

**SPRING LAKE PARK
ORDINANCE 509**

**AN ORDINANCE REPEALING, REPLACING, AND AMENDING CERTAIN PROVISIONS OF
CHAPTER 11 OF THE SPRING LAKE PARK CITY CODE RELATING TO BUSINESS
REGULATIONS AND LICENSING**

NOW THEREFORE, be it ordained by the Council of the Spring Lake Park, in the State of Minnesota, as follows:

SECTION 1: **AMENDMENT** “11.04.010 Peddlers And Solicitors” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.04.010 Peddlers And Solicitors

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

NON-COMMERCIAL DOOR-TO-DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

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 delivery immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term hawker.

PERSON. Any natural individual, group, organization, corporation, partnership, or similar association.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR. 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.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or 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.

B. Exceptions to Definitions. For the purpose of this chapter, the terms peddler, solicitor, and transient merchant shall not apply to the following; however, exemption from these definitions does not excuse compliance with any other applicable statutory provision or city ordinance:

1. ~~For the purpose of the requirements of this chapter, the terms peddler, solicitor and transient merchant, shall not apply to a~~ Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Paragraph H.
2. 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~~
3. ~~a~~ 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~~
4. ~~a~~ Any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
5. ~~In addition,~~ Any persons ~~conducting the type of sales commonly known as garage sales, rummage sales, or estate sales,~~ as well as those
6. Any persons ~~participating in an organized multi-person bazaar or flea market,~~ shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be
7. ~~a~~ Any one person ~~conducting an auction as a properly licensed auctioneer,~~ ~~or~~
8. ~~a~~ 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.
9. 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.
10. ~~Nothing in this chapter shall be interpreted to prohibit or restrict door to door advocacy. Persons engaging in door to door advocacy shall not be required to be licensed or to register under this chapter.~~

C. Licensing And Exemptions.

1. County license required. No person shall conduct business as a 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, if the county issues a license for the activity.
2. City license required. Except as otherwise provided for by this chapter, no person shall conduct business as a ~~solicitor,~~ peddler or a transient merchant without first having obtained a license from the city.

~~3. License exemptions:~~

- ~~a. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place business when the activity is for the purpose of exercising that person's state or~~

- ~~federal constitutional rights such as 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.~~
- ~~b. Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.~~
- ~~c. Members of organizations for charitable, religious, patriotic or philanthropic purposes shall be exempt from Paragraph C,2 provided that they comply with Paragraph H.~~
- ~~4. Duration. An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses under this chapter shall be valid only during the time period indicated on the license.~~

D. Application.

1. ~~Application.~~ An ~~A~~ application for a city license to conduct business as a ~~solicitor,~~ peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the Administrator, Clerk/Treasurer ~~City Clerk.~~ All applications shall be signed by the applicant. All applications shall include the following information:
 - a. Applicant's full legal name (each person that will be conducting business within the city).
 - b. Any and ~~All~~ other names under which the applicant conducts business or to which applicant officially answers.
 - c. A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks and features, and the like).
 - d. Full address of applicant's permanent residence.
 - ~~e. Local address or address of local contact.~~
 - f. Telephone number of applicant's permanent residence and local contact.
 - g. Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
 - h. Full address of applicant's regular place of business (if any).
 - i. Any and all business related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
 - j. The type of business for which the applicant is applying for a license.
 - k. Whether the applicant is applying for an annual or daily license.
 - l. The dates during which the applicant intends to conduct business. , and if ~~and if~~ the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum of 14 consecutive days).
 - m. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
 - n. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than minor traffic offenses.
 - o. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or a transient merchant.
 - p. Proof of any required county license.

