prescribe and provide. The applicant shall submit all information the city and the Board of Health determines is necessary to process the application. The applicant shall include the fee established under the city's Ordinance Establishing Fees and Charges authorized by § 300.11 and Chapter 101 as it may be amended from time to time, or as established by the Board of Health.

(B) To receive approval to offer tattooing or body piercing services, a business must demonstrate to the Board of Health the ability to meet the requirements established by this chapter and any federal, state or local laws, rules or regulations for safe performance of the tattooing or body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.

(C) If the Board of Health determines, following an inspection conducted under § 1104.04, that a business meets the requirements for approval, it shall so advise the city. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision. Approval remains valid for one year unless earlier suspended or revoked under § 1104.05. A business's approval may be renewed. Approval is not transferable.
Penalty, see § 100.99

§ 1104.04 INSPECTION OF FACILITIES.

The Board of Health, or a person or another body designed by the city, shall conduct at least one inspection of a business prior to approving the business under § 1104.03 to offer tattooing or body piercing services. The Board may conduct additional inspections as necessary for the approval process. The Board of Health may inspect an approved business at any time the Board considers necessary. In an inspection, the Board of Health shall be given access to the business's premises and to all records relevant to the inspection.
Penalty, see § 100.99

§ 1104.05 SUSPENSION OR REVOCATION OF LICENSE.

The City Council may suspend or revoke the approval of a business to offer tattooing or body piercing services at any time it determines that the business is being operated in violation of this chapter or any federal, state or local laws, rules or regulations. Proceedings for suspensions and revocations shall be conducted in accordance with rules adopted in Chapter 1100 for the suspension or revocation of business licenses.

§ 1104.06 CONSENT FOR PERFORMING PROCEDURES ON PERSONS UNDER 18.

(A) No person shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with division (B) of this section. The consent must include both the custodial and non-custodial parents, where applicable.

(B) A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:

- (1) Appear in person at the business at the time the procedure is performed;
- (2) Sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following performance of the procedure.

Penalty, see § 100.99

§ 1104.07 PROHIBITIONS RELATING TO PERSONS UNDER 18.

(A) (1) unless consent has been given in accordance with § 1104.06, no individual who is under age 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual who is under age 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(B) (1) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual shall impersonate the parent, guardian or custodian of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

Penalty, see § 100.99

§ 1104.08 DEFENSES TO VIOLATIONS.

(A) An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of § 1104.06(A) or any federal, state or local laws, rules or regulations in which age is an element of the provisions if:

(1) The individual obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's or commercial driver's license or an identification card issued under state law showing that the individual was then at least age 18;

(2) The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and

(3) The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service was at least age 18.

(B) In any action or proceeding before a court of record in which a defense is raised under this section, the Registrar of Motor Vehicles or the Registrar's Deputy who issued a driver's or commercial driver's license or an identification card shall be permitted to submit certified copies of the records, in the Registrar's or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

§ 1104.09 TRAINING STANDARDS; RECORDS; SAFETY AND SANITATION; EQUIPMENT.

(A) Each operator of a business that offers tattooing or body piercing services shall do all of the following:

(1) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;

(2) With respect to tattooing services, maintain written records that include the color, manufacturer and lot number of each pigment used for each tattoo performed;

(3) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any federal, state or local laws, rules or regulations;

(4) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations;

(5) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.

(B) Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations.

Penalty, see § 100.99

CHAPTER 1105: TOBACCO REGULATIONS

Section

- 1105.01 Purpose and intent
- 1105.02 Definitions
- 1105.03 License
- 1105.04 Fees
- 1105.05 Basis for denial of license
- 1105.06 Prohibited sales
- 1105.07 Vending machines
- 1105.08 Self-service sales
- 1105.09 Responsibility
- 1105.10 Compliance checks and inspections
- 1105.11 Other illegal acts
- 1105.12 Exceptions and defenses

- 1105.99 Violations and penalty

§ 1105.01 PURPOSE AND INTENT.

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 the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter 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 in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

§ 1105.02 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. 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 chapter. Compliance checks shall involve the use of minors as authorized by this chapter. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

INDIVIDUALLY PACKAGED. 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 definition shall not be considered individually packaged.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of 18 years.

MOVEABLE PLACE OF BUSINESS. 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. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores and restaurants.

SALE. Any transfer of goods for money, trade, barter or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.

TOBACCO or TOBACCO PRODUCTS. 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 a manner as to be suitable for chewing, sniffing or smoking.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

VENDING MACHINE. 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.

§ 1105.03 LICENSE.

(A) *LICENSE REQUIRED.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

(B) *APPLICATION.* An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk

shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *ACTION*. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(D) *TERM*. All licenses issued under this chapter shall be valid for one calendar year from the date of issue.

(E) *REVOCAION OR SUSPENSION*. Any license issued under this chapter may be revoked or suspended as provided in § 1105.99.

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

(G) *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 chapter.

(H) *DISPLAY*. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

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

(J) *ISSUANCE AS PRIVILEGE AND NOT A RIGHT*. The issuance of a license issued under this chapter 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.

Penalty, see § 1105.99

§ 1105.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the city's Ordinance Establishing Fees and Charges, adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time.

Penalty, see § 1105.99

§ 1105.05 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this chapter includes but is not limited to the following:

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

(2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application.

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

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.

(B) 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.

(C) 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 chapter.

Penalty, see § 1105.99

§ 1105.06 PROHIBITED SALES.

It shall be a violation of this chapter 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 18 years.

(B) By means of any type of vending machine, except as may otherwise be provided in § 1105.07.

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

tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.

(D) By means of loosies as defined in § 1105.02.

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(F) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.
Penalty, see § 1105.99

§ 1105.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.
Penalty, see § 1105.99

§ 1105.08 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee, or his or her clerk, and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this section within 90 days following the effective date of this chapter.
Penalty, see § 1105.99

§ 1105.09 RESPONSIBILITY.

All licensees under this chapter 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 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 chapter, state or federal law, or other applicable law or regulation.

Penalty, see § 1105.99

§ 1105.10 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when those 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 minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

Penalty, see § 1105.99

§ 1105.11 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this chapter:

(A) *ILLEGAL SALES*. It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.

(B) *ILLEGAL POSSESSION*. It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) *ILLEGAL USE*. It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, or tobacco related device.

(D) *ILLEGAL PROCUREMENT*. It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This division (D) shall not apply to minors lawfully involved in a compliance check.

(E) *USE OF FALSE IDENTIFICATION.* It shall be a violation of this chapter 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. Penalty, see § 1105.99

§ 1105.12 EXCEPTIONS AND DEFENSES.

Nothing in this chapter 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 chapter for a person to have reasonably relied on proof of age as described by state law.

§ 1105.99 VIOLATIONS AND PENALTY.

(A) *VIOLATIONS.*

(1) Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(2) Hearings. If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) Hearing Officer. The city official designated by the City Council shall serve as the hearing officer.

(4) Decision. If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under division (B) of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.

(5) Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(6) Misdemeanor prosecution. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.

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

(B) *ADMINISTRATIVE PENALTIES.*

(1) Licensees. Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

(2) Other individuals. Other individuals, other than minors regulated by division (B)(3) of this section, found to be in violation of this chapter shall be charged an administrative fee of \$50.

(3) Minors. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by City Council ordinance upon the City Council's consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. This administrative fine or other penalty may also be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time.

(4) Misdemeanor. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(5) Statutory penalties. If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

CHAPTER 1106: REGULATING THE FILLING OF LAND

Section

- 1106.01 Land filling operations
- 1106.02 Application for permit
- 1106.03 Technical reports
- 1106.04 Issuance of permits
- 1106.05 Conditions of operation
- 1106.06 Bonding
- 1106.07 Failure to comply
- 1106.08 Completion of operation
- 1106.09 Penalty

Application for land fill permit

§ 1106.01. LAND FILLING OPERATIONS.

PERMIT REQUIRED. Whenever any person, firm, or corporation proposes to add land fill in excess of five (5) cubic yards to any property within the city limits, he shall apply to the City for a Land Fill Permit.

§ 1106.02. APPLICATION FOR PERMIT.

Any person, firm, or corporation desiring a permit hereunder shall present an application on such form as shall be provided by the City Building Official requiring the following information:

- (a) the name and address of the applicant;
- (b) the name and address of the owner of the land;
- (c) the purpose of the land fill;
- (d) a description of the source, type, and amount of fill material to be placed upon the premises;
- (e) an estimate of the time required to complete the land fill;

The following items may be required if the City Building Official or the Dundas City Council determine that they are necessary:

- (a) the address and legal description of the land involved;
- (b) a site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within 200 feet;
- (c) a site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such a plan. Final grade shall not adversely affect the surrounding land or the development of the site on which fill is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth;
- (d) a security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection;
- (e) a statement that the applicant will comply with all conditions prescribed by the City or its offices or agents.

The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application shall be paid to the City at the time the application is submitted, as provided in section 300.11 and Chapter 101.

§ 1106.03. TECHNICAL REPORTS.

- (a) The City Building Official shall process all Land Fill Permit applications.
- (b) When the inspection expenses incurred during the landfill operation exceed the fee, such excess expenses shall be billed to the applicant.

§ 1106.04. ISSUANCE OF PERMIT.

- (a) The Building Official shall determine as to whether, and when, and under what conditions a land fill permit for less than thirty (30) cubic yards shall be issued.
- (b) Upon receiving information and reports from the City Building Official, the Council shall make its determination as to whether, and when, and under what conditions such permit for a land fill greater than thirty (30) cubic yards is to be issued to the applicant by the City Building Official.

§ 1106.05. CONDITIONS OF OPERATION.

Under no circumstances shall any such land fill operation be conducted or permitted if the contents of the land fill or any part thereof shall consist of garbage, animal or vegetable refuse; poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic biologically dangerous material; or any other material deemed to be unsuitable by City authorities.

§ 1106.06. BONDING.

The Building official or the Council may require either the applicant or the owner or user of the property on which the land fill is occurring to post a bond in such form and sum as the Building Official shall determine, with sufficient surety provided to the City, conditional to pay to the City the extraordinary cost and expense of repairing from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill material, the amount of such cost and expense to be determined by the City Building Official; and conditioned further to comply with all requirements of this Ordinance, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

§ 1106.07. FAILURE TO COMPLY.

The Council may, for failure of any person to comply with any requirement made of him in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the land fill is located, or the City may at its option proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a bond exists.

§ 1106.08. COMPLETION OF OPERATION.

(a) All land fill operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify the Building Official in writing to the City and upon a satisfactory showing of need, the City Council may grant an extension of time. If such extension is granted, it shall be for a definite period and the City Building Official shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the land fill operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as shortage of fill material, teamster's strike, unusually inclement weather, illness, or other such valid and reasonable excuse for noncompletion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this Section relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the City Building Official after inspecting the premises.

(b) At the completion of a land fill operation, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the Building Official shall prescribe in the permit. The site shall also conform to such prerequisites as the Building Official may determine with reference to storm water drainage runoff and storm water passage or flowage so that the land fill cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The Building Official shall inspect the project following completion to determine if the applicant has complied with the conditions required of him. Failure of such compliance shall result in the withholding of any building permits for the site and notice of such withholding shall be filed in the office of the County Recorder for the purpose of putting subsequent purchasers on notice.

§ 1106.09. PENALTY.

Any violation of this ordinance or any part hereof shall be a misdemeanor and shall constitute imprisonment for not more than ninety (90) days or a fine of not more than \$1,000.00.

**CHAPTER 1107: REGULATING THE EXCAVATING, DIGGING AND
MAINTAINING OF OPEN PITS AND EXCAVATIONS**

Section

- 1107.01 Definitions
- 1107.02 Permit required
- 1107.03 Permit: application, issuance, fee
- 1107.04 Conditions of permit
- 1107.05 Bond may be required
- 1107.06 Council may have work done
- 1107.07 Violation
- 1107.08 Penalty

§ 1107.01. DEFINITIONS.

OPEN PITS OR EXCAVATIONS, as used in this Ordinance, shall mean any artificial excavation of the earth within the City, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter, creating a depression or depressions, exceeding in any one place 200 square feet of surface area, the bottom or lowest point of which shall be two feet or more below, or lower than, the level of the adjoining unexcavated land; in which depression, pit or excavation water may fall, gather, collect and remain stagnant, putrid or polluted; or which depression may be or become dangerous from the standpoint of public safety or health, or to children playing therein or thereby; or which depression may be come a public nuisance, or deteriorate the value of adjacent property. Depressions, pits or excavations made for the purpose of the foundation, cellar or basement of some immediately pending superstructure to be erected, built or placed therein contemporaneously with, or immediately following such excavating, and covering or to cover such excavated pit or depression when completed, are excepted, if a building permit has been issued and has not been voided or canceled.

Water hook-up to municipal water system is excluded from this Ordinance.

IMPOUNDING WATERS, as used in this Ordinance, shall mean any water kept on public or private property within the City in such a manner that more than 500 gallons of water are above and/or below the natural surface of the surrounding ground. The word “Water” or “Waters”, as used in the preceding sentence, shall be deemed to include any and all liquid substances.

§ 1107.02. PERMIT REQUIRED.

Any person who shall hereafter dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him, any open pit or excavation, or any impounded waters, without first making an application for and obtaining from the City Council a permit therefor, shall be guilty of a violation of this Ordinance.

§ 1107.03. PERMIT: APPLICATION, ISSUANCE, FEE.

Application for such permit shall be made in such form, and the applicant shall furnish such information as shall be required by the Council, and among other things shall state: The applicant’s name and address, location of the proposed pit or excavation, its purpose, and intended duration of the same.

Such application shall be filed with the City Clerk at least 5 days before being considered by the Council, and a fee of \$5.00 shall accompany each application, to be kept by the City unless the Council refuses to issue a permit, in which event said fee shall be immediately returned to the applicant.

§ 1107.04. CONDITIONS OF PERMIT.

The Council, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit issues, or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

- (A) Properly fence any pit or excavation.
- (B) Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving in or sliding banks.
- (C) Properly drain, fill or level any pit or excavation after it has been created, so as to make the same safe and healthful as the Council shall determine.
- (D) Keep any pit, excavation, or impounded waters within the limits for which the particular permit is granted.

§ 1107.05. BOND MAY BE REQUIRED. The Council may require either the applicant or the owner or user of the property on which the open pit or excavation are located, to post a bond, in such form and sum as the Council shall determine, with sufficient surety running to the City to pay any expense the City may incur by reason of doing anything required to be done by the City by reason of the failure to act, negligence, or refusal to act, or improper act by any applicant to whom a permit has been or will be issued.

§ 1107.06. COUNCIL MAY HAVE WORK DONE. The Council may, for failure of any person to comply with any requirement made of him in writing under the provisions of Section 4 hereof, as promptly as the same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the pit or excavation is situated, or the City may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a bond exists.

§ 1107.07. VIOLATION. Any person who shall refuse, neglect or fail to comply with any requirement made of him under the provisions of this Ordinance as promptly as the same can reasonably be done, shall be guilty of a violation of this Ordinance. The penalty imposed by this Section shall be in addition to the remedies contained in Sections 5 and 6 hereof.

§ 1107.08. PENALTY.

Any violation of this ordinance or any part thereof shall be a misdemeanor and shall constitute imprisonment for not more than ninety (90) days or a fine of not more than \$1,000.00.

CHAPTER 1108: MINIMUM HOUSING STANDARDS CODE

Section

- 1108.01 Designation
- 1108.02 Definitions
- 1108.03 Minimum housing standards
- 1108.04 Enforcement
- 1108.05 Penalties
- 1108.06 Effective date

§ 1108.01. DESIGNATION.

This Ordinance shall be known and cited as the “Minimum Housing Standards Code” for the City of Dundas, Minnesota.

§ 1108.02. DEFINITIONS.

The following definitions shall apply in interpretation and enforcement of this Ordinance:

(A) **DWELLING.** Any enclosed space which is wholly or partially used or intended to be used for living or sleeping of human occupants; provided that temporary housing shall not be regarded as a dwelling.

(B) **DWELLING UNIT.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used for living, sleeping, cooking and eating.

(C) **HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers of communicating corridors, closets, and storage space.

(D) **HOUSING INSPECTOR.** A person designated by the City of Dundas to enforce this Ordinance, or the designated person’s representative.

(E) **OCCUPANT.** Any person living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit over the age of one year.

(F) **OWNER.** Any person, who alone or jointly or severally with others shall have title to any dwelling or dwelling unit or rooming unit, with or without accompanying actual possession thereof which entitles him/her to charge, care, control, or right of management, of any dwelling or dwelling unit or rooming unit, either as owner or agent of the owner, or as executor or executrix, administrator or administratrix, trustee, or guardian of the estate of the owner.

(G) **PERSON.** Shall include any individual, firm, corporation, association, or partnership.

(H) **ROOMING UNIT.** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

(I) **TEMPORARY HOUSING.** Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

§ 1108.03. MINIMUM HOUSING STANDARDS.

1. *DWELLING.* No other person shall occupy as owner-occupant or let to another for occupancy any dwelling for the purpose of living therein, which does not comply with the following requirements:

(A) Every foundation, floor, wall, ceiling, roof, window, exterior door, and basement hatchway shall be reasonably weathertight, watertight, rodent-proof and in good repair.

