

LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

Chapter 18

LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

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ARTICLE I. IN GENERAL

Secs. 18-1--18-18. Reserved.

ARTICLE II. ADULT USES*

Sec. 18-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult uses means and includes adult bookstores; adult motion picture theaters; adult mini-motion picture theaters; adult massage parlors; adult steam room/bathhouse/sauna facilities; adult companionship establishments; adult rap/conversation parlors; adult health/sports clubs; adult cabarets; adult novelty businesses; adult motion picture arcades; adult modeling studios; adult hotels/motels; adult body painting studios; and other premises, enterprises, establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas which are capable of being seen by members of the public. Activities classified as obscene as defined by Minn. Stats. § 617.241 are not lawful and are not included in the definition of adult uses.

Adult uses, accessory, means the offering of goods and/or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

Adult uses, principal, means the offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment, and include but are not limited to the following:

Body painting studio, adult, means an establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

Bookstore, adult, means a business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Cabaret, adult, means an establishment which provides dancing or other live entertainment if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or specified anatomical areas.

Companionship establishment, adult, means a companionship establishment if such establishment excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

* **State Law References:** Adult entertainment establishments, Minn. Stats. § 617.242.

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Entertainment, adult, means adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.

Establishment, adult, means a business engaging in any of the following activities or which utilizes any of the following business procedures or practices:

- (1) Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage thereat either by law or by the operators of such business; or
- (2) Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

Hotel or motel, adult, means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Massage parlor, adult, or health club, adult, means 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 sexual activities or specified anatomical areas.

Mini-motion picture theater, adult, means a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons therein.

Modeling studio, adult, means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Motion picture arcade, adult, means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Motion picture theaters, adult, means a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

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Novelty business, adult, means a business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

Sauna, adult, means a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Special use permit means a permit granted pursuant to this article which is for a specific length of time and is required to be renewed on an annual basis.

Specified anatomical areas means anatomical areas consisting of:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means activities consisting of the following:

- (1) Actual or simulated 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: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;
 - (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
 - (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
 - (4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast;
 - (5) Situations involving a person, 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 or any such persons;
 - (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
 - (7) Human excretion (i.e., urination, menstruation, vaginal or anal).
- (Ord. No. 2003-97, § 2, 4-1-2003)

Sec. 18-20. Statement of policy.

(a) The city council deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which operate as adult body painting studios; adult bookstore; adult cabarets; adult companionship establishments; adult hotels or motels; adult massage parlors or health clubs; adult mini-motion picture theaters; adult modeling studios; adult motion picture arcades or theaters; adult novelty businesses; adult saunas and similar adult oriented services operating under different names in order to protect the public health, safety and welfare, and to guard against the inception and transmission of disease. The city council further finds that the commercial enterprises such as the types described in this subsection and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training, are susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, and thus requiring close inspection, licensing and regulation.

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(b) The city council also finds that control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the sheriff's department and other departments of the city. As a consequence, the concentrated use of city services in such control detracts from and reduces the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals and safety of the community. In consideration for the necessity on the part of the city to provide numerous services to all segments of the community without a concentration of public services in one area working to the detriment of the members of the general public, it is hereby decided that the uses described in subsection (a) of this section should be limited to the general business zoning district as a special use and as a permitted accessory use in the general business zoning districts, and should require the issuance of licenses.
(Ord. No. 2003-97, § 1, 4-1-2003)

Sec. 18-21. Licenses.

(a) *Required.* No person, firm, or corporation shall operate an adult use in the city without having first secured a license as hereinafter provided. Licenses shall be one of two types:

- (1) Adult use, principal;
- (2) Adult use, accessory.

(b) *Applications.* The application for an adult use license shall include:

- (1) The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birth dates of those owners holding more than five percent of the outstanding stock of the corporation;
- (2) The name, address, phone number and birth date of the manager of such operation, if different from the owners;
- (3) The premises wherein the adult use is to be located;
- (4) A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five percent of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;
- (5) The activities and types of business to be conducted;
- (6) The hours of operation;
- (7) The provisions made to restrict access by minors;
- (8) A building plan of the premises detailing all internal operations and activities.