- q. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
 - r. A general description of the items to be sold or services to be provided.
 - s. Any and All additional information deemed necessary by the City Council.
 - t. The applicants drivers license or other acceptable form of identification.
 - u. The license plate number, registration information and vehicle identification number (VIN) for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.
2. *Fee.* The application fee for a peddler or transient merchant shall be as set forth in the city's fee schedule as it may be amended from time to time. ~~The application fee shall not be refunded whether or not the license sought is granted. The application fee is subject to change annually in accordance with the fee resolution adopted by the city. There shall be no license fee charged for a solicitor application.~~
3. *Procedure.* Upon receipt of the completed application and payment of the license fee, the Administrator, Clerk/Treasurer ~~City Clerk will~~, within three (3) 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 Administrator, Clerk/Treasurer ~~City Clerk~~ determines that the application is incomplete, the Administrator, Clerk/Treasurer ~~City Clerk~~ must inform the applicant of the required necessary information that is missing. If the application is determined by the Administrator, Clerk/Treasurer to be incomplete, the Administrator, Clerk/Treasurer must inform the applicant of the required, necessary information that is missing. If the application is complete, the Administrator, Clerk/Treasurer ~~City Clerk~~ must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application, the Administrator, Clerk/Treasurer ~~City Clerk~~ must issue the license unless ~~there exist~~ grounds exist for denying the license under Paragraph E, in which case the Administrator, Clerk/Treasurer ~~Clerk~~ must deny the license. If the Administrator, Clerk/Treasurer ~~City Clerk~~ 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 the notice of rejection, a public hearing before the City Council. A request for a hearing must be made in writing and delivered to the Administrator, Clerk/Treasurer. The City Council shall hear the appeal within twenty (20) days of the date of ~~the~~ request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for writ of certiorari.
4. *Duration.* An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this ordinance shall be valid only during the time period indicated on the license.
5. *License exemptions.*
- a. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
 - b. No license shall be required for 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 purpose of exercising that person's state or federal constitutional rights such as the 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.

E. *License Ineligibility.* The following shall be grounds for denying a license under this chapter.

1. The failure of the applicant to obtain and show proof of having obtained any required county license.
2. The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application.~~,-or~~
- 3.~~+~~The failure to sign the application.~~,-or~~
- 4.~~+~~The failure to pay the required fee at the time of the application.
- 5.~~The~~ A conviction~~of the applicant~~ within the past five (5) years from the date of the application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in ~~a~~ professional, honest and legal manner. ~~Those~~ Such violations shall include, but are not ~~be~~ limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
6. The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
7. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but is not ~~be~~ limited to, the existence of more than three (3) complaints against the applicant with the Better Business Bureau, the Office of the Minnesota Attorney General's Office or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed against the applicant within the preceding five (5) years.

F. *License Suspension And Revocation.*

1. *Generally.* Any license issued under this paragraph may be suspended or revoked at the discretion of the City Council for violation of any of the following.
 - a. Subsequent knowledge by the city of Ffraud, misrepresentation or incorrect statements provided by an applicant on the application form.
 - b. Fraud, misrepresentation or false statements made during the course of the licensed activity.
 - c. Conviction of any offense for which granting of a license could have been denied under Paragraph E.
 - d. Engaging in any prohibited activity as provided under Paragraph J of this ordinance.
 - e. Violations of any other provisions of this ordinance~~chapter~~.
2. *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.
3. *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide 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 licensee application, or if no residential address is listed, to the business address provided on the license application.
4. *Public hearing.* Upon receiving the notice provided in Paragraph F,3, the licensee shall

have the right to request a public hearing. If no request for hearing is received by the ~~Administrator, Clerk/Treasurer~~~~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 notice, service shall be considered completed as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

5. *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~~ordinance, 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 Paragraph F,3.
6. *Appeals.* Any person whose license is suspended or revoked under this paragraph shall have the right to appeal that decision in court.

G. *License Transferability.* No license issued under this chapter shall be transferred to any person other than the person to whom the licensed was issued.

H. *Registration.*

1. Any person exempt from the licensing requirements of this chapter under Paragraph C shall be required to register with the city prior to engaging in those activities. 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 Administrator, Clerk/Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall not be transferrable.
2. Individuals who will be engaging in non-commercial door-to-door advocacy shall not be required to register.

I. *Badges And Identification.* All peddlers, transient merchants, or solicitors shall display a permit, issued in their name, containing a number to correspond to the number of the license, and the license expiration date issued by the City Clerk, which shall be worn in a conspicuous place on the person's outer garment or clothing. Transient merchants shall post conspicuously in his or her place of business the license issued hereunder which license shall be shown at the request of any citizen or police. The licensee shall also have on his or her person, a government issued identification containing a current photograph of the licensee.

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

1. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
2. Obstructing the free flow of traffic, either vehicular or pedestrian, ~~traffic~~ on any street, alley, sidewalk or other public right-of-way.
3. No more than one individual may approach the doorway of a private home or residence to conduct the business of peddling, soliciting or a transient merchant activity in the city.
4. Conducting business in a way as to create a threat to the health, safety and welfare of any specific individual or the general public.
5. Conducting business before ~~98~~9:00 a.m. and after ~~58~~5:00 p.m.