(B) Every inside and outside stairs, every porch, and every appurtenance thereto shall be so constructed and maintained as to be safe for normal use.

(C) Every plumbing fixture, water pipe, and waste pipe shall be properly installed and maintained in a good working condition, free from defects, leaks and obstructions.

(D) Every piece of the mechanical heating system shall be kept in sound condition and good repair.

(E) Every part of the electrical system shall be kept in sound condition and good repair.

(F) Every water closet compartment floor surface and bathroom surface shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(G) Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed and installed so that it will function safely and effectively and shall be maintained in satisfactory working condition.

(H) All rubbish, garbage, or refuse shall be removed from the dwelling or the dwelling premises in order to keep said dwelling or dwelling premises in a clean and sanitary condition as required by other ordinances.

Every occupant of a dwelling they do not own shall not damage any supplied facility, piece of equipment, or utility which the owner is required to provide. In addition, every occupant of a dwelling shall keep it in a clean and sanitary condition as required by other ordinances.

2. *DWELLING UNIT.* No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit for the purpose of living therein, which does not comply with the following requirements:

(A) Heating. Every dwelling unit shall have heating facilities which are properly installed, are maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to

a temperature of at least 70° Fahrenheit at a distance three feet above floor level when the outside temperature is zero.

(B) Electrical. Every habitable room shall contain at least two separate floor or wall-type electric convenience outlets or one such convenience outlet and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one electrical light fixture.

(C) Light/Ventilation. Every habitable room, water closet compartment, and bathroom shall have at least one window facing directly to the outdoors of a minimum size equal to 10% of the floor area of the room. Every habitable room shall have at least one window which can be opened equal to at least 45% of the minimum window area size except where there is some supplied mechanical device which affords adequate ventilation.

(D) Space. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof.

At least 1/3 of the floor area of every habitable room shall have a ceiling height of at least 7 feet; in the floor area of that part of any room where the ceiling is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(E) Basic facilities. Every dwelling unit shall contain a kitchen sink in good working condition connected to a water and sewer system.

Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system.

Every dwelling unit shall contain a room which affords privacy to a person within said room and a bathtub or shower in good working condition and properly connected to a water and sewer system.

Every kitchen sink, lavatory basin, and bathtub or shower required shall be properly connected with hot and cold water lines.

Every dwelling unit's hot water facilities shall be capable of providing hot water at each outlet at a temperature of not less than 120° Fahrenheit.

Every dwelling unit shall have a safe, unobstructed means of egress leading to safe and open space at ground level.

3. *ROOMING UNIT.* No person shall occupy as owner-occupant or let to another for occupancy any rooming unit for the purpose of living therein, which does not comply with the following requirements:

(A) Heating. Every rooming unit shall have heating facilities which are properly installed, maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to a temperature of at least 70° Fahrenheit a distance three feet above floor level when the outside temperature is zero.

(B) Electrical. Every habitable room shall contain at least two separate floor or wall-type electric convenience outlets and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one electrical light fixture.

(C) Light/Ventilation. Every habitable room shall have at least one window facing directly to the outdoors of a minimum size equal to 10% of the floor area of the room. Every habitable room shall have at least one window which can be opened equal to at least 45% of the minimum window area size except where there is some supplied mechanical device which affords adequate ventilation.

(D) Space. Every rooming unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof.

At least 1/3 of the floor area of every habitable room shall have a ceiling height of at least 7 feet; in the floor area of that part of any room where the ceiling is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(E) Basic facilities. Every rooming unit may contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system.

Every rooming unit may contain a room which affords privacy to a person within said room and a bathtub or shower in good working condition and properly connected to a water and sewer system.

Every lavatory basin and bathtub or shower provided shall be properly connected with hot and cold water lines.

Every rooming unit shall have a safe, unobstructed means of egress leading to safe and open space at ground level.

(F) Special Conditions. It is not necessary that each rooming unit have individual water flush closets, lavatory basins, and or bathtub or showers. It shall only be required that

one flush water closet, lavatory basin, and bathtub or shower shall be provided within the dwelling for each eight persons or fraction thereof. Members of the owner's family whenever they share the use of said facilities, shall be counted among the eight persons. All such facilities shall be located within the dwelling as to be reasonably accessible from a common hall or passage way to all persons sharing such facilities.

Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space, for each occupant thereof.

Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level.

4. *COMMON SPACE IN DWELLINGS. (Not Single Family).* The operator or owner of every rooming house or apartment building shall be responsible for the sanitary maintenance of all walls, floors, and ceilings and for maintenance of a sanitary condition in every other part of the rooming house or apartment building and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

Every public hall, corridor, foyer, or stair and all other rooms used by more than one family shall contain a minimum of one ceiling-type electrical fixture.

This ordinance shall apply to all dwelling, by whatever name they are known, except nursing or rest homes operating under a state license.

§ 1108.04. ENFORCEMENT.

Whenever the Housing Inspector determines there are reasonable grounds to believe there has been a violation of any provision of this ordinance, and has reason to believe the violation will not be corrected by the owner, the Building Inspector will go to the Planning Commission and City Council. The Planning Commission would then make a recommendation to the City Council. If the City Council is in agreement, and they act upon the issue, the Clerk would then send a registered or certified letter to the occupant. The notice shall state a reasonable time for the person so named in the notice to conform to the ordinance, but never less than ten (10) days.

Any person affected by any notice issued in connection with the enforcement of this ordinance may request and shall be granted a hearing on the matter before the Planning Commission. Any and all orders of the Housing Inspector shall be stayed pending disposition of the appeal.

Upon application, the Planning Commission shall hear appeals from and review any order or requirements or determinations made by the Housing Inspector, and determine whether there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance. The Planning Commission may delay implementation of the Housing

Inspector's order for a period of not to exceed six (6) months. If the applicant or the Planning Commission determines that the order of the Housing Officer should be delayed for longer than six (6) months or should be rescinded, either the applicant or the Planning Commission, after a hearing before the Planning Commission, shall transmit the request to the City Council. The City Council may modify, suspend, or terminate the order of the Housing Official on a temporary or permanent basis.

§ 1108.05. PENALTIES.

Any person who violates this ordinance shall be subject to punishment of a fine not to exceed \$300.00 or imprisonment for a period of ninety (90) days or both. Each day any violation of this ordinance shall continue, shall constitute a separate offense.

CHAPTER 1109: REGULATING THE MOVING OF BUILDINGS

Section

- 1109.01 Definitions
- 1109.02 Permit required
- 1109.03 Application
- 1109.04 Security requirements
- 1109.05 Duties of the building official
- 1109.06 Review by planning commission and approval by city council
- 1109.07 Permit expiration and extensions
- 1109.08 Designated streets for moving
- 1109.09 Duties of permit holder
- 1109.10 Liability of permit holder to city
- 1109.11 Return of fees and deposits
- 1109.12 Violations and penalties

§ 1109.01. DEFINITIONS.

For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meanings given herein:

BUILDING, is a structure or manufactured home designed, built or occupied as a shelter or roofed enclosure for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. A structure of less than 120 square feet floor area shall not fall within this definition.

BUILDING OFFICIAL, is the building official of Dundas or authorized representative.

CITY, is the City of Dundas.

COUNCIL, is the City Council of the City of Dundas.

PERSON, is any person, firm, partnership, association, corporation, company, or organization of any kind.

OWNER, is a person or persons who have purchased the building and will be the owner once it is upon a foundation in the new setting.

§ 1109.02. PERMIT REQUIRED.

No person shall move any building into or out of Dundas over, along or across any street or alley in the City without first obtaining a permit from the building official. Said permit from the Building Official shall regulate the hours, routing, movement, parking and speed limit for any persons moving any building or buildings in the City.

§ 1109.03. APPLICATION.

A person seeking issuance of a permit hereunder shall file an application for such a permit with the building official.

§ 1109.031. FORM. The application shall be made in writing upon forms provided by the building official, available at city offices, and shall be filed in the office of the building official and shall contain such information as the building official shall find necessary to determine whether a permit shall be issued.

§ 1109.032. ACCOMPANYING PAPERS.

(A) Tax Certificate. The owner of the building to be moved shall file evidence that all real estate taxes and special assessments against the building and lot from which it is to be removed are paid in full.

(B) Certificate of Ownership. The applicant, if other than the owner, shall file written evidence that they are entitled to move the building.

(C) Consent of Public Utility Company. The applicant shall file, prior to issuance of a permit, written evidence of arrangements with all public utility companies whose wires, lamps or poles are required to be removed for the removal thereof by the company.

(D) Proof of Commissioners Bond/License. The moving contractor/applicant shall present proof of a building mover license/bond as issued by the Minnesota Public Service Commission in conformity with Minnesota Statutes Section 221.81.

(E) Listing of Area Properties. An accurate listing showing all property owner names and addresses within three hundred fifty (350) feet of the outer boundaries of the property to which the building is to be moved.

(F) Site Plan and Elevation Drawings. The applicant shall provide a Certificate of Survey of the property to which the building is to be moved showing property and building elevations, building setbacks, and any easements thereon. Elevation drawings shall specify siding and roofing material to be used. At the city's discretion, photographs may be substituted for building elevation drawings.

(G) Hazard Removal Documents. Sufficient certificates or evidence shall be presented demonstrating that the building has been abated for rodents, asbestos and other harmful materials prior to its being brought into the city limits.

§ 1109.033. FEE. The application shall be accompanied by a building permit fee, as established by section 300.11 and Chapter 101. After approval of the moving permit, a building permit fee, which fee is to be determined by the Building Official based on the value of all Building Code upgrades, all expenses necessary for site preparation including final grading, and all other expenses associated with the moving and placing of the building onto the lot, will be assessed.

§ 1109.04. SECURITY REQUIREMENTS.

§ 1109.041. BOND. Any person filing an application hereunder shall file with the city clerk a bond, approved as to form by the city attorney, and executed by a corporate surety company authorized to do business in the State of Minnesota, in the amount of \$10,000.00, conditioned upon the compliance by the applicant with this and other applicable ordinances and laws, and payment to the city of all fees, fines and penalties required by said ordinance.

§ 1109.042. CASH DEPOSIT AND TIME LIMIT. After the review of the building permit, the building official shall perform a walk-through of the structure proposed to be

moved. The building official shall determine what, if any, deficiencies exist and estimate the cost to bring the structure up to all current building and mechanical codes.

The person filing the application shall make a deposit in cash or in the form of a cashier's check or an additional bond to the City in the amount of the difference between the \$10,000.00 bond and the estimated cost of repairs to bring the building up to code. This deposit shall be forfeited if the building is not set upon a proper foundation and all repairs as determined necessary by the building official made within 120 days of issuance of permit.

§ 1109.05. DUTIES OF THE BUILDING OFFICIAL.

The building official shall inspect the building and the applicant's equipment to determine whether the following standards for issuance of a permit are met, and shall refuse to issue a permit if it is found that any one or more of the following conditions exist:

§ 1109.051. APPLICATION REQUIREMENTS. That application requirements herein have not been complied with, or fees have not been paid.

§ 1109.052. BUILDING SIZE. That the building is too large to move without endangering persons or property in the city.

§ 1109.053. BUILDING CONDITION. That the building is in such poor condition that it cannot be moved without endangering persons or property in the city.

§ 1109.054. BUILDING UNSAFE FOR PROPOSED USE. That the building is structurally unsafe or unfit for the purpose proposed, if the location to which the building is to be moved is in the city.

§ 1109.055. ORDINANCE OR CODE VIOLATIONS. That zoning, building codes or other ordinances would be violated by the building in its new location.

§ 1109.056. UNSAFE MOVING EQUIPMENT. That the moving equipment is unsafe and that persons or property would be endangered by its use.

§ 1109.057. GENERAL ENDANGERMENT. That for any other reason persons or property in the city would be endangered by the moving of the building.

§ 1109.06. REVIEW BY PLANNING COMMISSION AND APPROVAL BY CITY COUNCIL.

§ 1109.061. PLANNING COMMISSION REVIEW. Following approval by the Building Official, the building's compatibility with the surrounding area shall be

reviewed by the Planning Commission, which shall make a recommendation to the City Council. The following items shall be considered in this review:

- (1) Age of surrounding structures versus the structure being moved into the new location;
- (2) Height compatibility with other structures in the area;
- (3) Air, sunlight, solar rights;
- (4) Aesthetics of the building to be moved;
- (5) Effect on property values in the area.

§ 1109.062. CITY COUNCIL APPROVAL. Approval by a majority of the City Council in a regular meeting is required prior to issuance of a permit.

§ 1109.063. OTHER CONDITIONS. Before issuing a permit, the Council may require as a condition to the issuance of the permit, such other conditions as the Council feels are necessary for public safety, welfare and health, and may require the applicant for said permit to enter into an agreement with the City, the performance of which may be required to be guaranteed by a bond or other cash deposit, for the performance of such conditions as the Council may require.

§ 1109.07. PERMIT EXPIRATION AND EXTENSIONS.

All permits granted under the provisions of this Ordinance shall expire in 120 days after the permit is originally issued, unless extended in writing by an affirmative vote of a majority of the Council at a regular meeting. The Council shall not grant any extensions without good cause being first shown, and unless said extension was applied for prior to the expiration of the regular permit.

§ 1109.08. DESIGNATED STREETS FOR MOVING.

Following permit approval, the Building Official shall procure from the Street Commissioner a list of designated streets over which the building may be moved. The Building Official shall have the list approved by the Chief of Police and shall reproduce the list upon the permit in writing. In making this determination, the Street Commissioner and the Chief of Police shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.

§ 1109.09. DUTIES OF PERMIT HOLDER.

Every permit holder under this ordinance shall:

§ 1109.0901. USE OF DESIGNATED STREETS. Move a building only over streets designated in the written permit.

§ 1109.0902. NOTIFICATION OF REVISED MOVING TIME. Notify the building official, in writing, of a desired change in moving date and hours from that proposed in the application.

§ 1109.0903. NOTIFICATION OF DAMAGE. Notify the building official, in writing, of any and all damage done to property belonging to the city or any public utility within 24 hours after the damage or injury has occurred.

§ 1109.0904. DISPLAY LIGHTS. Ensure red lights are displayed, and barriers are erected across streets, to warn and protect the public from dangers of such moving. Warning lights with open flames shall not be used.

§ 1109.0905. STREET OCCUPANCY PERIOD. Remove the building from the city streets after 24 hours of occupancy upon such streets, unless an extension is granted by the Council.

§ 1109.0906. COMPLY WITH GOVERNING LAW. Comply with the building code, Zoning Ordinance, and all other applicable Ordinances and laws upon relocating the building in the City.

§ 1109.0907. PAY EXPENSES OF SPECIFIED STAFF. Pay the expenses of a traffic officer ordered by the Chief of Police to accompany the movement of the building to protect the public from injury. Pay the expenses of the Building Official for walk-through inspection(s) and repairs estimate.

§ 1109.0908. CLEAR OLD PREMISES. Remove, on any lot where a building or structure is removed, the foundation walls and basement flooring before the excavation is filled or leveled. A special exception may be made if the owner submits a letter stating that this lot will not be used for any building. After receiving the letter, the City shall make a determination of whether or not the flooring and the foundation walls may remain. If the foundation walls are to remain they shall be leveled to a point three (3) feet below final grade and if the flooring is to remain there shall be holes put through the flooring so that water will be able to drain through the floor.

§ 1109.0909. STREET OCCUPANCY PERIOD. Prior to any building being removed, review with the Building Official the procedure for disconnecting or plugging the sanitary sewer service lead and water service lead. Prior to filling the hole, contact the Building Official to inspect that the utilities connections have been properly taken care of. Also contact all other public utilities and have them disconnect services in a proper way. This shall be done before any deposit is returned to the applicant.

§ 1109.0910. STREET OCCUPANCY PERIOD. Complete promptly and within one hundred twenty (120) days after moving, all remodeling, additions or repairs as shown on the plans accompanying the application, sufficient to secure a Certificate of Occupancy.

§ 1109.0911. STREET OCCUPANCY PERIOD. Level and seed the property from which a structure is removed if construction is not going to begin within sixty (60) days from the date of building removal.

§ 1109.10. LIABILITY OF PERMIT HOLDER TO CITY.

§ 1109.10.1. EXCESS COSTS OR DAMAGES. The permit holder shall be liable for any expense, damage, or costs in excess of deposited amounts or securities.

§ 1109.10.2. ORIGINAL PREMISES LEFT UNSAFE. If the original building site is within the City, the City shall proceed to complete the work necessary to leaving the original premise in a safe and sanitary condition, where the permit holder does not comply with the requirements of this Ordinance within the required sixty (60) days, and after a ten (10) day written notice to the permit holder. The cost thereof shall be charged against the cash deposit. If the expenses that exceed the cash deposit are not paid, these costs shall be certified to the County Auditor for collection on the real property taxes.

§ 1109.10.3. REMODELING NOT COMPLETED. If remodeling, additions, or repairs specified in the permit application are not completed prior to expiration of the permit, the City may complete such work, after a ten (10) day written notice, with these costs charged to deposits and securities posted by the permit holder. Should these funds be insufficient to pay the costs of completion, the City may, at its option, certify the unpaid balance to the County Auditor for collection on the real property taxes, or the City may, at its option, proceed to collect such unpaid balance by an action against the person to whom the permit has been issued, or their superiors, as the Council may determine.

§ 1109.11. RETURN OF FEES AND DEPOSITS.