(c) *Fees; payment, collection, and refunds.*

- (1) Each application for a license shall be accompanied by a receipt from the city treasurer or clerk for payment in full of the required fee for the license as established by city council resolution from time to time. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the city clerk or treasurer shall refund the amount paid.
- (2) All licenses shall expire on June 30 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.
- (3) The annual fee for an adult use license shall be as established by city council resolution from

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time to time.

- (4) No part of the fee paid for any license issued under this article shall be refunded except in the following instances upon application to the city administrator within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:
 - a. Destruction or damage of the licensed premises by fire or other catastrophe;
 - b. The licensee's illness;
 - c. The licensee's death;
 - d. A change in the legal status making it unlawful for the licensed business to continue.
- (d) *Granting procedure.*
 - (1) The city shall investigate all facts set out in the application including conducting a background check on the licensee and all shareholders of the licensee. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and a public hearing, the city council shall grant or refuse the application.
 - (2) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the city council.
- (e) *Ineligible persons.* No license shall be granted or held by any person:
 - (1) Under 21 years of age.
 - (2) Who has been convicted of a felony or of violating any law of this state or local ordinance relating to sex offenses and/or adult uses.
 - (3) Who is not the proprietor of the establishment for which the license is issued.
- (f) *Ineligible places.*
 - (1) No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this article, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.
 - (2) Except for uses lawfully existing at the time of adoption of the ordinance from which this article is derived, no license shall be granted for any adult use which is not in compliance with the city's zoning regulations.
- (g) *Nonconforming uses.* Any adult use existing on the effective date of the adoption of the ordinance from which this article is derived may be continued subject to the following provisions:
 - (1) No such adult use shall be expanded or enlarged except in conformity with the provisions of this article;
 - (2) A nonconforming adult use shall be required to apply for and receive an adult use license. No public hearing shall be required prior to the issuance of the license for the nonconforming adult use.

(Ord. No. 2003-97, § 3, 4-1-2003)

State Law References: Ownership or management restrictions on adult business establishments, Minn. Stats. § 609B.545.

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Sec. 18-22. Conditions of license--Generally.

(a) Every license shall be granted subject to the conditions in this section and all other provisions of this article, and of any applicable sections of other ordinances of the city or state law.

(b) All licensed premises shall have the license posted in a conspicuous place at all times.

(c) In the case of an adult use, principal, no minor shall be permitted on the licensed premises unless accompanied by his parent or legal guardian.

(d) Any designated inspection officer or law enforcement officer of the city shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours within a search and seizure warrant.

(e) Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of this order.

(Ord. No. 2003-97, § 4, 4-1-2003)

Sec. 18-23. Same--Principal adult use.

Principal adult use businesses shall be permitted in the general business zoning district subject to the issuance of a special use permit and subject to the following requirements:

- (1) A principal adult use business shall not be allowed within 1,000 feet of another existing adult use measured in a straight line from the buildings.
- (2) A principal adult use business shall not be located within 1,000 feet measured in a straight line from any building located in any general business zoning district in the city.
- (3) A principal adult use business shall not be located within 1,000 feet measured in a straight line from any existing school, day care center or place of worship.
- (4) A principal adult use business shall not sell or dispense nonintoxicating or intoxicating liquors nor shall it be located in a building which contains a business that sells or dispenses nonintoxicating or intoxicating liquors.
- (5) No principal adult use business entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment which is prohibited by any ordinance of the city, the laws of the state, or the United States of America. Nothing in this article shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- (6) No principal adult use business shall be conducted in any manner that permits from any property not approved as an adult use the perception or observation of any materials depicting, describing or related to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, declaration, sign, show window, sound transmission or other means.
- (7) All principal adult use businesses shall prominently display a sign at the entrance and located within two feet of the door-opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under age 18 years of age shall not enter." Said sign shall have letters at least three-eighths-inch in height and no more than two inches in height.