6. Failing to provide proof of license, or registration, and identification, when requested;
- ~~7. or~~ Using the license or registration of another person.
8. ~~Making any~~ Alleging 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.
9. Remaining on the property of another when requested to leave;
- ~~10. or~~ Otherwise conducting their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

K. ~~Entry To Premises Restricted~~ Exclusion by Placard. Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

- ~~1. Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by him or her may place upon or near the usual entrance to the premises, a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." The placard shall be no larger than two square feet in size and the printing thereon shall not be smaller than 48 point type. At least four (4) inches long.~~
2. At least four (4) inches wide.
3. With print of at least forty eight (48) point in size.
- ~~4. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises, upon which such placard or sign is placed and maintained. Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.~~
5. No person other than the property owner or tenant ~~person occupying such premises~~ shall remove, ~~injure, or deface~~ or otherwise tamper with any sign or placard under this Chapter. ~~the placard or sign.~~

L. *Trespass.* It is hereby declared to be unlawful and shall constitute trespass for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of the residence for the purpose of securing an audience with the occupant and engage in soliciting or peddling in defiance of the notice exhibited at the main entrance of the residence pursuant to Paragraph K.

M. *Penalty.* Any individual found in violation of any provision of this ordinance, shall be guilty of a misdemeanor.

SECTION 2: AMENDMENT "11.04.020 Garage Sales" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.04.020 Garage Sales

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

GARAGE SALE. The ~~infrequent~~ temporary display and sale, by an occupant on his or her premises, of personal property, including general household rummage, used clothing, and appliances. A garage sale is limited in frequency, duration, and advertising as defined in this section. The exchange or sale of merchandise must be conducted within the residence or accessory structure of the premises.

SALE OF HOUSEHOLD ITEMS. The sale of individual household items, for example, refrigerator or couch, by temporary display for sale on the premises by the occupant of the premises.

B. *Requirements.* Garage sales or sales of household items are permitted without permit provided they meet the following standards:

1. Garage sales and sales of individual items last no longer than three consecutive days;
2. Sales are held no more than two ~~o (2)ice yearly~~ times per calendar year per residential address, and sales cannot be held back-to-back;
3. Sales are conducted on the owner's or occupant's property. Multiple-family sales are permitted if they are held on the property of one of the participants;
4. No new retail goods or items purchased for retail may be offered for sale;
5. No consignment goods may be offered for sale;
6. No permanent or semi-permanent sales area shall be established. Items, tables, racks, signs or other display structures must be removed immediately upon the conclusion of the sale.
7. All directional and advertising signs shall be free-standing and shall be removed within 24 hours of completion of the sale;
8. All directional and advertising signs shall be placed on private property and shall have the owner's permission;
9. No directional or advertising signs may be larger than two feet by three feet; and
10. Sales authorized under this section are limited in time to the hours of 8:00 a.m. to 8:00 p.m.

C. *Violations; Enforcement.*

1. Violations of this section may be enforced by the appropriate city official as an administrative code violation and may include revocation of the right to hold future sales for up to one (1) year.
2. The violation of any paragraph of this section shall constitute a misdemeanor.

SECTION 3: AMENDMENT "11.04.030 Christmas Tree Sales" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.04.030 Christmas Tree Sales

A. *License Required.* It shall be unlawful for any person, firm, association, or corporation to maintain and operate a Christmas tree lot without having first secured a license from the City ~~Council and posting a cash bond therefor.~~

B. *License Application And Fee.* Any person, firm, association, or corporation desiring to operate a

Christmas tree lot may make application to the City Council for a license therefor. The application shall give the name and address of the applicant, a description of the land to be used, and either evidence of ownership in the application or written permission to so use the land. The application shall be accompanied by a license fee in the amount specified in the City's fee schedule, as ~~set~~amended from time to time ~~by Council resolution~~. The Council, at its discretion, may grant or deny the application. All licenses of this type shall be issued by the Administrator, Clerk/Treasurer and shall expire on the February 1 following the year of issuance.