§ 1109.11.1. RETURN UPON NON-ISSUANCE. Upon refusal to issue a permit, the Building Official shall direct the Clerk to return all deposits to the applicant.

§ 1109.11.2. RETURN UPON ALLOWANCE FOR EXPENSES. After the building has been moved and required work completed, the Building Official shall furnish the Council with a written statement of all expenses incurred and of all damage caused to or inflicted upon property belonging to the City by reason of such work. The Council shall authorize the Clerk to return to the applicant all deposits after deducting a sum sufficient to pay for all of the costs and expenses and for all damages done to property of the City.

§ 1109.12. VIOLATIONS AND PENALTIES.

§ 1109.12.1. VIOLATIONS DECLARED. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure in the City or cause the same to be done, contrary to or in violation of this Ordinance.

§ 1109.12.2. PENALTY. In addition to any fees, expenses or other costs specified herein, any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$700.00 or by imprisonment not to exceed ninety (90) days, or both. In addition thereto, the City shall also have the authority to seek injunctive relief to prohibit unauthorized or illegal moving as described hereto.

§ 1109.12.3. COSTS TO THE CITY OF VIOLATIONS. In the event of violation of any conditions of said permit, and in the further event the City incurs expenses, by reason of said violation, the Council may, by resolution, apply these costs against the benefitted property as a special assessment under Minnesota Statutes for certification to the County Auditor and for collection the following year along with the current real estate taxes.

CHAPTER 1110: STATE BUILDING CODES ADOPTED BY REFERENCE

§ 1110.01. BUILDING CODE.

The Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.60 through 16B.73, one copy of which is on file in the office of the Building Official, is hereby adopted as the building code for the City of Dundas. Such code is hereby incorporated in this ordinance as completely as if set out in full.

CHAPTER 1111: REGULATING THE CONDUCT OF GAMBLING

Section

- 1111.01 Purpose
- 1111.02 Provision of state law adopted
- 1111.03 Permit required
- 1111.04 Gambling regulation
- 1111.05 Duration of permits
- 1111.06 Special permit
- 1111.07 Permit fees
- 1111.08 Permit application procedure
- 1111.09 Requirement to make specific expenditures [*Reserved*]
- 1111.10 Reports
- 1111.11 Suspension or revocation of permit

§ 1111.01 *PURPOSE.* The purpose of this Ordinance is to closely regulate and control the conduct of gambling within the City of Dundas.

§ 1111.02 *PROVISION OF STATE LAW ADOPTED.* The provisions of Minnesota Statutes Chapter 349, relating to the definition of terms, licensing, and restrictions upon lawful gambling are adopted and made a part of this Ordinance by reference, as if set out in full.

§ 1111.03 *PERMIT REQUIRED.* It shall be unlawful for any person, partnership, corporation, association or organization to conduct the game of Bingo or to maintain gambling devices known as paddle wheels, tip boards, pull tabs, or another apparatus used in the conduct of raffles, unless such organization is a fraternal, religious, veteran's, or other non-profit organization, which has been in existence for the most recent three years preceding the permit application as a registered Minnesota non-profit corporation, or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code; has at least fifteen active members as defined in Minnesota Statutes 349.12 Subd. 3, and has a valid permit issued by the City of Dundas for each location of operation. The organization must not be in existence solely for the purpose of conducting gambling. The organization must not have as an officer, or member of the governing body, any person who, within the five years before the issuance of the license, has been convicted in a federal or state court of a felony or gross misdemeanor, or who has ever been convicted of a crime involving gambling, or who has had a license issued by the Lawful Gambling Board of the State of Minnesota revoked for a violation of law or board rule.

§ 1111.04 *GAMBLING REGULATION.*

- a. Any licensed organization must identify in its license application the lawful purpose on which it proposes to expend net profits from lawful gambling.
- b. The organization must identify on its license application a gambling manager and certify that said manager is qualified under the requirements of Minnesota Statutes Chapter 349.

§ 1111.05. *DURATION OF PERMITS.* All permits shall be issued for a period of not to exceed two (2) years. If a permit is issued for a shorter period of time, any fee will be pro-rated.

§ 1111.06. *SPECIAL PERMIT.* A special permit may be issued to a qualified organization. Special permits will only be issued to organizations which, for the purpose of conducting Bingo, raffles, or other lawful gambling, which is excluded or exempted from the license requirements of Minnesota Statutes Chapter 349, as provided in Minnesota Statutes 349.166, and pursuant to the following requirements:

1. A special permit may be issued to an organization to conduct Bingo in connection with a Dundas City civic celebration, if the organization conducts Bingo less than four times per year for no more than 12 days annually.
2. A special permit may be issued to an organization to conduct a raffle only if the total prizes awarded annually by said organization is less than \$750.00.
3. A special permit may be issued to an organization to conduct lawful gambling if the following requirements are met:
 - a. The organization conducts lawful gambling on less than five days each year.
 - b. The total prizes awarded are less than \$50,000.00 per year.
 - c. The organization provides the city with at least thirty days prior notice before conducting a lawful gambling event.
 - d. The organization complies with all other requirements of Minnesota Statutes 349.166, Subd. 2, concerning exemption requirements under state law.

§ 1111.07. PERMIT FEES. Annual gambling permits, and special permits, shall be required to pay a fee as set forth in Section 300.11 and Chapter 101 of the Dundas City Code.

§ 1111.08. PERMIT APPLICATION PROCEDURE. A permit for Bingo or other lawful gambling, conducted at any authorized premises within the City of Dundas, shall be granted by resolution of the Dundas City Council. Permit applications shall meet the following requirements:

- a. Permit applications shall be sworn by an authorized officer of the organization on forms which may be prescribed by the City Council or the Minnesota Lawful Gambling Board.
- b. No permit shall be issued for a period of at least 14 days after the permit application is submitted.
- c. No permit shall be issued until the premises, at which the permit has been applied for, shall have been inspected by the chief of police, who shall report to the city council any factors of deficiency and the suitability of such premises for the issuance of a permit.
- d. Each permit application shall identify the name of the gambling manager who will be responsible for all gambling operations conducted at the permitted premises.

§ 1111.09. *REQUIREMENT TO MAKE SPECIFIC EXPENDITURES.*
HISTORY: Amended Ord 2004-05

Pursuant to the authority set forth in Minnesota Statute 349.213 (2004), each Licensee or Permit Holder shall contribute ten (10%) percent per year of the net profits derived from lawful gambling conducted at the licensed premises within the City of Dundas, for deposit into a Special Fund, administered by the City of Dundas, for disbursement by the City of Dundas, for lawful purposes, as defined in Minnesota Statutes 349.12, Subd. 25.

Each Permit Holder shall provide an accounting of their net profits for the calendar year and payment of ten (10%) percent of said profits, by February 15th of the succeeding year.

§ 1111.10. *REPORTS.* The gambling manager of each permitted organization shall file with the City, all records and reports which must be filed with the Minnesota Lawful Gambling Board. Additionally, said reports shall describe all lawful expenditures made in the Dundas trade area.

§ 1111.11. *SUSPENSION OR REVOCATION OF PERMIT.* The council may suspend for a period not exceeding sixty (60) days, or revoke, any permit issued pursuant to this Ordinance for violation of this Ordinance or any other provision of Minnesota Statutes Chapter 349. Provided however, that before any such suspension or revocation shall be made, the permitted organization shall be given a hearing on at least ten days written notice, which shall be before the Dundas city council.

CHAPTER 1100: GENERAL LICENSING PROVISIONS

Section

- 1100.01 Licenses required to engage in certain businesses
- 1100.02 Application for license
- 1100.03 Issuance of license
- 1100.04 Date and duration of license
- 1100.05 License not transferable
- 1100.06 License certificate to be displayed
- 1100.07 Revocation or suspension
- 1100.08 Appeal and review

§ 1100.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN BUSINESSES.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by Title 11 of this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority.

Penalty, see § 100.99

§ 1100.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:

- (1) The applicant's full name, address and telephone number, and the full name of each officer, partner or business associate, if applicable;
- (2) His or her present occupation and principal place of business;
- (3) His or her place of residence for the preceding five years;
- (4) The nature and location of the intended business or enterprise;
- (5) The period of time for which the license is desired;
- (6) A description of the merchandise, goods or services to be sold;
- (7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number and vehicle registration (VIN) number of the vehicle.
- (8) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Any change in the information required by division (A) of this section must be reported to the City Clerk or other authorized official within 14 days of that change.

(C) Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

(D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(E) It shall be unlawful to knowingly make any false statement or representation in the license application.
Penalty, see § 100.99

§ 1100.03 ISSUANCE OF LICENSE.

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk, shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk.

§ 1100.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

§ 1100.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.
Penalty, see § 100.99

§ 1100.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.
Penalty, see § 100.99

§ 1100.07 REVOCATION OR SUSPENSION.

(A) Any license may be suspended or revoked by the City Clerk or City Council at any time for the following reasons:

(1) For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;

(2) For any misrepresentation of a material fact in the application discovered after issuance of the license;

(3) For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;

(4) For violation of any provision of this chapter or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or

(5) Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

(B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

§ 1100.08 APPEAL AND REVIEW.

In case any applicant has been denied a license by the City Clerk, or if his or her license has been suspended or revoked by the City Clerk, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk or other authorized official, the Mayor shall call a special meeting of the City Council for the purpose of holding the hearing unless a regular meeting of the City Council will occur within the 21-day period, and who shall fix the time and place for a hearing which shall be held not later than 21 days thereafter. Notice of appeal shall be filed in writing with the City Clerk. Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

CHAPTER 1101: COMMERCIAL AMUSEMENTS

Section

- 1101.01 Bowling, billiards and pool
- 1101.02 Circuses, carnivals, shows and other entertainment
- 1101.03 Deposit required
- 1101.04 License fee for public entertainment or exhibition
- 1101.05 Fees and conditions of sexually oriented businesses and adult entertainment license
- 1101.06 Licensing and regulating dance halls
- 1101.07 Requiring a license to operate movie theater
- 1101.08 Licensing and regulation of mechanical amusement devices

§ 1101.01 BOWLING, BILLIARDS AND POOL.

Each proprietor of a billiard or pool table or of a bowling alley, or a combination of both, shall pay an annual license fee in an amount established in the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time. Penalty, see § 100.99; Cross Reference, see §1101.08

§ 1101.02 CIRCUSES, CARNIVALS, SHOWS AND OTHER ENTERTAINMENT.

(A) (1) Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game except amateur baseball, or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101 of this code, as that ordinance may be amended from time to time.

(2) Local school entertainment, charitable non-profit organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided, that the entertainment is not for profit.

(B) In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the police department or the fire department.

(C) No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

Penalty, see § 100.99

§ 1101.021 DEPOSIT REQUIRED.

(A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Clerk or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be

forfeited to the city to the extent of actual costs to the city for restoration and cleaning up of the grounds.

(B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place.
Penalty, see § 100.99

§ 1101.022 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for the license shall be in an amount as established in the Ordinance Establishing Fees and Charges adopted pursuant to § 300.11 and Chapter 101 of this Code, as that ordinance may be amended from time to time.

§ 1101.03 *RESERVED FOR FUTURE USE*

§ 1101.04 *RESERVED FOR FUTURE USE*

§ 1101.05 FEES AND CONDITIONS OF SEXUALLY ORIENTED BUSINESSES AND ADULT ENTERTAINMENT LICENSE.

§ 1101.051. FEES. The annual fee for a sexually oriented business or an adult entertainment license shall be as established under Chapter 101 of this Ordinance.

§ 1101.052. CONDITIONS OF LICENSE. The following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore no entertainment license shall be held at any premises where such conduct or acts are permitted:

(a) To employ or use any person in the sale or service of any alcoholic or non-alcoholic beverage in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the public hair, anus, cleft of the buttocks, vulva or genitals.

(b) To employ or use the services of any hostess while such hostess is unclothed or in such attire, costume, or clothing as described in paragraph (a) above.

(c) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, or genitals of any other person.

(d) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breasts, genitals, anus, public hair or any portion thereof.

(e) To permit any person to perform acts or of acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(2) The touching, caressing or fondling on the breast, buttocks, anus or genitals.

(3) The display of the pubic hair, anus, vulva, genitals, or the nipple or areola of the female breast.

(f) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

(g) To permit any person to remain in or upon the licensed premises who exposes to public view the pubic hair, anus, vulva, or genitals.

(h) To permit the showing of film, movies, still pictures, electronic reproductions or other visual reproductions depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

- (2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
 - (3) Scenes wherein a person displays the vulva or the anus or the genitals.
 - (4) Scenes wherein artificial devices or inanimate objects are employed to portray any of the prohibited activities described above.
- (i) To permit any employee, or person under contract, to perform on the premises, to dance on any table, bar or other elevated platform except on a duly designated stage designed exclusively for the entertainment of patrons of the premises; said stage to be located at least three (3') feet from any patron.

**§ 1101.053 LICENSING AND LOCATION OF SEXUALLY ORIENTED BUSINESSES
FOR ADULT ENTERTAINMENT.**

HISTORY: ADOPTED ORD. 2003-16

▪ 1101.0531 PURPOSE

In order to protect the City=s community image, property values, public health, safety, welfare, and business environment, the City has found it necessary, in light of the harmful and unwanted secondary effects that certain businesses generate, to restrict where such businesses may locate within the city and to regulate those businesses. Only those businesses with secondary effects on neighboring properties and the City are intended to be regulated. This Section is not intended to restrict or regulate art.

▪ 1101.0532 DEFINITIONS

A. ADULT USE shall mean and include every type and variety of ASpecified Adult Business@, and any other premises, enterprise, establishment, business, operation, or place that is open to some or all members of the public, at, in, on, or from which materials, entertainment, or services are presented, displayed, depicted, described, distributed, sold, or rented that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities, and shall include each and every Specified Adult Business. Any activity or material that is classified as obscene under Minnesota Statute Section 617.241, as the same may hereafter be amended, does not constitute an adult use and are specifically prohibited.

1. Primary Adult Use. An Adult Use in, on, or from which the sole or a dominant activity involves the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

2. Accessory Adult Use. An Adult Use for which the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities is not a dominant activity. An Accessory Adult Use typically does not involve or include any activity except the sale or rental of merchandise.

3. Exempt Adult Use. An Adult Use wherein the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on Specified Anatomical Areas or Specified Sexual Activities is conducted only on a diminutive scale, such that it is extremely incidental to any dominant activity and, individually or in combination, occupies or comprises less than five (5) square feet of the total floor, wall, and shelf area of the Adult Use. Exempt Adult Uses shall not include or involve any activity except the sale or rental of merchandise, and no external or internal advertising of any adult or sexually-oriented merchandise shall be permitted.

4. For purposes of this Section, the term ADOMINANT ACTIVITY@ shall mean any activity or activities that, individually or in combination, provide at least twenty (20%) percent of the gross receipts of the Adult Use=s entire business operation at that site; or, occupy or comprise up to ten (10%) percent or more of the total floor, wall, and shelf area within the site or 150 square feet or more of floor, wall, and shelf area within the site.

B. APROTECTED USE@ shall mean and include the following: licensed day care centers; public or private educational facilities classified as elementary, junior high, or senior high schools; public libraries; public parks; on-sale liquor establishments; churches and church-related facilities; and residential properties or uses.

C. ASPECIFIED ANATOMICAL AREA@ shall mean and include the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and

2. Human male genitals in a discern by turgid state, even if completely and opaquely covered.

D. ASPECIFIED SEXUAL ACTIVITY@ shall mean and include the following:

1. Actual or stimulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anillingus, buggery, coprophagy,

coprophilia, cunnilingus, fellatio, necrophilia, pederast, pedophilia, piquerism, sapphism, zoerasty; or

2. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

3. Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation; or

4. Fondling or touching nude human genitals, pubic region, buttocks or female breast; or

5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such person; or

6. Erotic or lewd touching, fondling or other sexually oriented conduct with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

E. ASPECIFIED ADULT BUSINESS@ shall mean and include the following:

1. Adult Bookstore. A business or commercial enterprise that provides for barter, rental, or sale items consisting of printed matter, pictures, slides, records, audio tape, videotape, motion picture film, or other visual or aural media, from which minors are excluded by reason of age or where a substantial or significant portion of such items are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

2. Adult Gift or Novelty Business. A business or commercial enterprise that has as a principal activity the sale of devices, implements, equipment, or novelties that are designed, marketed, used, or sold for the primary purpose of stimulating human genitals otherwise providing sexual stimulation.

3. Adult Health Club or Adult Sports Club. A business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health- or sports-related goods, services, or equipment, from which minors are excluded by reason of age or that is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

4. Adult Hotel or Motel. A business or commercial enterprise that provides rooms, facilities, or lodging on a short-term basis and wherein material or entertainment is presented, displayed, provided, or otherwise made available that

is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

5. Adult Mini-Motion Picture Theater. A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of less than 50 persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

6. Adult Modeling Studio. A business or commercial enterprise the primary or dominant activity of which is to provide for its customers to observe, paint, paint upon, sketch, draw, sculpt, photograph, videograph, or otherwise depict or portray, with the intent of providing sexual stimulation or sexual gratification to such customers. Specified Anatomical Areas of one or more models or subjects, or one or more models or subjects who are engaging in Specified Sexual Activities.

7. Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin-, slug-, electronically-, or mechanically-controlled or operated still or motion picture machines, projectors, or other image-producing devices are provided or maintained to show images to no more than one person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities. and the individual viewing areas are not screened, including, but not limited to, doors, and curtains, in any way to obstruct the viewing areas from monitoring.

8. Adult Motion Picture Theater. A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of 50 or more persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

9. Body Painting Studio. A business or commercial enterprise that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on any Specified Anatomical Area of any person.

10. Cabaret. A business or commercial enterprise that provides dancing or other live entertainment, from which minors are excluded by reason of age or where such entertainment is distinguished or characterized by an emphasis on description of Specified Anatomical Areas or Specified Sexual Activities.

11. Companion Establishment. A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion

between an owner, employee, or agent of the enterprise and a customer, if such service is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

12. Conversation/Rap Parlor. A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion, from which minors are excluded by reason of age or where such service is distinguished or characterized by Specified Anatomical Areas or Specified Sexual Activities.

13. Massage Parlor. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

14. Sauna, Steam Room, or Bathhouse Facility. A business or commercial enterprise that provides one or more steam or heat bathing rooms or sauna or steam room facilities, where the services provided are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, or from which minors are excluded by reason of age.

15. Other Adult Use. Any place to which the public is permitted, a business or commercial enterprise that is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

▪ **1101.0533 REGULATIONS**

A. Primary Adult Uses

1. All Primary Adult Uses shall require a Conditional Use Permit.
2. All Primary Adult Uses shall be located within the I-Industrial District.
3. All Primary Adult Uses shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the Primary Adult Use to the property line of a Protected Use or other Adult Use, whether the Protected Use is located in Dundas or an adjoining community:
 - a. a distance of at least 250 feet from the following:
 - (i) licensed day care centers.
 - (ii) public or private educational facilities classified as an elementary, junior high, or senior high schools.

- (iii) public libraries.
- (iv) public parks.
- (v) on-sale liquor establishments.
- (vi) churches and church-related facilities.

b. A distance of at least 400 feet from the following:

- (i) other Adult Uses.
- (ii) residential properties, unless separated from such residential properties by a railroad right-of-way or a State Highway.

4. No Primary Adult Use shall locate in any building which is also utilized for any Protected Use.

5. At the time of application for a Conditional Use Permit, any property that is proposed to be occupied by an Primary Adult Use must comply with all current zoning, health, fire, and building regulations that apply to the site and building.

6. No Primary Adult Use may occupy a lot with a lot width of less than 100 feet. In addition, each Primary Adult Use shall provide one parking space for each employee on duty, plus parking for customers.

a. Motion Picture Theater: one space per six seats actually provided or the maximum seating capacity of the theater.

b. Motion Picture Arcade: one space per machine.

c. All other Primary Adult Uses: one space per fifteen (15) square feet of floor area that is open to or used by the public or customers of the Primary Adult Use.

7. Sign Requirements. All Primary Adult Uses shall comply with the following sign requirements:

a. All signs shall be flat wall signs.

b. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street.

c. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

d. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

8. Hours of Operation. Primary Adult Use Businesses shall not be open between the hours of 1:00 a.m. and 12:00 noon.

B. Accessory Adult Uses

1. All Accessory Adult Uses shall require a Conditional Use Permit.

2. All Accessory Adult Uses shall be located only within the I and B-2 Districts.

3. All Accessory Adult Uses shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the Accessory Adult Use to the property line of a Protected Use or other Adult Use, whether the Protected Use is located in Dundas or an adjoining community:

a. A distance of at least 250 feet from the following:

(i) residential properties.

(ii) licensed day care centers.

(iii) public or private educational facilities classified as an elementary, junior high, or senior high schools.

(iv) public libraries.

(v) public parks.

(vi) on-sale liquor establishments.

(vii) churches and church-related facilities.

b. A distance of at least 500 feet from the following:

(i) other Adult Uses.

4. No Accessory Adult Use shall locate in any building which is also utilized for any Protected Use.

5. Accessory Adult Uses shall restrict and prohibit access to minors by the physical separation from areas of general access of items that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

a. Movie Rentals. Display areas for movies that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities shall be restricted from general view and shall be located within a separate room, the access or entrance to which is in clear view and under control of the persons responsible for the operation or controlled in some other effective manner which meets with the approval of the Zoning Administrator.

b. Magazines. Magazines that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.

c. Other adult materials or services. Accessory Adult Uses offering or providing items that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities and that are not specifically cited above shall comply with the intent of this section, subject to the final approval of the City Council.

6. Accessory Adult uses shall be prohibited from external advertising and signing of items that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

7. At the time of application for the Conditional Use Permit, any property that is to be occupied by an Accessory Adult Use must comply with all the current zoning, health, fire, and building regulations that apply to the site and building.

• **1101.0534 LICENSING REQUIRED**

A. It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Ordinance.

B. The application for a license must be made on a form provided by the City.

C. All applicants must be qualified according to the provisions of this Ordinance. The application may request and the applicant shall provide such information (including

fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in the Ordinance.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the applicant for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual, then each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is at least 18 years of age;

b. A partnership, the partnership shall state its complete name and the names of all partners whether the partnership is general or limited, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors, and principle stock holders, and the name of the registered corporate agent and the address of the registered office for service of process;

(2) The name of the owner of the property where the business will be located.

(3) If the applicant intends to operate a sexually oriented business under a name other than that of the applicant; he or she must state:

a. The sexually oriented business= fictitious name; and

b. Submit the required registration documents.

(4) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in the Ordinance, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(5) Whether the applicant, or a person residing with the applicant, has had a previous license under this Ordinance or other similar sexually oriented business Ordinances, from another City or County denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or

revocation, and whether the applicant, or person residing with the applicant, has been a partner in a partnership or an officer, director or principal stock holder of a corporation that is licensed under this Ordinance whose license has previously been denied, suspended or revoked including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(6) Whether the applicant, or a person residing with the applicant, holds any other licenses under this Ordinance or other similar sexually oriented business Ordinances from other cities and counties and if so the names and locations of such other licensed businesses.

(7) The location of the proposed sexually oriented business, including the legal description of the property, street address and telephone, if any.

(8) The applicant=s mailing address and residential address.

(9) The applicant=s drivers license number, social security number, and his or her state or federally issued tax ID number.

(10) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6") inches.

(11) A straight-line drawing prepared within thirty (30) days prior to the application depicting the property lines and the structures containing any existing sexually oriented businesses within five hundred (500') feet of the property to be licensed; the property lines of any established religious institution, school, or public park or recreation area, within four hundred (400') feet of the property to be licensed. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the City Building Inspector for accuracy. In the event of a dispute between the applicant and the City as to the accuracy of the drawing, the Building Inspector may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.

(12) A copy of the lease and all financing documents; all business related contracts for supply of materials and consulting management.

▪ **1101.0535** *ISSUANCE OF LICENSING*

A. Upon the filing of said application for a sexually oriented business license, said application shall be referred to the Chief of Police for investigation to be made on such

information as is contained in the application. The application process shall be completed within sixty (60) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined that one or more of the following findings is true:

1. The applicant is under 18 years of age;
 2. The applicant, or person with whom the applicant is residing, is over-due in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him or her in relation to any business.
 3. An applicant has failed to provide information reasonably necessary for the issuance of a license or has falsely answered a question or request for information on the application form.
 4. An applicant, or person with whom the applicant is residing, has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
 5. An applicant, or person with whom the applicant is residing, has been convicted of a specified criminal activity defined in this Ordinance.
 6. The premises to be used for the sexually oriented business has not been approved by the health department, fire department or the building official as being in compliance with applicable laws and Ordinances.
 7. The license fee required by this Ordinance has not been paid.
 8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to section 1101.0532 all licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- C. The health department, fire department, and building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.
- D. Every application for a sexually oriented business license (whether for a new license or for a renewal of an existing license) shall be accompanied by a \$1,000.00 non-refundable application and investigation fee.

E. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee of \$1,000.00 within thirty (30) days of license issuance or renewal.

F. All license applications and fees shall be submitted to the City Clerk.

▪ **1101.0536** *INSPECTION*

A. An applicant or licensee shall permit representatives of the Police Department, Fire Department, Zoning Department, or other City Departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

B. A person who operates a sexually oriented business or his agent or employee commits a violation of this chapter if he refuses to permit such lawful inspection of the premises at any time it is open for business.

▪ **1101.0537** *EXPIRATION OF LICENSE*

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date.

B. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

▪ **1101.0538** *SUSPENSION / REVOCATION*

A. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. violated or is not in compliance with any section of this Ordinance;
2. refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

B. The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.

C. The City shall revoke a license if it determines that:

1. a licensee gave false or misleading information in the material submitted during the application process;
2. a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. a licensee has knowingly allowed prostitution on the premises;
4. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
5. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, other sex act to occur in or on the licensed premises; or
6. a licensee is delinquent in payment to the City, County, or State for any taxes or fees past due.

D. When the City revokes a license, the revocation shall continue for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted license if at least ninety (90) days have elapsed since the date the revocation became effective.

E. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court or competent jurisdiction. The administrative action shall be promptly reviewed by the court.

▪ **1101.0539** *TRANSFER OF LICENSE.* A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license any place other than the address designated in the application.

▪ **1101.0540** *PENALTY.* Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this Ordinance is guilty of a misdemeanor and is subject to a penalty of 90 days in jail and/or \$700 fine for each such violation. Each day such violation continues shall constitute a separate offense.

▪ **1101.0541** *SEVERABILITY.* In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court or competent jurisdiction on its face or as applied, such holding shall

not affect the validity or effectiveness of any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the City that this Ordinance would have been adopted had such unconstitutional, invalid, or ineffective provisions not been included herein.

§ 1101.06 LICENSING AND REGULATING DANCE HALLS.

§ 1101.061. DEFINITIONS

PUBLIC DANCE. A “public dance” shall mean any dance wherein the public may participate and admission is charged, either directly or indirectly, but shall not include, when conducted upon its own premises, a dance sponsored by any religious, fraternal, charitable or educational institution or organization.

PUBLIC DANCE HALL. “Public dance hall” shall mean any room, place or space open to public patronage for private gain, in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment either directly or indirectly of an admission fee or price for dancing, excepting a cabaret as defined herein.

CABARET. A “cabaret” shall mean any room, place or space wherein intoxicating liquor is sold pursuant to a valid “on-sale” liquor license and where members of the public are allowed to dance.

§ 1101.062. LICENSE. It shall be unlawful for any person, corporation, organization or association to conduct a public dance or operate a public dance hall or cabaret in the city, unless such person shall previously have obtained a license as hereinafter provided in this article.

§ 1101.063. CROWD CONTROL. In any of the three categories listed in § 1101.065, if the dance floor exceeds 1,000 square feet or the capacity of more than 300 people is possible, at least one uniformed law enforcement officer shall be on duty from the beginning of said dance until one-half hour after closing.

§ 1101.064. APPLYING.

1. An applicant for any such license shall pay the appropriate license fee with his application. Any holder of a valid cabaret license under this article shall not be required to apply for and obtain a separate dance hall permit or license.
2. No license under this article shall be issued to any person convicted of a violation of any law or ordinance relating to dances, dance halls or cabarets within a period of one year following such conviction.

3. The council shall consider and investigate each license application for a dance hall or cabaret and may grant or refuse to grant such license. In the event the Council shall grant such license, the City Clerk shall issue license to the applicant which shall be valid for one year from the date of issuance.

§ 1101.065. FEES. The Council shall establish the amount of the license fees for the following licenses under section § 300.11 and Chapter 101 of this code.

- (1) Temporary public dance license
- (2) Annual dance hall license
- (3) Annual cabaret license

§ 1101.066. PENALTY. Violation of any law or ordinance relating to dances shall be grounds for revocation of any license issued under this article

§ 1101.067. STATE LAW REFERENCE. Authority of city to adopt state statutes by reference, M.S. 471.62.

§ 1101.07

[SAVED FOR FUTURE REFERENCE]

§ 1101.08 LICENSING AND REGULATION OF MECHANICAL AMUSEMENT DEVICES.

§ 1101.081. DEFINITION. A mechanical amusement device is hereby defined as a machine which, upon the insertion of a coin, chip or slug, operates or may be operated for use as a game, contest or amusement of any description, or which may be used for any such game, contest or amusement and which contains no automatic pay-off device for the return of money, coins, checks, tokens or merchandise, or which provides for no such pay-off by any other means or manner, except that this provision shall not prohibit the licensing of a machine which returns chips or slugs which may be used only in the machine licensed, and which in itself does not constitute a gambling device. The term shall include so-called pinball machines, music machines, motion picture machines, and all other machines which, by the insertion of a coin or token, operate for the entertainment or amusement of the player, except weighing machines.

§ 1101.082. LICENSE REQUIRED. No person, firm or corporation shall own, operate, maintain or keep for operation within the City of Dundas any such mechanical amusement device as hereinbefore defined without first having applied for and received a license therefor as hereinafter provided. No license shall be issued for any gambling device.

§ 1101.083. APPLICATIONS FOR LICENSE. Applications for licenses required herein may be granted by the City Council in its discretion to persons applying to it by personal interview. Such applicant shall be prepared to make full disclosure to the Council of all matters relating to persons interested in such device, a general description of the device, the location of the building or premises where the same will be used and by whom. If the applicant is not the owner of such device he shall be prepared to produce the contract, or a duplicate copy thereof, that he has for its use and possession, the applicants name, age, citizenship, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business and said devices, how long he has been in that business at that place, representations as to the applicant's character with such references as may be required, and such other information as the Council may require from time to time. Each license shall be issued to the applicant only and shall not be transferable to another holder or premises.

§ 1101.084. LICENSE FEES. The fee for such license shall be established pursuant to Chapter 101 of this Ordinance for each such device which the applicant is licensed to keep upon his place of business. The license shall expire on December 31 of each year; provided that if a license is issued for a period of six months or less, the fee shall be prorated. Such license fees shall be paid into the General Fund of the City.

§ 1101.085. TRANSFERS. Such license may be transferred to another location in this City upon filing notice with the Clerk of such transfer, upon the payment of a fee of \$1.00, and upon the approval of the City Council. Upon application to the Clerk and approval of the Council any license issued hereunder may be reissued for a device

maintained or kept in place of the device originally licensed, provided that all provisions of this Ordinance shall be complied with in reissuance of said license. The fee for such reissuance shall be \$1.00.

§ 1101.086. LICENSE TO BE DISPLAYED. Every license granted hereunder shall be posted in a conspicuous place on or near the game so licensed and shall identify the same by number or description.

§ 1101.087. PROHIBITED PRACTICES AND RESTRICTIONS. No license hereunder shall be issued for any game of skill within 500 feet of any school building. No person shall use any device licensed under this Ordinance as a gambling device and no licensee shall permit any person to use any game licensed hereunder for gambling purposes. The operation of any lottery or gambling device is declared to be contrary to this Ordinance.

§ 1101.088. PENALTY. Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed \$1,000.00 or by imprisonment for not more than ninety (90) days. Upon conviction for the violation of any law of the State, relating to gambling involving any such game or device, the license to operate the same shall be forthwith revoked.

CHAPTER 1102: LIQUOR REGULATIONS

Section

- 1102.01 Nudity on the premises of licensed establishments prohibited
- 1102.02 Possession or sale of wine, liquor or 3.2 malt liquor
- 1102.03 Licensing and regulating the sale and consumption of non-intoxicating malt liquors
- 1102.04 Licensing and regulating the sale and consumption of intoxicating liquor
- 1102.05 Regulating sale of wine
- 1102.06 Sale and possession of wine and intoxicating liquors on public sidewalks

§ 1102.01 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds it be in the best interests of the public health, safety and general welfare of the people of this city that certain types of activities are prohibited as provided in this section upon the premises of licensed liquor, wine and 3.2 malt liquor establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The Council also finds that the standard set forth in this section reflect the prevailing community standards of the city. The provisions of this section are intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council also intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct.

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

(C) A violation of this section is a misdemeanor and is justification for revocation or suspension of any liquor, wine or 3.2 malt beverage license.

§ 1102.02 POSSESSION OR SALE OF WINE, LIQUOR OR 3.2 MALT LIQUOR.

All ordinances of the city dealing with the possession or sale of wine, liquor or 3.2 malt liquor and any municipal liquor store remain in force and effect until amended or replaced by ordinance or amendments to this code.

§ 1102.03 LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS.

§ 1102.031. DEFINITION OF TERMS.

1. As used in this Ordinance, the term **PERSON** includes a natural person of either sex, co-partnership, corporation, and association of persons, and the agent or manager of any of the aforesaid.
2. **BEER or NON-INTOXICATING MALT LIQUOR** means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths per cent of alcohol by weight.
3. **INTOXICATING LIQUOR** means any distilled, fermented or vinous beverage containing more than three and two-tenths percent of alcohol by weight.

4. **ORIGINAL PACKAGE** means the bottle or sealed container in which the liquor is placed by the manufacturer.
5. **OFF-SALE** means retail sale in the original package for consumption away from the premises only.
6. **ON SALE** means retail sale for consumption of beer on the licensed premises.
7. **SALE and PURCHASE** include all barbers, gifts, sales, and other means used to obtain or furnish beer, or any other beverage, in violation or evasion of this Ordinance.
8. **MINOR** means any person under 21 years of age.