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- (8) No person under the age of 18 shall be permitted on the premises of an adult entertainment establishment. No person under the age of 18 years shall be permitted access to material displayed or offered for sale or rent by a principal adult use business establishment.
 - (9) Principal adult use businesses shall not be open between the hours of 1:00 a.m. and 10:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.
- (Ord. No. 2003-97, § 5, 4-1-2003)

Sec. 18-24. Same--Accessory adult use.

Accessory adult use licenses may be issued to businesses located in the general business zoning districts subject to the following requirements:

- (1) The accessory adult use shall comprise no more than ten percent of the floor area of the establishment in which it is located.
 - (2) Display areas for movie rentals or other similar products shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the person responsible for the operation.
 - (3) Magazines and publications or other similar products classified or qualified as adult uses 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.
 - (4) Accessory adult uses shall be prohibited from both internal and external advertising and signing of adult materials and products.
- (Ord. No. 2003-97, § 6, 4-1-2003)

Sec. 18-25. Revocation, suspension or nonrenewal of license.

(a) *Authority to initiate upon recommendation of city attorney.* The license may be revoked, suspended, or not renewed by the city council upon recommendation of the city attorney by showing that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

- (1) Fraud, deception or misrepresentation in connection with the securing of the license.
- (2) Habitual drunkenness or intemperance in the use of drugs including, but not limited to, the use of drugs defined in Minn. Stats. § 152.01, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine or other sedatives, depressants, stimulants or tranquilizers.
- (3) Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.
- (4) Failure to fully comply with any requirements of the ordinances of the city regarding sanitary and safety conditions, zoning requirements, building code requirements or ordinances, the violation of which involves moral turpitude, or failure to comply fully with any requirements of this article.
- (5) Conviction of an offense involving moral turpitude.

(b) *Appeal.* The certificate holder may appeal such suspension, revocation or nonrenewal to the city council. The council shall consider the appeal at a regularly scheduled public hearing on or after ten days from service of the notice of appeal to the city clerk. At the conclusion of the hearing, the council may order:

- (1) That the revocation, suspension or nonrenewal be affirmed.
- (2) That the revocation, suspension or nonrenewal be lifted and that the certificate be returned to

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the certificate holder.

(c) *Additional constraints.* The city council may base either suspension or issuance of the certificate upon any additional terms, conditions, and stipulations which the council may, in its sole discretion, impose.

(Ord. No. 2003-97, § 7, 4-1-2003)

Sec. 18-26. Penalty for violation.

Any person violating any provision of this article is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.

(Ord. No. 2003-97, § 8, 4-1-2003)

Secs. 18-27--18-55. Reserved.

ARTICLE III. PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS*

DIVISION 1. GENERALLY

Sec. 18-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Non-Commercial Door-to-Door Advocate means any person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs.

Peddler means any person, whether a resident of the City of Grant or not, who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for 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. For purpose of this ordinance, the term “Peddler” shall have the same common meaning as the term “Hawker.”

Person means any natural individual, group, organization, corporation, partnership, or similar association.

Professional Fundraiser means any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, political, social, or other charitable organization.

* **State Law References:** Authority to regulate transient commerce, Minn. Stats. § 412.221, subd. 19; authority to regulate transient merchants, Minn. Stats. § 437.02

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Solicitor means any person, whether a resident of the City of Grant or not who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, 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. For purposes of this ordinance, the term "Solicitor" shall have the same meaning as the term "Canvasser." For purposes of this ordinance, the term "Door-to-Door Advocate" shall also fall under the term "Solicitor."

Transient merchant means any person, firm or corporation, 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 in any one location for more than fourteen (14) consecutive days.