- C. *Bond.* Upon Council approval ~~that of a Christmas tree lot license shall be issued to any person, firm, association, or corporation~~, the licensee shall deposit with the Administrator, Clerk/Treasurer a cash bond in the amount ~~as established~~specified in the city's fee schedule, as amended from time to time. ~~The cash bond must be posted prior to the license being issued, and the posting of the bond shall be a condition precedent to the issuance of a license by the Administrator, Clerk/Treasurer.~~ This cash bond ~~shall~~will be held until the licensed site~~that lot or parcel of land that the license has been issued for~~ has been completely cleared and cleaned of all Christmas trees, Christmas tree debris, and all other ~~Christmas paraphernalia~~related material. If the site is fully cleaned, prior to ~~the~~ February 1 following the Christmas season ~~that a license was applied for, the applicant has cleared and cleaned the lot or parcel of ground and the Building Inspector Official of the city has so certified this fact~~certifies the cleanup to the Administrator, Clerk/Treasurer, ~~then in that event, the applicant's cash bond shall be returned to the applicant.~~ In the event that If the Building ~~Inspector Official has not certified~~certifies to the Administrator, Clerk/Treasurer that the lot has not been cleared or cleaned of all Christmas trees, Christmas tree debris, and all other related material~~Christmas paraphernalia~~, the applicant shall forfeit his or her cash bond and the city may, at its discretion, clear and clean the site with or without permission of the application owner, if he or she be not the applicant, may clear and clean the lot of all Christmas trees, Christmas tree debris, and related materials~~Christmas paraphernalia~~.
- D. *Penalty.* See SLPC 1.04.200(A). ~~Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor which is punishable by a fine of up to \$1,000 and 90 days in jail, or both.~~

SECTION 4: REPEAL "11.08.010 License Regulations" of the Spring Lake Park Municipal Code is hereby *repealed* in its entirety.

SECTION 5: ADOPTION "11.08.010 Adoption Of State Law By Reference." of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.010 Adoption Of State Law By Reference.*(Added)*

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

the time this Chapter is adopted.

SECTION 6: **ADOPTION** “11.08.020 City May Be More Restrictive Than State Law” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.020 City May Be More Restrictive Than State Law(*Added*)

The Council is authorized by the provisions of M.S. § 340A.509 as it may be amended from time to time, to impose, and has imposed in this section, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A as it may be amended from time to time.

SECTION 7: **ADOPTION** “11.08.030 Definitions” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.030 Definitions(*Added*)

In addition to the definitions contained in M.S. § 340A.101 as it may be amended from time to time, the following terms are defined for purposes of this section:

LIQUOR. As used in this section, without modification by the words an "intoxicating" or a "3.2% malt," includes both intoxicating liquor and 3.2% malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this paragraph, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a "small establishment," "medium establishment" or "large establishment" as defined in M.S. § 157.16, subd. 3(d), as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this section unless it meets the definitions of a "small establishment", "medium establishment" or "large establishment".

SECTION 8: **ADOPTION** “11.08.040 Nudity On The Premises Of Licensed Establishments Prohibited” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.040 Nudity On The Premises Of Licensed Establishments Prohibited(*Added*)

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

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

C. A violation of this paragraph is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or any other license issued under this section or the imposition of a civil penalty under the provisions of SLPC 11.08.230.

SECTION 9: **ADOPTION** “11.08.050 Consumption In Public Places” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.050 Consumption In Public Places(*Added*)

A. No person shall consume intoxicating liquor or 3.2% malt liquor on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this section or where the consumption and display of liquor is lawfully permitted.

B. No person shall consume or possess intoxicating liquor or 3.2% malt liquor in any city park unless specifically approved by the City Council. This prohibition shall include parking areas connected with the park.

SECTION 10: **ADOPTION** “11.08.060 Number Of Licenses Which May Be Issued” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.060 Number Of Licenses Which May Be Issued(*Added*)

The number of licenses which may be granted under this paragraph, is limited to the number of licenses authorized under M.S. § 340A.413. The Council is not required to issue the full number of licenses that it has available.

SECTION 11: **ADOPTION** “11.08.070 Term And Expiration Of Licenses” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.070 Term And Expiration Of Licenses(*Added*)

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

SECTION 12: **ADOPTION** “11.08.080 Kinds Of Liquor Licenses” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.080 Kinds Of Liquor Licenses(*Added*)

The Council is authorized to issue the following licenses and permits, up to the number specified in SLPC 11.08.060.