§ 1102.032. LICENSE REQUIRED FOR OFF-SALE AND ON-SALE. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any beer within the City without first having received a license as hereinafter provided.

§ 1102.033. APPLICATIONS FOR LICENSE. “Off-sale” licenses may be granted by the City Council in its discretion to persons applying to it by personal interview. The personal interview may be waived by the City Council for individuals requesting renewal licenses. Such applicant shall be prepared to make full disclosure to the Council of all matters relating to the applicant’s name, age, citizenship, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he/she has been in that business at that place, representations as to the applicant’s character with such references as may be required, and such other information as the Council may require from time to time. Each license shall be issued to the applicant only and shall not be transferable to another holder or premises.

§ 1102.034. LICENSE FEES.

1. The annual fee for an “off-sale” license shall be payable to the City Clerk. All fees shall be paid into the General Fund of the municipality.
2. All licenses issued hereunder shall expire on the last day of June of each year after issuance, at midnight. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

§ 1102.035. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to any person who is a minor; or who has been convicted of a felony, or of violating any law of this State or local ordinance relating to the manufacture or transportation of intoxicating liquors; or who is a manufacturer of beer or who is interested in the control

of any place where beer is manufactured; or who is not of good moral character; or who is not the proprietor of the establishment for which the license is issued.

§ 1102.036. *PENALTY.* Any violation of this ordinance or any part thereof shall be a misdemeanor and shall constitute imprisonment for not more than ninety (90) days or a fine of not more than \$1,000.00.

§ 1102.04 LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR.

§ 1102.0401. *PROVISIONS OF STATE LAW ADOPTED.* The provisions of Minnesota Statutes Chapter 340A, relating to the definition of terms, licensing, assumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

§ 1102.0402. *LICENSE REQUIRED.*
HISTORY: Amended by Ord. 2002-05

1. No person, except wholesalers or manufacturers to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale, any intoxicating liquor without first having received a license to do so as provided in this ordinance. Licenses shall be of two kinds: “On-Sale” and “Off Sale”.

2. On-Sale licenses shall permit “On-Sales” of liquor only. Not more than Four “On-Sale” licenses shall be granted at any one time.

3. Off-Sale licenses shall permit “Off-Sale” of liquor only. Not more than Five “Off-Sale” licenses shall be granted at any one time.
HISTORY: Amended by Ord. 2007-__

4. Special Sunday On-Sale License. Special Sunday On-Sale License for the sale of intoxicating liquor on Sunday shall be issued only to hotels, restaurants and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, subd. 3.

§ 1102.0403. *APPLICATION FOR LICENSE.*

1. Every application for a license to sell liquor shall be verified and filed with the City Clerk. It shall state the name of the applicant, his age, representations as to his character, with such references as may be required, his citizenship, whether the application is for “On Sale” or “Off Sale”, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such

information, each application for a license shall be in the form prescribed by the Liquor Control Commissioner. No person shall make a false statement in an application.

2. Financial Responsibility. No liquor license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as defined in M.S.A. 340A.409 with regard to liability under the statutes, Section 340A.801. Such proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this paragraph shall conform to M.S.A. Section 340A.409.

3. Approval Security. The security offered under paragraph 2 shall be approved by the City Council and in the case of applicants for “Off Sale ” licenses, by the State Commissioner of Public Safety. Liability insurance policy is required by this ordinance but not by State law, and surety bonds required under paragraph 2 shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times the security as required in paragraphs 2 and 3, is a cause for revocation of the license.

§ 1102.0404. LICENSE FEES

1. Fee. The annual fee for a liquor license, for an “On Sale” license, for a temporary “On Sale” license, for a Special Sunday “On Sale” license, and for an “Off Sale” license, shall be established by section 300.11 and Chapter 101.

2. Payment. Each application for a license shall be accompanied by a receipt from the city treasurer for at least ½ (50%) of the license fee. The remainder of the license fee shall be paid to the city no later than June 30 of each year. No license shall be issued unless the license fee has been paid in full. All license fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the treasurer shall refund the amount paid for the license fee.

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

4. Refunds. Pro Rata refunds of liquor license fees shall be permitted as authorized by Minnesota Statute, § 340A.408 Subd. 5.

§ 1102.0405. GRANTING OF LICENSES.

1. On an initial application for an “On Sale” license, and on application for transfer of an existing “On Sale” license, the applicant shall pay with his application an investigation fee of not more than \$250.00, and the city shall conduct a preliminary background financial investigation of the applicant. The application in such case shall be

made on a form prescribed by the State Bureau of Criminal Apprehension, and with such additional information as the City Council may require.

If the City Council deems it in the public interest to have an investigation made on a particular application for renewal of an "On Sale" license, it shall so determine. In any case, if the City Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation.

No license shall be issued, transferred, or renewed if the results show to the satisfaction of the City Council, the issuance would not be in the public interest. If an investigation outside the State is required, the applicant shall be charged with the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be paid by the applicant whether or not the license is granted.

2. Hearing and Issuance. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council shall, in its discretion, grant or refuse the application. No "Off Sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

3. Person and Premises License Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed to transfer of the license, and the transfer of stock without prior City Council approval is a ground for revocation of the license.

§ 1102.0406. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or be held by any person made ineligible for such a license by State law.

§ 1102.0407. PLACES INELIGIBLE FOR LICENSE.

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

2. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

3. No license shall be granted within 350 feet of any school, or within 350 feet of any church.

§ 1102.0408. *CONDITIONS OF LICENSE.*

1. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the City or State Law.
2. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and other in it.
3. Any peace officer, health officer, or any properly designated officer or employee of the City shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a warrant.

§ 1102.0409. *RESTRICTIONS ON PURCHASE AND CONSUMPTION.*

HISTORY: Amended Ord 2003-04; Amended Ord 2003-10

The sale of On-Sale Intoxicating Liquor for consumption on the licensed premises may be made between the hours of 8:00 a.m. and 2:00 a.m., Monday through Saturday.

The sale of On Sale Intoxicating Liquor on Sunday is allowed between the hours of 10:00 a.m. on Sunday and 2:00 a.m. on Monday. Establishments serving Liquor on Sundays must obtain a Special License under §1102.0402 (4) of this Ordinance.

Last call for consumption of On-Sale Intoxicating Liquor shall be made at 1:45 a.m. No person shall consume or possess liquor within a licensed business after 2:00 a.m. No customer or patron shall be allowed within the licensed premises after 2:00.

§ 1102.0410. *SUSPENSION AND REVOCATION.* The City Council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000.00, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in case of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S.A. Section 14.57 to 14.70 of the Administrative Procedures Act.

Lapse of required dram shop insurance or bond, or withdrawal of required deposit of cash or securities, shall effect an immediate suspension of any license pursuant to this ordinance without any action of the City Council. Notice of Cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee to the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the clerk, a hearing shall be granted within ten days, or such longer period as may be requested. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirement of this ordinance has again been met.

§ 1102.0411. PENALTY. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700.00 or an imprisonment in the Rice County Law Enforcement for not more than ninety (90) days plus the costs of prosecution in either case.

§ 1102.05 REGULATING SALE OF WINE.

§ 1102.051. Pursuant to the authority of Minnesota Statutes 340A.404 subd. 5, there is hereby authorized an On Sale Wine License to permit the sale by the glass or drink. Wine not to exceed 14% alcohol by volume for consumption on the licensed premises only in conjunction with the sale of food. Such licenses shall be issued only to “restaurants” defined by Minnesota Statutes 340A.101 subd. 25, which have facilities for the seating of not fewer than 25 guests at one time.

HISTORY: Amended by Ord. 2002-05

§ 1102.052. The fee for an On Sale Wine License as authorized by this ordinance shall be set by resolution of Dundas City Council.

1. All licenses shall be issued on an annual basis. Licenses shall expire on the last day of June of each year after issuance, at midnight, including such approval by the Liquor Control Commission as required by statute.

2. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the City Council shall grant or refuse the application in its discretion. No license shall be granted to or held by any person made ineligible for such a license by Minnesota State Law. Owner or manager shall be a permanent resident of the City of Dundas.

§ 1102.053. PLACES INELIGIBLE FOR LICENSE.

1. No license shall be issued for any place or for any business ineligible for such a license under Minnesota State Law.

2. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

3. No license shall be granted within 350 ft. of any school, or within 350 ft. of any church.

§ 1102.054. RESTRICTION OF PURCHASE AND CONSUMPTION.

1. No minor shall misrepresent his age for the purpose of obtaining wine.

2. No person shall induce a minor to procure or purchase wine.

3. No person shall consume wine in any place not licensed to sell wine.
4. No wine shall be sold or consumed, and no person shall have in his possession an open container of wine, on a public highway, or in any automobile or in public streets, sidewalks and public property.
5. Shall include hours of sale as set by the State of Minnesota Liquor Commission. Sunday sale prohibited unless approved by vote of City at General Election.

§ 1102.055. Any violation of this ordinance or Minnesota Statute 340, shall constitute a misdemeanor and grounds for revocation of license.

§ 1102.06 SALE AND POSSESSION OF WINE AND INTOXICATING LIQUORS ON PUBLIC SIDEWALKS.

HISTORY: Adopted by Ord. 2002-05

§ 1102.061. Notwithstanding section 1102.0409 (4); and section 1102.054 (4), the holder of an “On-Sale” License for premises which is located in the B-1 zoning district of the City, may apply for a temporary expansion of the licensed premises permit to allow sale and possession of alcoholic beverages on public sidewalks directly adjacent and contiguous to the permanently licensed premises.

The City Council may grant such a permit on the terms and conditions specified in this section, and such other terms and conditions as the City Council may determine are necessary or advisable to protect the public health, safety and welfare. Applications shall be subject to the following requirements and procedures.

§ 1102.062 APPLICATION. Application for a temporary expansion of the licensed premises shall be made on forms provided by the City and shall contain the following information, and such other information as the Council may require from time to time:

- a. The names, addresses and telephone numbers of the license holders, the owner of the premises, and the manager of the licensed establishment;
- b. A specific description and diagram of the area in which the temporary expansion activity is to occur. The description and diagram must include dimensions, barriers proposed to be used, ingress and egress arrangements, seating capacity, and other relevant information;
- c. The purpose for which the temporary expansion is sought and a description of planned activities, including food and beverage service, security plans (including lighting, sanitation, liquor control, etc.), and days and hours of operation;
- d. A detailed description of the methods that the licensee will use to ensure that consumption of alcoholic beverages is restricted to the licensed premises and the

temporary expansion area, and that alcoholic beverages are not removed from those areas;

e. Such other information as the City may deem necessary.

§ 1102.063 *CONDITIONS.* Approval of an application may be made subject to any appropriate restrictions or conditions, which may vary from establishment to establishment depending on the circumstances. As a minimum, the following restrictions and conditions shall apply:

a. The temporary expansion area located on the public sidewalk must be immediately at the front of an establishment and not encroach on the sidewalk of any neighboring premises;

b. Hours of operation shall be limited to between 11 a.m. and 10 p.m., subject to other limitations of the underlying on-sale license and subject to any greater restrictions which the City Council may determine should apply to a temporary expansion area due to its particular circumstances;

c. The City Council may determine the specific days of operation, which shall be specified in the permit. Sale or possession of alcoholic beverages within the temporary expansion area shall only be permitted between May 1st and October 1st;

d. Service of alcoholic beverages shall be only at tables and limited to the approved seating capacity in the temporary expansion area. Food service shall be available in the temporary expansion area during all hours of operation;

e. The City Council may specify the type of beverage containers which may be used in a temporary expansion area, and may require a specific type and number of refuse containers to be provided within the area;

f. An approved temporary barrier at least 30 inches in height shall be placed at the line of the temporary expansion area which adjoins any other neighboring premises, during the hours of operation;

g. The licensee shall have submitted adequate plans addressing liquor control and other public safety concerns, and shall comply with all such plans which are approved by the City when the permit is issued under this section, at all times.

h. At least 4 feet of sidewalk must be maintained outside the temporary expansion area for barrier free (including wheelchair accessible) pedestrian traffic;

- i. All temporary barriers, tables and chairs, and other property of the licensee shall be removed from any public sidewalk within the temporary expansion area at all times other than the hours of operation;
- j. The licensee shall be responsible for picking up trash and litter generated in the operation of the temporary expansion area, and within a reasonable distance (minimum of 20 feet) from the area;
- k. All applicable liquor laws shall be strictly observed by the licensee and his or her employees;
- l. The licensee shall maintain general liability insurance expressly covering any temporary expansion area which is on public property or sidewalks, with the minimum of \$500,000.00 combined single limit, and shall name the City of Dundas as an additional insured thereon. The licensee shall provide proof of such insurance to the City prior to the issuance of any permit under this section, and from time to time upon reasonable request of the City;
- m. Issuance of the permit under this section shall indicate that the licensee has agreed to defend, indemnify and hold the City, its officers, employees and agents, harmless from any claims, damages, losses, costs and expenses which may arise as a result of the use of temporary expansion area by the licensee and his or her employees, agents and customers.

Additionally, the licensee shall be responsible for the cost of any clean-up required by reason of such use, whether within or outside the temporary expansion area, which may be incurred by the City. The City shall have a lien against the licensed premises for any such claim, damage, loss, cost or expense which is paid by the City.

- n. The licensee shall post notice to all patrons, that they must remain within the temporary expansion area while possessing or consuming any alcoholic beverages. The notice shall also advise patrons that they are subject to citation by the City of Dundas if they leave the temporary expansion area with any alcoholic beverage.

§ 1102.064 VIOLATION. In addition to any other penalties which may be available under the general liquor ordinances, and regardless of any other limitations or sanctions which may be imposed by the City, any violation of this section, or of a material term or condition of a permit issued hereunder, or any applicable liquor law or ordinance, shall be cause for the immediate suspension of a temporary expansion permit by the Dundas Police Department, subject to review by the City Council at its next regular meeting upon request by the licensee. If the City Council finds that a material violation of this section, or of a material term or condition of a permit issued hereunder, or of any other applicable liquor law or ordinance has occurred, the City Council may suspend or revoke a temporary expansion permit in its sole discretion.

CHAPTER 1103: PEDDLERS AND SOLICITORS

History: Amended Ord 2003-05

Section

- 1103.01. Definitions
- 1103.02. Exceptions to Definitions
- 1103.03. Licensing; Exemptions
- 1103.04. License Ineligibility
- 1103.05. License Suspension and Revocation
- 1103.06. License Transferability
- 1103.07. Registration
- 1103.08. Refusal to Register or Permit
- 1103.09. Prohibited Solicitation Practices
- 1103.10. Exclusion by Placard
- 1103.11. Use of Streets
- 1103.12. Private Property

1103.01 DEFINITIONS:

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) **BUSINESS SOLICITATION:** Means an attempt by a solicitor, engaging in transactions of the same kind to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contacts the solicitee by telephone or in person, other than at the established place of business of solicitor, except:

(A) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity of kinds of goods, services or things of value offered.

(B) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor.

(C) An attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper.

(D) An attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

(2) **CONTRIBUTION SOLICITATION:** Means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except:

(A) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization.

(B) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

(3) **ESTABLISHED PLACE:** Means real estate in the City owned, leased on a month-to-month or term-certain longer than (30) thirty days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

(4) **GOODS:** Any tangible thing of value including money if the selling price exceeds the face value thereof. The term includes such chattels as are furnished or used at the time of the sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom.

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

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

(7) **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.

(8) **SOLICITEE:** Means the person solicited.

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

(10) **TRANSIENT MERCHANT:** 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 14 consecutive days.

' 1103.02 EXCEPTIONS TO DEFINITIONS

(1) For the purpose of the requirements of this chapter, 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 items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(2) 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 PEDDLER, SOLICITOR, 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 chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(3) Girl Scouts, Boy Scouts, and other charitable tax-exempt organizations, who register with the City Administrator, shall be exempt from the definitions of PEDDLER, SOLICITOR, and TRANSIENT MERCHANTS.

' 1103.03 LICENSING; EXEMPTIONS

(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 M.S. Ch. 329 as it may be amended from time to time.

(2) *CITY LICENSE REQUIRED.* Except as otherwise provided for by this chapter, no person shall conduct business as a peddler, solicitor or transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to ' 1103.07.

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

(A) The full legal name and date of birth of the applicant. Applicants shall provide a current driver=s license or identification card issued by the State of Minnesota or other state, which license or card must include a picture of the person to whom it was issued.

(B) The business and residence address(es) and telephone number(s) of the applicant, including a street or rural route address, the city or town, and the state. A post office box number shall not be accepted as an address for the applicant. Address information shall include both the applicant=s permanent address and, if different the applicant=s temporary address in the vicinity of Dundas.

(C) The address to which all notices required under this chapter shall be sent.

(D) The age, sex, weight, height, and color of eyes and hair of the applicant.

(E) A description of any vehicle and license number to be used in the regulated activity.

(F) The name, phone number and address of the person, firm, association or corporation that the applicant represents or is employed by, or whose merchandise is being sold, and the name, phone number and address of the manager or supervisor to whom the applicant reports to during the course of undertaking the regulated activity. Such address information shall indicate a street or rural route address, the city or town, and the state at which the firm is located. A post office box number shall not be accepted as an address for the business entity. Address information shall include both the business entity=s permanent address and, if different, the business entity=s temporary addresses in the vicinity of Dundas.