(a) Exceptions to Definitions. For purposes of this chapter, the terms Peddler, Solicitor and Transient Merchant shall not apply to:

- (1) Non-Commercial Door-to-Door Advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict Non-Commercial Door-to-Door Advocates.
- (2) 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 or milk.
- (3) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- (4) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (5) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- (6) Any person participating in an organized, multi-person bazaar or flea market.
- (7) Any person conducting an auction as a properly licensed auctioneer.
- (8) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Sec. 18-57. Penalty.

Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be subject to penalties at law thereof, including payment of restitution as determined by the Court.

Sec. 18-58. Prohibition of peddlers, solicitors and transient merchants.

The practice of going in and upon private residences in the City of Grant, by Peddlers, Solicitors and Transient Merchants, not having been requested or invited to do so by the owner or owners of said private residences for the purpose of sale, displaying for 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 or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time, is hereby declared to be a nuisance and punishable as a misdemeanor.

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Sec. 18-59. Exceptions to prohibition of peddlers, solicitors and transient merchants.

For the purposes of this chapter, persons engaging in the following activities shall be exempt from the prohibitory actions in Sec. 18-60.

- (a) Any person selling, or attempting to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
- (b) Any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purposes of exercising that person's state or federal constitutional rights such as freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

Sec. 18-60. Prohibited activities for Non-Commercial Door-to-Door Advocates and Professional Fundraisers.

Non-Commercial Door-to-Door Advocates excluded under 18-56(a) of this Ordinance shall be prohibited from conducting business in any of the following manner:

- (a) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- (b) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- (c) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (d) Conducting business before 8 a.m. or after 8 p.m.
- (e) Alleging false or misleading statements including untrue statements of endorsement.
- (f) Remaining on the property of another when requested to leave.
- (g) Otherwise operating their business in any matter that a reasonable person would find obscene, threatening, intimidating or abusive.

Sec. 18-61. Severability.

Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part' and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

Secs. 18-62—18-76. Reserved.

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DIVISION 2. LICENSE

Sec. 18-77. Required.

No peddler, solicitor or transient merchant shall sell or offer for sale any goods, wares, merchandise or services within the city unless a license therefor shall first be secured as provided in this division.
(Ord. No. 2003-102, § 2, 12-2-2003)

Sec. 18-78. Application and issuance.

(a) Application for such license shall be made to the city clerk on a form supplied by the city. The application shall state:

- (1) The name and address of the applicant and of all persons associated with him in his business;
- (2) The type of business for which the license is desired;
- (3) In case of transient merchants:
 - a. The place where the business is to be carried on;
 - b. The length of time for which the license is desired;
 - c. The general description of the things to be sold;
- (4) The places of residence of the applicant for the five years preceding the date of application.

(b) Blank applications shall be issued on payment of \$1.00, which amount shall be credited on the license fee if the license is granted. Every application shall bear the written report and recommendation of the city clerk or mayor after an investigation of the moral character of the applicant. The completed application shall be presented to the council for its consideration; and if granted by the council, a license shall be issued by the city clerk upon payment of the fee established by ordinance.
(Ord. No. 2003-102, § 3, 12-2-2003)

Sec. 18-79. Revocation.

Any license may be revoked by the council for a violation of any provision of this division if the licensee has been given a reasonable notice and an opportunity to be heard.
(Ord. No. 2003-102, § 4, 12-2-2003)

Secs. 18-80--18-101. Reserved.

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ARTICLE IV. ELECTRIC FRANCHISE FEE ON NORTHERN STATES POWER D/B/A XCEL ENERGY

Sec. 18-102. Purpose.

(a) The city council has determined that it is in the best interest of the city to impose a franchise fee on those public utility companies that provide electric services within the city.

(b) Pursuant to city Ordinance No. 2003-103, a franchise agreement between the city and Northern States Power Company, d/b/a Xcel Energy, the city has the right to impose a franchise fee on Xcel Energy in amount and fee design as set forth in section 9.1 of the Xcel Energy Franchise and in the fee schedule attached hereto as exhibit A attached to Ordinance No. 2003-104.
(Ord. No. 2003-104, § 1, 12-2-2003)

Sec. 18-103. Franchise fee statement.