- A. 3.2 percent malt liquor on-sale licenses may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- B. 3.2 percent malt liquor off-sale licenses.
- C. Temporary 3.2 percent malt liquor licenses may be issued only to a club, charitable, religious, or nonprofit organization.
- D. Off-sale intoxicating liquor licenses may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section 10 shall not exceed \$240 or a greater amount which may be permitted by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.
- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this section: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans' organizations, theaters, resorts as defined by M.S. §157.15, subd. 11 and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under SLPC 11.08.090 shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2(b) as it may be amended from time to time. The following license classifications are established:
 - 1. Class A. For establishments which are conducted in such a manner that the business of serving food for a license year is a minimum of 55% of the total business of serving food and intoxicating liquor.

2. Class B. For establishments which are conducted in such a manner that the business of serving food for a license year which is less than 55% of the total business of serving food and intoxicating liquor.
 3. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4(b) as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4(a) as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.
- F. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in 11.08.030, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of SLPC 11.08.090, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, subd. 3(c) as it may be amended from time to time.
- G. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious or other nonprofit corporation that has existed for at least three years; a political committee registered under state law; or a state university. No license shall be for longer than four consecutive days and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.
- H. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in SLPC 11.08.030; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.4011, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404, subd. 1(b) as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of SLPC 11.08.090, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.
- I. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of SLPC 11.08.090 shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
- J. One day consumption and display permits with the approval of the Commissioner of Public

Safety may be issued to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

K. Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

L. Temporary off-sale wine licenses, with the approval of the Commissioner of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by SLPC 11.08.090.

M. Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. § 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this paragraph possesses a license for off-sale under Paragraph N, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels.

N. Brewer off-sale malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Paragraph M and otherwise meets the criteria established at M.S. § 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.285 as it may be amended from time to time. Sales under this license may not exceed 750 barrels per year. If a brewer licensed under this paragraph possesses a license under Paragraph M, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels. Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer's license under M.S. § 340A.301, subd. 6(c), (i) or (j) and meeting the criteria established by M.S. § 340A.28, as it may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 750 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with M.S. § 340A.285, as it may be amended from time to time. Notwithstanding any law to the contrary and in addition to the authority provided in M.S. § 340A.28, a Brewer off-sale malt liquor license may be issued, with the approval of the Commissioner, to a holder of a brewer's license under M.S. § 340A.301, subd. 6(c), (i) or (j) and meeting the criteria established by Minn. Stat. § 340A.29 as may be amended from time to time, for off-sale of up to 128 ounces per customer per day of malt liquor produced and packaged by the holder. Packaging of malt liquor for off-sale under this license must comply with Minnesota

Rules, parts 7515.1080 to 7515.1120.

- O. Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.
- P. A brewer taproom license, may be issued to the holder of a brewer's license under M.S. § 340A.301 subd. 6(c), (i) or (j) as it may amended from time to time. A brewer's taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. § 340A.301 subd. 6(d) as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the Administrator, Clerk/Treasurer will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The Administrator, Clerk/Treasurer will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.
- Q. A cocktail room license may be issued to the holder of a state microdistillery license if at least 50% of the annual production of the licensee is processed and distilled on premises. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. § 340A.301 subd. 6(a). No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the Commissioner of Public Safety of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the Commissioner of Public Safety of a microdistillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.
- R. A microdistiller off-sale license may be issued to the holder of a state microdistillery license if at least 50% of the annual production of the licensee is processed and distilled on premises. A microdistiller off-sale license authorizes off-sale of up to 750 milliliters per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers. A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license.
- S. A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

SECTION 13: **ADOPTION** “11.08.090 License Fees; Pro Rata” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.090 License Fees; Pro Rata(*Added*)

- A. No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish from time to time in the ordinance establishing fees and charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this section. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis.
- D. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- E. A refund of a monthly pro rata share of an annual license fee may be refunded, less the cost of issuance as determined by the Administrator, Clerk/Treasurer, if:
 - 1. The license is transferred to a new licensee in accordance with SLPC 11.08.140 and the city receives a license fee for the remainder of the license term from the transferee; or
 - 2. A premises licensed to sell wine receives an on-sale intoxicating liquor license prior to the expiration of the wine license. In this instance, a pro rata share of the wine license may be refunded.
- F. Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. § 340A.408 if at the time of initial application or renewal they:
 - 1. Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
 - 2. Post a policy requiring identification checks for all persons appearing to be 30 years old or less;
 - 3. Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;
 - 4. Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to SLPC 11.08.230 of this ordinance.