(G) A description of the kind and nature of the property, goods, wares, merchandise or services sold or solicited for sale by the applicant, and an itinerary identifying the intended dates and areas of the city in which the applicant will be undertaking any regulated activity along with the proposed method of delivery.

(H) The signature of the applicant.

(I) Whether or not the applicant has ever been convicted of a violation of any ordinance of the city or any other municipality; and if so, a description of the nature of the violation, the date of the conviction, and the name of the city involved.

(J) Whether or not the applicant has ever been convicted of a violation of any statute of the United States, the state of Minnesota, or any other state; and if so, a description of the nature of the violation, the date of the conviction, and the name of the state or other jurisdiction involved.

(K) The length of time during which the regulated activity is to be conducted, but no event is to exceed fourteen (14) days from the date of registration.

(L) The names of other municipalities, not to exceed three, where the applicant has carried on a similar business, and the addresses from which the business was conducted in those municipalities.

At the time of filing the application, a nonrefundable fee of \$75.00 shall be paid to the City Administrator cover administrative fees and the cost of investigation of the facts stated therein.

Each application shall be referred to the Dundas Police Department for investigation, the results of which shall be reported to the City Clerk. The peace officer shall have (10) ten business days within which to investigate and make a recommendation thereon.

(4) *PROCEDURE.* Upon receipt of the completed application and payment of the license fee, the City Administrator, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the required necessary information that is missing. If

the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Administrator must issue the license unless there exist grounds for denying the license under ' 1103.04, in which case the City Administrator must deny the license. If the City Administrator denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within twenty (20) days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

(5) *DURATION.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(6) *LICENSE EXEMPTIONS.* This section does not apply to:

- (A) The sale of the products of the farm or garden occupied or cultivated by the seller.
- (B) Person=s going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
- (C) Sales of personal property at wholesale to dealers in such articles.
- (D) The sale of newspapers.
- (E) The acts of merchants or their employees in delivering goods in the regular course of business
- (F) A sale required by statute or by order of any court, or the conduct of a bona fide auction sale pursuant to law.
- (G) An organization that desires to use a solicitor to solicit money, donations of money or property, or financial assistance of any kind, or that desires to sell or distribute any item of literature or merchandise for which a fee is charged or solicited, for a charitable, religious, patriotic, political, or philanthropic purpose is exempt from the provisions of this section, provided the organization files the following information with the City Administrator.
 - 1. The organization=s name and the specific cause for which an exemption is sought.
 - 2. The names and addresses of the officers and directors of the organization.

3. The period during which the solicitation is to be carried out.
4. Whether any commission, fee or wage will be expended in connection with the solicitation, and the amount thereof.

Upon being satisfied that the organization is acting for a charitable, religious, patriotic, political, or philanthropic purpose, the City Administrator shall issue a license without fee to the organization. The organization shall furnish credentials to all of its members, agents, or representatives participating in solicitation. The credentials shall state the name of the organization, the name of the agent, and the purpose of the solicitation.

(7) *PENALTY*. See ' 100.99

' 1103.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

- (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 the application.
- (C) Conviction of the applicant for a violation under this chapter within five (5) years immediately preceding the filing of the application.
- (D) The prior revocation of registration or permit under this chapter for cause within five (5) years immediately preceding the filing of the application; or the revocation of any other license, permit or registration issued by the United States, the State of Minnesota, any other state, or any other municipality within the United States based upon or involving fraud or misrepresentation and within five (5) years immediately preceding the filing of the application.
- (E) The applicant is under suspension under this chapter.
- (F) The conviction of the applicant within the past five (5) years from the date of the application for any violation under any statute of the United States, the State of Minnesota or any other state, or under any ordinance of the City of Dundas or any other municipality within the United States, which violation involved acts which if they occurred in Minnesota would constitute fraud, misrepresentation, embezzlement, burglary, possession of burglary or theft tools, criminal sexual conduct, robbery, kidnapping, false imprisonment or assault and which conviction occurred within five (5) years immediately preceding the filing of the application.

(G) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three (3) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three complaints filed against the applicant within the preceding five (5) years.

▪ **1103.05 LICENSE SUSPENSION AND REVOCATION.**

(A) The City Administrator shall by service of notice suspend for a period of not more than sixty (60) days, or revoke any registration or permit under the authority of this chapter for any of the following reasons:

- (1) The conviction of the registrant of any of the offenses set forth in ' 1103.04.
- (2) The conviction of the registrant or permittee under any ordinance of any city or the laws of the United States, the State of Minnesota, or any other state involving fraud, misrepresentation or embezzlement during the effective period of the registration or permit.
- (3) The use of any fraud, misrepresentation, trick, or deception in carrying out or promoting a regulated activity.
- (4) The refusal of the registrant or permittee to exhibit proof of registration under this chapter to any official or law enforcement officer of the City.
- (5) The representation upon the application form or otherwise that the registrant or permittee is an employee, agent, or representative of any person whom the registrant does not, in fact, represent.
- (6) The refusal or failure of the registrant or permittee to leave the property or premises of others when requested to leave by the owner or occupant thereof.
- (7) The making of any false statement or misrepresentation by the registrant or permittee to gain entrance to any building or structure within the City.
- (8) The use of any false or fraudulent statement, whether written or oral, or any misrepresentation concerning the price, terms of payment, quality, quantity, or delivery of personal property, goods, wares, merchandise or services.
- (9) The violation by the registrant or permittee of any other provisions of this chapter.

(B) *MULTIPLE PERSONS UNDER ONE LICENSE.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each

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

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

(D) *PUBLIC HEARING.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request is received by the City Clerk within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated 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.

(E) *EMERGENCY.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

(F) *APPEALS.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

(G) *PENALTY.* See ' 100.99

' 1103.06 LICENSE TRANSFERABILITY

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

Penalty, see ' 100.99

' 1103.07 REGISTRATION

Upon being furnished with the required information, payment of the prescribed fee and the completion of the Dundas Police Department investigation, the City Administrator shall register the applicant forthwith and issue a receipt of registration except as provided in Section 1103.08. The City Administrator shall make a reasonable effort to complete the registration process promptly. Such receipt shall contain the signature of the issuing officer and shall show the name, address and description of the registrant, the kind of goods to be sold there under, the

amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such regulated activity. The City Administrator shall record the registration in a permanent record.

All solicitors, and any person exempt from the licensing requirements of this chapter under ' 1103.03, 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 "Solicitors, Peddlers, Transients Permit" as proof of the registration. "Solicitors, Peddlers, Transients Permit" shall be non-transferable.

Penalty, see ' 100.99

' 1103.08 REFUSAL TO REGISTER OR PERMIT.

The City Administrator shall refuse to register any person or issue a permit to any organization for any of the reasons set forth in ' 1103.04.

If registration or permitting is refused, the City Administrator shall notify the applicant in writing setting forth the grounds for such refusal. The applicant may appeal from the City Clerk's decision by filling a written notice of appeal with the City Administrator within ten (10) days after receipt of notice from the City Administrator.

' 1103.09 PROHIBITED SOLICITATION PRACTICES.

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

- (A) To engage in solicitation for any unlawful business or organizational purpose or activity.
- (B) To engage in threats, harassment, theft or deceit or otherwise unlawful activities during the course of solicitation and to continue to solicit after solicitee has indicated further solicitations are not welcome.
- (C) To refuse to leave any premise in the City of Dundas when requested by the owner, lessee, or person in charge thereof.
- (D) To engage in contribution solicitation without completion of licensing or registration as herein provided.
- (E) To engage in business solicitation without a license as herein provided.

(F) To call 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.

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

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

(I) Conducting business before 8:00 AM or after 10:00 PM Monday through Saturday & 10:00 AM until 6:00 PM on Sunday.

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

(K) 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.

' 1103.10 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 four (4) inches long and four (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.

Penalty, see ' 100.99

' 1103.11 USE OF STREETS.

A person licensed under this section does not have any exclusive right to any location in the public streets and it is not permitted a stationary location thereon. A person licensed under this section may not operate in a congested area where doing so might impede or inconvenience the public use of streets.

'1103.12 PRIVATE PROPERTY.

Issuance of a license under this section does not permit the license holder to conduct the licensed activity on private property without the permission of the owner or the owner=s authorized agent.

CHAPTER 1104: TATTOO AND BODY PIERCING SERVICES

Section

- 1104.01 Definitions
- 1104.02 Prohibitions
- 1104.03 Application for license; fees; issuance
- 1104.04 Inspection of facilities
- 1104.05 Suspension or revocation of license
- 1104.06 Consent for performing procedures on persons under 18
- 1104.07 Prohibitions relating to persons under 18
- 1104.08 Defenses to violations
- 1104.09 Training standards; records; safety and sanitation; equipment

§ 1104.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF HEALTH. A Board of Health established under the provisions of M.S. § 145A.03, as it may be amended from time to time. If the city does not have a Board of Health, then this term means the authority having the duties of a Board of Health in the city, including but not limited to the County Board of Health.

BODY PIERCING. Includes ear piercing except when the ear piercing procedure is performed with an ear piercing gun.

BUSINESS. Any entity that provides services for compensation.

EAR PIERCING GUN. A mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.

GUARDIAN. Has the same meaning as in § 1300.15.

PARENT. Has the same meaning as in § 1300.15.

TATTOO. Has the same meaning given in M.S. § 609.2246, Subd. 2, as it may be amended from time to time.

§ 1104.02 PROHIBITIONS.

No person shall do any of the following:

(A) Operate a business that offers tattooing or body piercing services unless the City Council issues it a license to do so;

(B) Perform a tattooing or body piercing procedure in a manner that does not meet the safety and sanitation standards established by this chapter and any federal, state or local laws, rules or regulations;

(C) Perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this chapter and any federal, state or local laws, rules or regulations.

Penalty, see § 100.99

§ 1104.03 APPLICATION FOR LICENSE; FEES; ISSUANCE.

(A) A person seeking approval to operate a business that offers tattooing or body piercing services shall apply to the city on forms the City or the Board of Health shall prescribe and provide. The applicant shall submit all information the City and the Board of Health determines is necessary to process the application. The applicant shall include the fee established under the City's Ordinance Establishing Fees and Charges authorized by § 300.11 and Chapter 101 as it may be amended from time to time, or as established by the Board of Health.

(B) To receive approval to offer tattooing or body piercing services, a business must demonstrate to the Board of Health the ability to meet the requirements established by this chapter and any federal, state or local laws, rules or regulations for safe performance of the tattooing or body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.

(C) If the Board of Health determines, following an inspection conducted under § 1104.04, that a business meets the requirements for approval, it shall so advise the city. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision. Approval remains valid for one year unless earlier suspended or revoked under § 1104.05. A business's approval may be renewed. Approval is not transferable. Penalty, see § 100.99

§ 1104.04 INSPECTION OF FACILITIES.

The Board of Health, or a person or another body designed by the city, shall conduct at least one inspection of a business prior to approving the business under § 1104.03 to offer tattooing or body piercing services. The Board may conduct additional inspections as necessary for the approval process. The Board of Health may inspect an approved business at any time the Board considers necessary. In an inspection, the Board of Health shall be given access to the business's premises and to all records relevant to the inspection. Penalty, see § 100.99

§ 1104.05 SUSPENSION OR REVOCATION OF LICENSE.

The City Council may suspend or revoke the approval of a business to offer tattooing or body piercing services at any time it determines that the business is being operated in violation of this chapter or any federal, state or local laws, rules or regulations. Proceedings for suspensions and revocations shall be conducted in accordance with rules adopted in Chapter 1100 for the suspension or revocation of business licenses.

§ 1104.06 CONSENT FOR PERFORMING PROCEDURES ON PERSONS UNDER 18.

(A) No person shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with division (B) of this section. The consent must include both the custodial and non-custodial parents, where applicable.

(B) A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:

(1) Appear in person at the business at the time the procedure is performed;

(2) Sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following performance of the procedure.

Penalty, see § 100.99

§ 1104.07 PROHIBITIONS RELATING TO PERSONS UNDER 18.

(A) (1) unless consent has been given in accordance with § 1104.06, no individual who is under age 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual who is under age 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(B) (1) No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

(2) No individual shall impersonate the parent, guardian or custodian of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

Penalty, see § 100.99

§ 1104.08 DEFENSES TO VIOLATIONS.

(A) An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of § 1104.06(A) or any federal, state or local laws, rules or regulations in which age is an element of the provisions if:

(1) The individual obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's or commercial driver's license or an identification card issued under state law showing that the individual was then at least age 18;

(2) The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and

(3) The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service was at least age 18.

(B) In any action or proceeding before a court of record in which a defense is raised under this section, the Registrar of Motor Vehicles or the Registrar's Deputy who issued a driver's or commercial driver's license or an identification card shall be permitted to submit certified copies of the records, in the Registrar's or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

§ 1104.09 TRAINING STANDARDS; RECORDS; SAFETY AND SANITATION; EQUIPMENT.

(A) Each operator of a business that offers tattooing or body piercing services shall do all of the following:

(1) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;

(2) With respect to tattooing services, maintain written records that include the color, manufacturer and lot number of each pigment used for each tattoo performed;

(3) Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any federal, state or local laws, rules or regulations;

(4) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations;

(5) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.

(B) Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations.

Penalty, see § 100.99

CHAPTER 1105: TOBACCO REGULATIONS

Section

- 1105.01 Purpose and intent
- 1105.02 Definitions
- 1105.03 License
- 1105.04 Fees
- 1105.05 Basis for denial of license
- 1105.06 Prohibited sales
- 1105.07 Vending machines
- 1105.08 Self-service sales
- 1105.09 Responsibility
- 1105.10 Compliance checks and inspections
- 1105.11 Other illegal acts
- 1105.12 Exceptions and defenses

- 1105.99 Violations and penalty

§ 1105.01 PURPOSE AND INTENT.

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 the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter 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 in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

§ 1105.02 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. 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 chapter. Compliance checks shall involve the use of minors as authorized by this chapter. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

INDIVIDUALLY PACKAGED. 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 definition shall not be considered individually packaged.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of 18 years.

MOVEABLE PLACE OF BUSINESS. 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. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores and restaurants.

SALE. Any transfer of goods for money, trade, barter or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.

TOBACCO or TOBACCO PRODUCTS. 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 a manner as to be suitable for chewing, sniffing or smoking.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

VENDING MACHINE. 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.

§ 1105.03 LICENSE.

(A) *LICENSE REQUIRED.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

(B) *APPLICATION.* An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk

shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *ACTION*. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(D) *TERM*. All licenses issued under this chapter shall be valid for one calendar year from the date of issue.

(E) *REVOCAION OR SUSPENSION*. Any license issued under this chapter may be revoked or suspended as provided in § 1105.99.

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

(G) *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 chapter.

(H) *DISPLAY*. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

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

(J) *ISSUANCE AS PRIVILEGE AND NOT A RIGHT*. The issuance of a license issued under this chapter 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.

Penalty, see § 1105.99

§ 1105.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the city's Ordinance Establishing Fees and Charges, adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time.

Penalty, see § 1105.99

§ 1105.05 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this chapter includes but is not limited to the following:

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

(2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application.

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

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.

(B) 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.

(C) 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 chapter.

Penalty, see § 1105.99

§ 1105.06 PROHIBITED SALES.

It shall be a violation of this chapter 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 18 years.

(B) By means of any type of vending machine, except as may otherwise be provided in § 1105.07.

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

tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.

(D) By means of loosies as defined in § 1105.02.

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(F) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.
Penalty, see § 1105.99

§ 1105.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.
Penalty, see § 1105.99

§ 1105.08 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee, or his or her clerk, and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this section within 90 days following the effective date of this chapter.
Penalty, see § 1105.99

§ 1105.09 RESPONSIBILITY.

All licensees under this chapter 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 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 chapter, state or federal law, or other applicable law or regulation.

Penalty, see § 1105.99

§ 1105.10 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when those 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 minor's age asked by the licensee, or his or her, employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

Penalty, see § 1105.99

§ 1105.11 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this chapter:

(A) *ILLEGAL SALES*. It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.

(B) *ILLEGAL POSSESSION*. It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) *ILLEGAL USE*. It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, or tobacco related device.

(D) *ILLEGAL PROCUREMENT*. It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This division (D) shall not apply to minors lawfully involved in a compliance check.

(E) *USE OF FALSE IDENTIFICATION.* It shall be a violation of this chapter 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. Penalty, see § 1105.99

§ 1105.12 EXCEPTIONS AND DEFENSES.

Nothing in this chapter 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 chapter for a person to have reasonably relied on proof of age as described by state law.

§ 1105.99 VIOLATIONS AND PENALTY.

(A) *VIOLATIONS.*

(1) Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(2) Hearings. If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) Hearing Officer. The city official designated by the City Council shall serve as the hearing officer.

(4) Decision. If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under division (B) of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.

(5) Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(6) Misdemeanor prosecution. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.

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

(B) *ADMINISTRATIVE PENALTIES.*

(1) Licensees. Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

(2) Other individuals. Other individuals, other than minors regulated by division (B)(3) of this section, found to be in violation of this chapter shall be charged an administrative fee of \$50.

(3) Minors. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by City Council ordinance upon the City Council's consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. This administrative fine or other penalty may also be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to § 300.11 and Chapter 101, as it may be amended from time to time.