(a) A franchise fee is hereby imposed on Xcel Energy under its electric franchise in accordance with the schedule attached hereto and made a part of this article, commencing with the Xcel Energy's February 2004 billing month. This fee is an account-based fee on each premises and not a meter-based fee. In the event that an entity covered by this article has more than one meter at a single premises, but only one account, only one fee shall be assessed to that account. If a premises has two or more meters being billed at different rates, the company may have an account for each rate classification, which will result in more than one franchise fee assessment for electric service to that premises.

(b) If the company combines the rate classifications into a single account, the franchise fee assessed to the account will be the largest franchise fee applicable to a single rate classification for energy delivered to that premises. In the event any entities covered by this article have more than one premises, each premises (address) shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premises, the company's manner of billing for energy used at all similar premises in the city will control.
(Ord. No. 2003-104, § 2, 12-2-2003)

Sec. 18-104. Payment.

The franchise fee shall be payable to the city in accordance with the terms set forth in section 9.4 of the franchise.
(Ord. No. 2003-104, § 3, 12-2-2003)

Sec. 18-105. Surcharge.

The city recognizes that the state public utilities commission allows the utility company to add a surcharge to customer rates to reimburse such utility company for the cost of the fee and that Xcel Energy will surcharge its customers in the city the amount of the fee.
(Ord. No. 2003-104, § 4, 12-2-2003)

Sec. 18-106. Record support for payment.

Xcel Energy shall make each payment when due and, if requested by the city, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.
(Ord. No. 2003-104, § 5, 12-2-2003)

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Sec. 18-107. Enforcement.

Any dispute, including enforcement of a default regarding this article, will be resolved in accordance with section 2.5 of the franchise agreement.
(Ord. No. 2003-104, § 6, 12-2-2003)

Sec. 18-108. Sunset clause.

This article shall automatically sunset on December 31, 2009, unless the city council acts to renew or extend the fee at least six months prior to the sunset date.
(Ord. No. 2003-104, § 1, 12-2-2003)

Exhibit A XCEL ENERGY ELECTRIC FRANCHISE FEE SCHEDULE

Class	Fee Per Premise
Residential	\$2.35
Sm C & I--Non--Dem	\$2.00
Sm C & I--Demand	\$14.00
Large C & I	\$75.00
Public Street Ltg	\$ 2.00
Muni Pumping--N/D	\$2.00
Muni Pumping--Dem	\$2.00

Franchise fees are to be collected by the utility in the amounts set forth in the above schedule, and submitted to the city on a quarterly basis as follows:

January--March collections due by April 30.

April--June collections due by July 31.

July--September collections due by October 31.

October--December collections due by January 31.

Secs. 18-109--18-120. Reserved.

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ARTICLE V. CHARITABLE GAMBLING*

Sec. 18-121. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Active member means a member who has paid all his dues to the organization and has been a member of the organization for at least six months.

Bingo means a game where each player has a card or board, for which a consideration has been paid, containing five horizontal rows of spaces, with each row, except the center one, containing five figures. The central row has four figures with the word "free" marked in the center space thereof. The term "bingo" also includes games which are as described in this definition except for the use of cards where the figures are not preprinted, but are filled in by the players. A player wins a game of bingo by completing a preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal or diagonal.

Bingo occasion means a single gathering or session at which a series of one or more successive bingo games is played.

Checker means a person who records the number of bingo cards purchased and played during each game and records the prizes awarded to the recorded cards but does not collect the payment for the cards.

Exempt organization means any fraternal, religious, veterans, or other nonprofit organization conducting not more than one lawful charitable gaming event each calendar year. Each charitable gaming event shall be limited to five or less consecutive days in duration.

Exempt permit means that permit which is required to be obtained by every exempt organization seeking to conduct local charitable gaming within the corporate limits of the city.

Gambling equipment means bingo cards and devices for selecting bingo numbers, pull-tabs, ticket jars, paddlewheels, and tipboards.