(4) Misdemeanor. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(5) Statutory penalties. If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

CHAPTER 1106: REGULATING THE FILLING OF LAND

Section

- 1106.01 Land filling operations
- 1106.02 Application for permit
- 1106.03 Technical reports
- 1106.04 Issuance of permits
- 1106.05 Conditions of operation
- 1106.06 Bonding
- 1106.07 Failure to comply
- 1106.08 Completion of operation
- 1106.09 Penalty

Application for land fill permit

§ 1106.01. LAND FILLING OPERATIONS.

PERMIT REQUIRED. Whenever any person, firm, or corporation proposes to add land fill in excess of five (5) cubic yards to any property within the city limits, he shall apply to the City for a Land Fill Permit.

§ 1106.02. APPLICATION FOR PERMIT.

Any person, firm, or corporation desiring a permit hereunder shall present an application on such form as shall be provided by the City Building Official requiring the following information:

- (a) the name and address of the applicant;
- (b) the name and address of the owner of the land;
- (c) the purpose of the land fill;
- (d) a description of the source, type, and amount of fill material to be placed upon the premises;
- (e) an estimate of the time required to complete the land fill;

The following items may be required if the City Building Official or the Dundas City Council determine that they are necessary:

- (a) the address and legal description of the land involved;
- (b) a site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within 200 feet;
- (c) a site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such a plan. Final grade shall not adversely affect the surrounding land or the development of the site on which fill is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth;
- (d) a security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection;
- (e) a statement that the applicant will comply with all conditions prescribed by the City or its offices or agents.

The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application shall be paid to the City at the time the application is submitted, as provided in section 300.11 and Chapter 101.

§ 1106.03. TECHNICAL REPORTS.

- (a) The City Building Official shall process all Land Fill Permit applications.
- (b) When the inspection expenses incurred during the landfill operation exceed the fee, such excess expenses shall be billed to the applicant.

§ 1106.04. ISSUANCE OF PERMIT.

- (a) The Building Official shall determine as to whether, and when, and under what conditions a land fill permit for less than thirty (30) cubic yards shall be issued.
- (b) Upon receiving information and reports from the City Building Official, the Council shall make its determination as to whether, and when, and under what conditions such permit for a land fill greater than thirty (30) cubic yards is to be issued to the applicant by the City Building Official.

§ 1106.05. CONDITIONS OF OPERATION.

Under no circumstances shall any such land fill operation be conducted or permitted if the contents of the land fill or any part thereof shall consist of garbage, animal or vegetable refuse; poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic biologically dangerous material; or any other material deemed to be unsuitable by City authorities.

§ 1106.06. BONDING.

The Building official or the Council may require either the applicant or the owner or user of the property on which the land fill is occurring to post a bond in such form and sum as the Building Official shall determine, with sufficient surety provided to the City, conditional to pay to the City the extraordinary cost and expense of repairing from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill material, the amount of such cost and expense to be determined by the City Building Official; and conditioned further to comply with all requirements of this Ordinance, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

§ 1106.07. FAILURE TO COMPLY.

The Council may, for failure of any person to comply with any requirement made of him in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the land fill is located, or the City may at its option proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a bond exists.

§ 1106.08. COMPLETION OF OPERATION.

(a) All land fill operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify the Building Official in writing to the City and upon a satisfactory showing of need, the City Council may grant an extension of time. If such extension is granted, it shall be for a definite period and the City Building Official shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the land fill operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as shortage of fill material, teamster's strike, unusually inclement weather, illness, or other such valid and reasonable excuse for noncompletion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this Section relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the City Building Official after inspecting the premises.

(b) At the completion of a land fill operation, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the Building Official shall prescribe in the permit. The site shall also conform to such prerequisites as the Building Official may determine with reference to storm water drainage runoff and storm water passage or flowage so that the land fill cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The Building Official shall inspect the project following completion to determine if the applicant has complied with the conditions required of him. Failure of such compliance shall result in the withholding of any building permits for the site and notice of such withholding shall be filed in the office of the County Recorder for the purpose of putting subsequent purchasers on notice.

§ 1106.09. PENALTY.

Any violation of this ordinance or any part hereof shall be a misdemeanor and shall constitute imprisonment for not more than ninety (90) days or a fine of not more than \$1,000.00.

**CHAPTER 1107: REGULATING THE EXCAVATING, DIGGING AND
MAINTAINING OF OPEN PITS AND EXCAVATIONS**

Section

- 1107.01 Definitions
- 1107.02 Permit required
- 1107.03 Permit: application, issuance, fee
- 1107.04 Conditions of permit
- 1107.05 Bond may be required
- 1107.06 Council may have work done
- 1107.07 Violation
- 1107.08 Penalty

§ 1107.01. DEFINITIONS.

OPEN PITS OR EXCAVATIONS, as used in this Ordinance, shall mean any artificial excavation of the earth within the City, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter, creating a depression or depressions, exceeding in any one place 200 square feet of surface area, the bottom or lowest point of which shall be two feet or more below, or lower than, the level of the adjoining unexcavated land; in which depression, pit or excavation water may fall, gather, collect and remain stagnant, putrid or polluted; or which depression may be or become dangerous from the standpoint of public safety or health, or to children playing therein or thereby; or which depression may become a public nuisance, or deteriorate the value of adjacent property. Depressions, pits or excavations made for the purpose of the foundation, cellar or basement of some immediately pending superstructure to be erected, built or placed therein contemporaneously with, or immediately following such excavating, and covering or to cover such excavated pit or depression when completed, are excepted, if a building permit has been issued and has not been voided or canceled.

Water hook-up to municipal water system is excluded from this Ordinance.

IMPOUNDING WATERS, as used in this Ordinance, shall mean any water kept on public or private property within the City in such a manner that more than 500 gallons of water are above and/or below the natural surface of the surrounding ground. The word “Water” or “Waters”, as used in the preceding sentence, shall be deemed to include any and all liquid substances.

§ 1107.02. PERMIT REQUIRED.

Any person who shall hereafter dig, excavate, enlarge, make, maintain or allow to be maintained, upon property owned or used by him, any open pit or excavation, or any impounded waters, without first making an application for and obtaining from the City Council a permit therefor, shall be guilty of a violation of this Ordinance.

§ 1107.03. PERMIT: APPLICATION, ISSUANCE, FEE.

Application for such permit shall be made in such form, and the applicant shall furnish such information as shall be required by the Council, and among other things shall state: The applicant’s name and address, location of the proposed pit or excavation, its purpose, and intended duration of the same.

Such application shall be filed with the City Clerk at least 5 days before being considered by the Council, and a fee of \$5.00 shall accompany each application, to be kept by the City unless the Council refuses to issue a permit, in which event said fee shall be immediately returned to the applicant.

§ 1107.04. CONDITIONS OF PERMIT.

The Council, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit issues, or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

- (A) Properly fence any pit or excavation.
- (B) Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving in or sliding banks.
- (C) Properly drain, fill or level any pit or excavation after it has been created, so as to make the same safe and healthful as the Council shall determine.
- (D) Keep any pit, excavation, or impounded waters within the limits for which the particular permit is granted.

§ 1107.05. BOND MAY BE REQUIRED. The Council may require either the applicant or the owner or user of the property on which the open pit or excavation are located, to post a bond, in such form and sum as the Council shall determine, with sufficient surety running to the City to pay any expense the City may incur by reason of doing anything required to be done by the City by reason of the failure to act, negligence or refusal to act, or improper act by any applicant to whom a permit has been or will be issued.

§ 1107.06. COUNCIL MAY HAVE WORK DONE. The Council may, for failure of any person to comply with any requirement made of him in writing under the provisions of Section 4 hereof, as promptly as the same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the pit or excavation is situated, or the City may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and his superiors if a bond exists.

§ 1107.07. VIOLATION. Any person who shall refuse, neglect or fail to comply with any requirement made of him under the provisions of this Ordinance as promptly as the same can reasonably be done, shall be guilty of a violation of this Ordinance. The penalty imposed by this Section shall be in addition to the remedies contained in Sections 5 and 6 hereof.

§ 1107.08. PENALTY.

Any violation of this ordinance or any part thereof shall be a misdemeanor and shall constitute imprisonment for not more than ninety (90) days or a fine of not more than \$1,000.00.

CHAPTER 1108: MINIMUM HOUSING STANDARDS CODE

Section

- 1108.01 Designation
- 1108.02 Definitions
- 1108.03 Minimum housing standards
- 1108.04 Enforcement
- 1108.05 Penalties
- 1108.06 Effective date

§ 1108.01. DESIGNATION.

This Ordinance shall be known and cited as the “Minimum Housing Standards Code” for the City of Dundas, Minnesota.

§ 1108.02. DEFINITIONS.

The following definitions shall apply in interpretation and enforcement of this Ordinance:

(A) **DWELLING.** Any enclosed space which is wholly or partially used or intended to be used for living or sleeping of human occupants; provided that temporary housing shall not be regarded as a dwelling.

(B) **DWELLING UNIT.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used for living, sleeping, cooking and eating.

(C) **HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers of communicating corridors, closets, and storage space.

(D) **HOUSING INSPECTOR.** A person designated by the City of Dundas to enforce this Ordinance, or the designated person’s representative.

(E) **OCCUPANT.** Any person living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit over the age of one year.

(F) **OWNER.** Any person, who alone or jointly or severally with others shall have title to any dwelling or dwelling unit or rooming unit, with or without accompanying actual possession thereof which entitles him/her to charge, care, control, or right of management, of any dwelling or dwelling unit or rooming unit, either as owner or agent of the owner, or as executor or executrix, administrator or administratrix, trustee, or guardian of the estate of the owner.

(G) **PERSON.** Shall include any individual, firm, corporation, association, or partnership.

(H) **ROOMING UNIT.** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes.

(I) **TEMPORARY HOUSING.** Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

§ 1108.03. MINIMUM HOUSING STANDARDS.

1. *DWELLING.* No other person shall occupy as owner-occupant or let to another for occupancy any dwelling for the purpose of living therein, which does not comply with the following requirements:

(A) Every foundation, floor, wall, ceiling, roof, window, exterior door, and basement hatchway shall be reasonably weathertight, watertight, rodent-proof and in good repair.

(B) Every inside and outside stairs, every porch, and every appurtenance thereto shall be so constructed and maintained as to be safe for normal use.

(C) Every plumbing fixture, water pipe, and waste pipe shall be properly installed and maintained in a good working condition, free from defects, leaks and obstructions.

(D) Every piece of the mechanical heating system shall be kept in sound condition and good repair.

(E) Every part of the electrical system shall be kept in sound condition and good repair.

(F) Every water closet compartment floor surface and bathroom surface shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(G) Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed and installed so that it will function safely and effectively and shall be maintained in satisfactory working condition.

(H) All rubbish, garbage, or refuse shall be removed from the dwelling or the dwelling premises in order to keep said dwelling or dwelling premises in a clean and sanitary condition as required by other ordinances.

Every occupant of a dwelling they do not own shall not damage any supplied facility, piece of equipment, or utility which the owner is required to provide. In addition, every occupant of a dwelling shall keep it in a clean and sanitary condition as required by other ordinances.

2. *DWELLING UNIT.* No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit for the purpose of living therein, which does not comply with the following requirements:

(A) Heating. Every dwelling unit shall have heating facilities which are properly installed, are maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to

a temperature of at least 70° Fahrenheit at a distance three feet above floor level when the outside temperature is zero.

(B) Electrical. Every habitable room shall contain at least two separate floor or wall-type electric convenience outlets or one such convenience outlet and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one electrical light fixture.

(C) Light/Ventilation. Every habitable room, water closet compartment, and bathroom shall have at least one window facing directly to the outdoors of a minimum size equal to 10% of the floor area of the room. Every habitable room shall have at least one window which can be opened equal to at least 45% of the minimum window area size except where there is some supplied mechanical device which affords adequate ventilation.

(D) Space. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof.

At least 1/3 of the floor area of every habitable room shall have a ceiling height of at least 7 feet; in the floor area of that part of any room where the ceiling is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(E) Basic facilities. Every dwelling unit shall contain a kitchen sink in good working condition connected to a water and sewer system.

Every dwelling unit shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system.

Every dwelling unit shall contain a room which affords privacy to a person within said room and a bathtub or shower in good working condition and properly connected to a water and sewer system.

Every kitchen sink, lavatory basin, and bathtub or shower required shall be properly connected with hot and cold water lines.

Every dwelling unit's hot water facilities shall be capable of providing hot water at each outlet at a temperature of not less than 120° Fahrenheit.

Every dwelling unit shall have a safe, unobstructed means of egress leading to safe and open space at ground level.

3. *ROOMING UNIT.* No person shall occupy as owner-occupant or let to another for occupancy any rooming unit for the purpose of living therein, which does not comply with the following requirements:

(A) Heating. Every rooming unit shall have heating facilities which are properly installed, maintained in a safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to a temperature of at least 70° Fahrenheit a distance three feet above floor level when the outside temperature is zero.

(B) Electrical. Every habitable room shall contain at least two separate floor or wall-type electric convenience outlets and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one electrical light fixture.

(C) Light/Ventilation. Every habitable room shall have at least one window facing directly to the outdoors of a minimum size equal to 10% of the floor area of the room. Every habitable room shall have at least one window which can be opened equal to at least 45% of the minimum window area size except where there is some supplied mechanical device which affords adequate ventilation.

(D) Space. Every rooming unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof.

At least 1/3 of the floor area of every habitable room shall have a ceiling height of at least 7 feet; in the floor area of that part of any room where the ceiling is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(E) Basic facilities. Every rooming unit may contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system.

Every rooming unit may contain a room which affords privacy to a person within said room and a bathtub or shower in good working condition and properly connected to a water and sewer system.

Every lavatory basin and bathtub or shower provided shall be properly connected with hot and cold water lines.

Every rooming unit shall have a safe, unobstructed means of egress leading to safe and open space at ground level.

(F) Special Conditions. It is not necessary that each rooming unit have individual water flush closets, lavatory basins, and or bathtub or showers. It shall only be required that

one flush water closet, lavatory basin, and bathtub or shower shall be provided within the dwelling for each eight persons or fraction thereof. Members of the owner's family whenever they share the use of said facilities, shall be counted among the eight persons. All such facilities shall be located within the dwelling as to be reasonably accessible from a common hall or passage way to all persons sharing such facilities.

Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space, for each occupant thereof.

Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level.

4. *COMMON SPACE IN DWELLINGS. (Not Single Family).* The operator or owner of every rooming house or apartment building shall be responsible for the sanitary maintenance of all walls, floors, and ceilings and for maintenance of a sanitary condition in every other part of the rooming house or apartment building and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

Every public hall, corridor, foyer, or stair and all other rooms used by more than one family shall contain a minimum of one ceiling-type electrical fixture.

This ordinance shall apply to all dwelling, by whatever name they are known, except nursing or rest homes operating under a state license.

§ 1108.04. ENFORCEMENT.

Whenever the Housing Inspector determines there are reasonable grounds to believe there has been a violation of any provision of this ordinance, and has reason to believe the violation will not be corrected by the owner, the Building Inspector will go to the Planning Commission and City Council. The Planning Commission would then make a recommendation to the City Council. If the City Council is in agreement, and they act upon the issue, the Clerk would then send a registered or certified letter to the occupant. The notice shall state a reasonable time for the person so named in the notice to conform to the ordinance, but never less than ten (10) days.

Any person affected by any notice issued in connection with the enforcement of this ordinance may request and shall be granted a hearing on the matter before the Planning Commission. Any and all orders of the Housing Inspector shall be stayed pending disposition of the appeal.

Upon application, the Planning Commission shall hear appeals from and review any order or requirements or determinations made by the Housing Inspector, and determine whether there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance. The Planning Commission may delay implementation of the Housing

Inspector's order for a period of not to exceed six (6) months. If the applicant or the Planning Commission determines that the order of the Housing Officer should be delayed for longer than six (6) months or should be rescinded, either the applicant or the Planning Commission, after a hearing before the Planning Commission, shall transmit the request to the City Council. The City Council may modify, suspend, or terminate the order of the Housing Official on a temporary or permanent basis.

§ 1108.05. PENALTIES.

Any person who violates this ordinance shall be subject to punishment of a fine not to exceed \$300.00 or imprisonment for a period of ninety (90) days or both. Each day any violation of this ordinance shall continue, shall constitute a separate offense.

CHAPTER 1109: REGULATING THE MOVING OF BUILDINGS

Section

- 1109.01 Definitions
- 1109.02 Permit required
- 1109.03 Application
- 1109.04 Security requirements
- 1109.05 Duties of the building official
- 1109.06 Review by planning commission and approval by city council
- 1109.07 Permit expiration and extensions
- 1109.08 Designated streets for moving
- 1109.09 Duties of permit holder
- 1109.10 Liability of permit holder to city
- 1109.11 Return of fees and deposits
- 1109.12 Violations and penalties

§ 1109.01. DEFINITIONS.

For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meanings given herein:

BUILDING, is a structure or manufactured home designed, built or occupied as a shelter or roofed enclosure for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. A structure of less than 120 square feet floor area shall not fall within this definition.

BUILDING OFFICIAL, is the building official of Dundas or authorized representative.

CITY, is the City of Dundas.

COUNCIL, is the City Council of the City of Dundas.

PERSON, is any person, firm, partnership, association, corporation, company, or organization of any kind.

OWNER, is a person or persons who have purchased the building and will be the owner once it is upon a foundation in the new setting.

§ 1109.02. PERMIT REQUIRED.

No person shall move any building into or out of Dundas over, along or across any street or alley in the City without first obtaining a permit from the building official. Said permit from the Building Official shall regulate the hours, routing, movement, parking and speed limit for any persons moving any building or buildings in the City.

§ 1109.03. APPLICATION.

A person seeking issuance of a permit hereunder shall file an application for such a permit with the building official.

§ 1109.031. FORM. The application shall be made in writing upon forms provided by the building official, available at city offices, and shall be filed in the office of the building official and shall contain such information as the building official shall find necessary to determine whether a permit shall be issued.

§ 1109.032. ACCOMPANYING PAPERS.

(A) Tax Certificate. The owner of the building to be moved shall file evidence that all real estate taxes and special assessments against the building and lot from which it is to be removed are paid in full.

(B) Certificate of Ownership. The applicant, if other than the owner, shall file written evidence that they are entitled to move the building.

(C) Consent of Public Utility Company. The applicant shall file, prior to issuance of a permit, written evidence of arrangements with all public utility companies whose wires, lamps or poles are required to be removed for the removal thereof by the company.

(D) Proof of Commissioners Bond/License. The moving contractor/applicant shall present proof of a building mover license/bond as issued by the Minnesota Public Service Commission in conformity with Minnesota Statutes Section 221.81.

(E) Listing of Area Properties. An accurate listing showing all property owner names and addresses within three hundred fifty (350) feet of the outer boundaries of the property to which the building is to be moved.

(F) Site Plan and Elevation Drawings. The applicant shall provide a Certificate of Survey of the property to which the building is to be moved showing property and building elevations, building setbacks, and any easements thereon. Elevation drawings shall specify siding and roofing material to be used. At the city's discretion, photographs may be substituted for building elevation drawings.

(G) Hazard Removal Documents. Sufficient certificates or evidence shall be presented demonstrating that the building has been abated for rodents, asbestos and other harmful materials prior to its being brought into the city limits.

§ 1109.033. FEE. The application shall be accompanied by a building permit fee, as established by section 300.11 and Chapter 101. After approval of the moving permit, a building permit fee, which fee is to be determined by the Building Official based on the value of all Building Code upgrades, all expenses necessary for site preparation including final grading, and all other expenses associated with the moving and placing of the building onto the lot, will be assessed.

§ 1109.04. SECURITY REQUIREMENTS.

§ 1109.041. BOND. Any person filing an application hereunder shall file with the city clerk a bond, approved as to form by the city attorney, and executed by a corporate surety company authorized to do business in the State of Minnesota, in the amount of \$10,000.00, conditioned upon the compliance by the applicant with this and other applicable ordinances and laws, and payment to the city of all fees, fines and penalties required by said ordinance.

§ 1109.042. CASH DEPOSIT AND TIME LIMIT. After the review of the building permit, the building official shall perform a walk-through of the structure proposed to be moved. The building official shall determine what, if any, deficiencies exist and estimate

the cost to bring the structure up to all current building and mechanical codes. The person filing the application shall make a deposit in cash or in the form of a cashier's check or an additional bond to the City in the amount of the difference between the \$10,000.00 bond and the estimated cost of repairs to bring the building up to code. This deposit shall be forfeited if the building is not set upon a proper foundation and all repairs as determined necessary by the building official made within 120 days of issuance of permit.

§ 1109.05. DUTIES OF THE BUILDING OFFICIAL.

The building official shall inspect the building and the applicant's equipment to determine whether the following standards for issuance of a permit are met, and shall refuse to issue a permit if it is found that any one or more of the following conditions exist:

§ 1109.051. APPLICATION REQUIREMENTS. That application requirements herein have not been complied with, or fees have not been paid.

§ 1109.052. BUILDING SIZE. That the building is too large to move without endangering persons or property in the city.

§ 1109.053. BUILDING CONDITION. That the building is in such poor condition that it cannot be moved without endangering persons or property in the city.

§ 1109.054. BUILDING UNSAFE FOR PROPOSED USE. That the building is structurally unsafe or unfit for the purpose proposed, if the location to which the building is to be moved is in the city.

§ 1109.055. ORDINANCE OR CODE VIOLATIONS. That zoning, building codes or other ordinances would be violated by the building in its new location.

§ 1109.056. UNSAFE MOVING EQUIPMENT. That the moving equipment is unsafe and that persons or property would be endangered by its use.

§ 1109.057. GENERAL ENDANGERMENT. That for any other reason persons or property in the city would be endangered by the moving of the building.

§ 1109.06. REVIEW BY PLANNING COMMISSION AND APPROVAL BY CITY COUNCIL.

§ 1109.061. PLANNING COMMISSION REVIEW. Following approval by the Building Official, the building's compatibility with the surrounding area shall be reviewed by the Planning Commission, which shall make a recommendation to the City Council. The following items shall be considered in this review:

- (1) Age of surrounding structures versus the structure being moved into the new location;
- (2) Height compatibility with other structures in the area;
- (3) Air, sunlight, solar rights;
- (4) Aesthetics of the building to be moved;
- (5) Effect on property values in the area.

§ 1109.062. CITY COUNCIL APPROVAL. Approval by a majority of the City Council in a regular meeting is required prior to issuance of a permit.

§ 1109.063. OTHER CONDITIONS. Before issuing a permit, the Council may require as a condition to the issuance of the permit, such other conditions as the Council feels are necessary for public safety, welfare and health, and may require the applicant for said permit to enter into an agreement with the City, the performance of which may be required to be guaranteed by a bond or other cash deposit, for the performance of such conditions as the Council may require.

§ 1109.07. PERMIT EXPIRATION AND EXTENSIONS.

All permits granted under the provisions of this Ordinance shall expire in 120 days after the permit is originally issued, unless extended in writing by an affirmative vote of a majority of the Council at a regular meeting. The Council shall not grant any extensions without good cause being first shown, and unless said extension was applied for prior to the expiration of the regular permit.

§ 1109.08. DESIGNATED STREETS FOR MOVING.

Following permit approval, the Building Official shall procure from the Street Commissioner a list of designated streets over which the building may be moved. The Building Official shall have the list approved by the Chief of Police and shall reproduce the list upon the permit in writing. In making this determination, the Street Commissioner and the Chief of Police shall act to assure maximum safety to persons and property in the city and to minimize congestion and traffic hazards on public streets.

§ 1109.09. DUTIES OF PERMIT HOLDER.

Every permit holder under this ordinance shall:

§ 1109.0901. USE OF DESIGNATED STREETS. Move a building only over streets designated in the written permit.

§ 1109.0902. NOTIFICATION OF REVISED MOVING TIME. Notify the building official, in writing, of a desired change in moving date and hours from that proposed in the application.

§ 1109.0903. NOTIFICATION OF DAMAGE. Notify the building official, in writing, of any and all damage done to property belonging to the city or any public utility within 24 hours after the damage or injury has occurred.

§ 1109.0904. DISPLAY LIGHTS. Ensure red lights are displayed, and barriers are erected across streets, to warn and protect the public from dangers of such moving. Warning lights with open flames shall not be used.

§ 1109.0905. STREET OCCUPANCY PERIOD. Remove the building from the city streets after 24 hours of occupancy upon such streets, unless an extension is granted by the Council.

§ 1109.0906. COMPLY WITH GOVERNING LAW. Comply with the building code, Zoning Ordinance, and all other applicable Ordinances and laws upon relocating the building in the City.

§ 1109.0907. PAY EXPENSES OF SPECIFIED STAFF. Pay the expenses of a traffic officer ordered by the Chief of Police to accompany the movement of the building to protect the public from injury. Pay the expenses of the Building Official for walk-through inspection(s) and repairs estimate.

§ 1109.0908. CLEAR OLD PREMISES. Remove, on any lot where a building or structure is removed, the foundation walls and basement flooring before the excavation is filled or leveled. A special exception may be made if the owner submits a letter stating that this lot will not be used for any building. After receiving the letter, the City shall make a determination of whether or not the flooring and the foundation walls may remain. If the foundation walls are to remain they shall be leveled to a point three (3) feet below final grade and if the flooring is to remain there shall be holes put through the flooring so that water will be able to drain through the floor.

§ 1109.0909. STREET OCCUPANCY PERIOD. Prior to any building being removed, review with the Building Official the procedure for disconnecting or plugging the sanitary sewer service lead and water service lead. Prior to filling the hole, contact the Building Official to inspect that the utilities connections have been properly taken care of. Also contact all other public utilities and have them disconnect services in a proper way. This shall be done before any deposit is returned to the applicant.

§ 1109.0910. STREET OCCUPANCY PERIOD. Complete promptly and within one hundred twenty (120) days after moving, all remodeling, additions or repairs as shown on the plans accompanying the application, sufficient to secure a Certificate of Occupancy.

§ 1109.0911. STREET OCCUPANCY PERIOD. Level and seed the property from which a structure is removed if construction is not going to begin within sixty (60) days from the date of building removal.

§ 1109.10. LIABILITY OF PERMIT HOLDER TO CITY.

§ 1109.10.1. EXCESS COSTS OR DAMAGES. The permit holder shall be liable for any expense, damage, or costs in excess of deposited amounts or securities.

§ 1109.10.2. ORIGINAL PREMISES LEFT UNSAFE. If the original building site is within the City, the City shall proceed to complete the work necessary to leaving the original premise in a safe and sanitary condition, where the permit holder does not comply with the requirements of this Ordinance within the required sixty (60) days, and after a ten (10) day written notice to the permit holder. The cost thereof shall be charged against the cash deposit. If the expenses that exceed the cash deposit are not paid, these costs shall be certified to the County Auditor for collection on the real property taxes.

§ 1109.10.3. REMODELING NOT COMPLETED. If remodeling, additions, or repairs specified in the permit application are not completed prior to expiration of the permit, the City may complete such work, after a ten (10) day written notice, with these costs charged to deposits and securities posted by the permit holder. Should these funds be insufficient to pay the costs of completion, the City may, at its option, certify the unpaid balance to the County Auditor for collection on the real property taxes, or the City may, at its option, proceed to collect such unpaid balance by an action against the person to whom the permit has been issued, or their superiors, as the Council may determine.

§ 1109.11. RETURN OF FEES AND DEPOSITS.

§ 1109.11.1. RETURN UPON NON-ISSUANCE. Upon refusal to issue a permit, the Building Official shall direct the Clerk to return all deposits to the applicant.

§ 1109.11.2. RETURN UPON ALLOWANCE FOR EXPENSES. After the building has been moved and required work completed, the Building Official shall furnish the Council with a written statement of all expenses incurred and of all damage caused to or inflicted upon property belonging to the City by reason of such work. The Council shall authorize the Clerk to return to the applicant all deposits after deducting a sum sufficient to pay for all of the costs and expenses and for all damages done to property of the City.

§ 1109.12. VIOLATIONS AND PENALTIES.

§ 1109.12.1. VIOLATIONS DECLARED. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use,

occupy or maintain any building or structure in the City or cause the same to be done, contrary to or in violation of this Ordinance.

§ 1109.12.2. *PENALTY.* In addition to any fees, expenses or other costs specified herein, any person violating the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$700.00 or by imprisonment not to exceed ninety (90) days, or both. In addition thereto, the City shall also have the authority to seek injunctive relief to prohibit unauthorized or illegal moving as described hereto.

§ 1109.12.3. *COSTS TO THE CITY OF VIOLATIONS.* In the event of violation of any conditions of said permit, and in the further event the City incurs expenses, by reason of said violation, the Council may, by resolution, apply these costs against the benefitted property as a special assessment under Minnesota Statutes for certification to the County Auditor and for collection the following year along with the current real estate taxes.

CHAPTER 1110: [Repealed by Ordinance 2007-14, August 30, 2007. Number retained for future use]

CHAPTER 1111: REGULATING THE CONDUCT OF GAMBLING

Section

- 1111.01 Purpose
- 1111.02 Provision of state law adopted
- 1111.03 Permit required
- 1111.04 Gambling regulation
- 1111.05 Duration of permits
- 1111.06 Special permit
- 1111.07 Permit fees
- 1111.08 Permit application procedure
- 1111.09 Requirement to make specific expenditures
- 1111.10 Reports
- 1111.11 Suspension or revocation of permit

§ 1111.01 *PURPOSE.* The purpose of this Ordinance is to closely regulate and control the conduct of gambling within the City of Dundas.

§ 1111.02 *PROVISION OF STATE LAW ADOPTED.* The provisions of Minnesota Statutes Chapter 349, relating to the definition of terms, licensing, and restrictions upon lawful gambling are adopted and made a part of this Ordinance by reference, as if set out in full.

§ 1111.03 *PERMIT REQUIRED.* It shall be unlawful for any person, partnership, corporation, association or organization to conduct the game of Bingo or to maintain gambling devices known as paddle wheels, tip boards, pull tabs, or another apparatus used in the conduct of raffles, unless such organization is a fraternal, religious, veteran's, or other non-profit organization, which has been in existence for the most recent three years preceding the permit application as a registered Minnesota non-profit corporation, or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code; has at least fifteen active members as defined in Minnesota Statutes 349.12 Subd. 3, and has a valid permit issued by the City of Dundas for each location of operation. The organization must not be in existence solely for the purpose of conducting gambling. The organization must not have as an officer, or member of the governing body, any person who, within the five years before the issuance of the license, has been convicted in a federal or state court of a felony or gross misdemeanor, or who has ever been convicted of a crime involving gambling, or who has had a license issued by the Lawful Gambling Board of the State of Minnesota revoked for a violation of law or board rule.

§ 1111.04 *GAMBLING REGULATION.*

- a. Any licensed organization must identify in its license application the lawful purpose on which it proposes to expend net profits from lawful gambling.
- b. The organization must identify on its license application a gambling manager and certify that said manager is qualified under the requirements of Minnesota Statutes Chapter 349.

§ 1111.05. *DURATION OF PERMITS.* All permits shall be issued for a period of not to exceed two (2) years. If a permit is issued for a shorter period of time, any fee will be pro-rated.

§ 1111.06. *SPECIAL PERMIT.* A special permit may be issued to a qualified organization. Special permits will only be issued to organizations which, for the purpose of conducting Bingo, raffles, or other lawful gambling, which is excluded or exempted from the license requirements of Minnesota Statutes Chapter 349, as provided in Minnesota Statutes 349.166, and pursuant to the following requirements:

1. A special permit may be issued to an organization to conduct Bingo in connection with a Dundas City civic celebration, if the organization conducts Bingo less than four times per year for no more than 12 days annually.
2. A special permit may be issued to an organization to conduct a raffle only if the total prizes awarded annually by said organization is less than \$750.00.
3. A special permit may be issued to an organization to conduct lawful gambling if the following requirements are met:
 - a. The organization conducts lawful gambling on less than five days each year.
 - b. The total prizes awarded are less than \$50,000.00 per year.
 - c. The organization provides the city with at least thirty days prior notice before conducting a lawful gambling event.
 - d. The organization complies with all other requirements of Minnesota Statutes 349.166, Subd. 2, concerning exemption requirements under state law.

§ 1111.07. PERMIT FEES. Annual gambling permits, and special permits, shall be required to pay a fee as set forth in Section 300.11 and Chapter 101 of the Dundas City Code.

§ 1111.08. PERMIT APPLICATION PROCEDURE. A permit for Bingo or other lawful gambling, conducted at any authorized premises within the City of Dundas, shall be granted by resolution of the Dundas City Council. Permit applications shall meet the following requirements:

- a. Permit applications shall be sworn by an authorized officer of the organization on forms which may be prescribed by the City Council or the Minnesota Lawful Gambling Board.
- b. No permit shall be issued for a period of at least 14 days after the permit application is submitted.
- c. No permit shall be issued until the premises, at which the permit has been applied for, shall have been inspected by the chief of police, who shall report to the city council any factors of deficiency and the suitability of such premises for the issuance of a permit.
- d. Each permit application shall identify the name of the gambling manager who will be responsible for all gambling operations conducted at the permitted premises.

§ 1111.09. *REQUIREMENT TO MAKE SPECIFIC EXPENDITURES.*
HISTORY: Amended Ord 2004-05

Pursuant to the authority set forth in Minnesota Statute 349.213 (2004), each Licensee or Permit Holder shall contribute ten (10%) percent per year of the net profits derived from lawful gambling conducted at the licensed premises within the City of Dundas, for deposit into a Special Fund, administered by the City of Dundas, for disbursement by the City of Dundas, for lawful purposes, as defined in Minnesota Statutes 349.12, Subd. 25.

Each Permit Holder shall provide an accounting of their net profits for the calendar year and payment of ten (10%) percent of said profits, by February 15th of the succeeding year.

§ 1111.10. *REPORTS.* The gambling manager of each permitted organization shall file with the City, all records and reports which must be filed with the Minnesota Lawful Gambling Board. Additionally, said reports shall describe all lawful expenditures made in the Dundas trade area.

§ 1111.11. *SUSPENSION OR REVOCATION OF PERMIT.* The council may suspend for a period not exceeding sixty (60) days, or revoke, any permit issued pursuant to this Ordinance for violation of this Ordinance or any other provision of Minnesota Statutes Chapter 349. Provided however, that before any such suspension or revocation shall be made, the permitted organization shall be given a hearing on at least ten days written notice, which shall be before the Dundas city council.