Gambling manager means a person who has paid all dues to an organization, has been a member of the organization for at least two years, and has been designated by the organization to supervise lawful gambling conducted by it.

Lawful gambling means the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pull-tabs.

Lawful purpose means as defined by Minn. Stats. § 349.12, subd. 25.

Organization means any fraternal, religious, veterans, or other nonprofit organization.

Paddlewheel means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

* **State Law References:** Lawful gambling, Minn. Stats. ch. 349; local regulation of lawful gambling, Minn. Stats. § 349.213.

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Profit means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes and taxes imposed by this chapter.

Pull-tab means a single folded or banded ticket or a card with a face covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. The term "pull-tab" includes a ticket sold in a gambling device known as a ticket jar.

Raffle means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing to take place at a location and date printed upon the ticket.

Tipboard means a board, placard or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol which determines the winning changes.
(Ord. No. 2008-05, § 1, 12-1-2008)

Sec. 18-122. Purpose and intent.

This article is enacted to promote the health, safety and general welfare of the inhabitants of the city by closely regulating the conduct of lawful gambling.
(Ord. No. 2008-05, § 2, 12-1-2008)

Sec. 18-123. Findings.

The city council finds that lawful gambling is a nuisance-prone activity and, as such, is subject to restrictive regulation. The council further finds and declares that the ability to conduct lawful gambling and participate in lawful gambling is a privilege rather than a right.
(Ord. No. 2008-05, § 3, 12-1-2008)

Sec. 18-124. State law adopted.

The provisions of Minn. Stats. ch. 349 relating to the definition of terms, licensing and restrictions of lawful gambling are adopted and made a part of this section as if set out in full.
(Ord. No. 2008-05, § 4, 12-1-2008)

Sec. 18-125. Nonlicensed gambling.

This article shall not regulate the conduct of nonlicensed gambling as defined by Minn. Stats. ch. 349.
(Ord. No. 2008-05, § 5, 12-1-2008)

Sec. 18-126. Local approval of state-licensed organizations.

Pursuant to Minn. Stats. § 349.213, the charitable gambling control board for the state must notify the city council before issuing or renewing an organization license for lawful gambling at the state level for those organizations whose premises are located within the city. The city council must either adopt a resolution approving or denying the state license request. Approval or denial of the request must be based upon the purpose and intent of this article as stated in section 18-122. If the city council adopts a resolution disapproving the state license and so informs the board within 30 days of such notice, the license may not be issued or renewed.
(Ord. No. 2008-05, § 6, 12-1-2008)

Sec. 18-127. Obligations of state-licensed organizations.

The applicant shall provide to the city clerk copies of all information which such organization provides to the charitable gambling control board. Such copies shall be provided to the city clerk within seven days after the state-licensed organization sends such information to the state. Failure of the applicant to provide such

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copies shall constitute a basis for denial of the license or renewal by the city council.
(Ord. No. 2008-05, § 7, 12-1-2008)

Sec. 18-128. Use of proceeds of charitable gambling.

(a) The organization licensed to conduct lawful gambling in the city shall contribute ten percent of the net profits it derives from the lawful gambling activity in the city to a fund regulated by the city for disbursement of such contributions for lawful purposes as defined by Minn. Stats. § 349.12, subd. 25. In addition, the organization licensed to conduct lawful gambling in the city shall expend a minimum of 70 percent of the net proceeds it derives from the lawful gambling activity conducting in the city for lawful purposes as defined by Minn. Stats. § 349.12, subd. 25, that will directly benefit the citizens living in the city. Such expenditures must occur within the same or following fiscal year that such proceeds are received by the organization conducting the lawful gambling in the city.

(b) For purposes of this section, net proceeds shall be computed as follows: gross receipts from lawful gambling activity conducted in the city, less reasonable sums necessarily and actually expended to conduct lawful gambling activities in the city for the following items:

- (1) Prizes;
- (2) Gambling supplies and equipment, which shall be defined as those expenses authorized by the charitable gambling board in adopted rules (see Minn. Rules ch. 7861);
- (3) Rent;
- (4) Utilities used during gambling occasions;
- (5) Compensation paid to members for conducting lawful gambling activities;
- (6) State and/or federal taxes; and
- (7) Maintenance of devices used in lawful gambling.

(c) The requirements of this section shall not apply to exempt organizations having first obtained an exempt permit from the city.
(Ord. No. 2008-05, § 8, 12-1-2008)

Sec. 18-129. Permitted premises; description required if leased.

(a) The use of or sale of lawful gambling supplies and equipment described as pull-tabs, paddlewheels and tipboards shall be allowed on the premises owned or leased by eligible organizations.

(b) In the event the premises are leased by the eligible organization, the specific area leased and within which the lawful gambling activity is to take place shall be clearly described in a written lease agreement and shall further be designated in a drawing attached to the lease and made a part thereof.
(Ord. No. 2008-05, § 9, 12-1-2008)

Sec. 18-130. Designated areas of leased premises; sale of alcoholic beverages prohibited.

In leased locations authorized by this article, the lawful gambling activity and the sale of pull-tabs, tipboards and the operation of paddlewheels shall take place in a designated area of the leased premises, which area shall be separate from the counter, bar or service area. No sale of any alcoholic beverages shall be allowed within the leased area. Locations authorized by this section which are owned by the licensed organization need not designate such a location within the premises.
(Ord. No. 2008-05, § 10, 12-1-2008)

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Sec. 18-131. Minimum age.

Only those persons who have reached the age at which they are allowed to consume intoxicating liquor by state statutes shall be allowed to participate in the lawful gambling activity or shall be employed by the organization issued the lawful gambling license for the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pull-tabs.
(Ord. No. 2008-05, § 11, 12-1-2008)

Sec. 18-132. Hours of operation.

(a) The use or sale of lawful gambling supplies and equipment, including pull-tabs, paddlewheels and tipboards, shall be allowed on premises owned or leased by those organizations eligible for a lawful gambling license only between the hours of 8:00 a.m. and 1:00 a.m.

(b) Notwithstanding the provisions of subsection (a) of this section, the conduct of bingo and sale of raffle tickets shall be allowed on Sundays and legal holidays when not prohibited by Minn. Stats. ch. 349.
(Ord. No. 2008-05, § 12, 12-1-2008)

Sec. 18-133. Employees.

Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, to the spouse or the surviving spouse of an active member, or to employees hired by the licensed organization.
(Ord. No. 2008-05, § 13, 12-1-2008)

Sec. 18-134. Authorized persons.

Only an active member of the licensed organization, the spouse or surviving spouse of the active member, or an employee hired by the licensed organization shall be involved in the operation, conduct or sale of lawful gambling activities in the city. The owner or employee of an establishment having a liquor license issued by the city which is leased by the organization conducting a lawful gambling activity may not be involved in the operation, conduct or sale of lawful gambling activities while he is then on duty with the lessor.
(Ord. No. 2008-05, § 14, 12-1-2008)

Sec. 18-135. Financial reports.

Each organization which is licensed to conduct lawful gambling within the city shall provide the city clerk with a copy of all financial reports submitted to the state charitable gambling control board on a quarterly basis if there is any charitable gambling by the organization within the reporting period.
(Ord. No. 2008-05, § 15, 12-1-2008)

Sec. 18-136. Fees and licenses.

To the extent allowed by state law, the council may by ordinance set a licensing fee for the conduct of lawful gambling within the city. The ordinance may set fees for application and processing of any application, including whatever amounts are deemed appropriate to defray the cost of investigation of the proposed applicant by the council, city administrator, or chief of police and to make a determination of the propriety of granting the license. The city clerk shall prepare a local application form and shall include verification that the applicant agrees to abide by all local ordinances concerning the conduct of licensed lawful gambling.
(Ord. No. 2008-05, § 16, 12-1-2008)