SECTION 14: **ADOPTION** “11.08.100 Council Discretion To Grant Or Deny A License” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.100 Council Discretion To Grant Or Deny A License(*Added*)

A. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this section.

B. The Council may take into consideration any nuisance call or calls relating to the premises and the licensed activity when considering the operation of the premises, application, transfer, modification or renewal of any license. **NUISANCE CALL** shall be defined as follows: any activity, conduct, or condition occurring on or related to the licensed premises which results in a call or report to the Spring Lake Park Police Department, other law enforcement agency or the Spring Lake Park Code Enforcement Department, including, but not limited to, calls and reports related to the following:

1. Any conduct, activity or condition alleged to constitute disorderly conduct, pursuant to M.S. § 609.72.
2. Any conduct, activity or condition alleged to constitute a public nuisance, pursuant to M.S. § 609.74 and/or §§ 94.15-94.18.
3. Any conduct, activity or condition alleged to constitute an assault pursuant to M.S. § 609.224.
4. Any conduct, activity or condition alleged to constitute a violation of Minnesota Statutes relating to prostitution, controlled substances, use of firearms, criminal sexual conduct, and gambling.
5. Any conduct, activity or condition alleged to constitute a disorderly house pursuant to M.S. § 609.33.
6. Any conduct, activity or condition alleged to constitute a violation of this paragraph.
7. A failure to meet the minimum criteria for a restaurant or license holder.

C. Any violation of any provision of this paragraph, or any nuisance call, regardless whether or not a criminal charge has been brought or a criminal conviction has been obtained, may be used by the Council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification, or renewal of any license.

SECTION 15: **ADOPTION** “11.08.110 Application For License” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.110 Application For License(*Added*)

A. *Form.* Every application for a license issued under this section shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will

operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this paragraph. The form shall be verified and filed with the city. No person shall make a false statement in an application.

B. *Responsible party.* Such application must identify a responsible party relative to each license. If the responsible party for a licensee will change, an application for the change shall be provided to the Administrator, Clerk/Treasurer at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the Administrator, Clerk/Treasurer within one week of the known change documenting the reason(s) for the deviation; this is subject to approval by the police chief or his/her designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or nonrenewal of any license.

C. *Financial responsibility.* Prior to the issuance of any license under this section, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this paragraph shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this section without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license. The licensee shall name the city as a certificate holder on the insurance policy or bond.

SECTION 16: ADOPTION “11.08.120 Description Of Premises” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.120 Description Of Premises(*Added*)

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk. An application for the proposed enlargement, alteration or extension of any premises previously licensed shall be provided to the Administrator, Clerk/Treasurer at least 30 days prior to such proposed enlargement, alteration or extension and shall be treated the same as an application for a new license. Failure to file an application for such enlargement, alteration or extension shall be grounds for revocation, suspension or non-renewal of any license. All premises licensed under this paragraph shall be in compliance with all federal, state, municipal, building, zoning, and fire regulations. Failure to comply with any such federal, state, municipal, building, zoning and fire regulations shall be grounds for revocation, suspension or non-renewal of any license.

SECTION 17: **ADOPTION** “11.08.130 Application For Renewal” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.130 Application For Renewal(*Added*)

At least 60 days before a license issued under this section is to be renewed, an application for renewal shall be filed with the city. If, in the judgment of the Council, good and sufficient cause is shown by the applicant for his/her failure to file for a renewal within the time provided, the Council may, if the other provisions of this section are complied with, grant the application. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

SECTION 18: **ADOPTION** “11.08.140 Transfer Of License” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.140 Transfer Of License(*Added*)

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

SECTION 19: **ADOPTION** “11.08.150 Investigation” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.150 Investigation(*Added*)

A. Preliminary background and financial investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee set forth under SLPC 3.16.030 Paragraph A which shall be in addition to any license fee. The unused balance of the escrow shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

B. Comprehensive background and financial investigation. If the results of a preliminary

investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be the amount set forth under M.S. § 340A.412, as it may be amended from time to time. The unused balance of the escrow shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

SECTION 20: **ADOPTION** “11.08.160 Hearing And Issuance” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.160 Hearing And Issuance(*Added*)

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

SECTION 21: **ADOPTION** “11.08.170 Restrictions On Issuance” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.170 Restrictions On Issuance(*Added*)

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one license shall be directly or indirectly issued within the city to any one person.
- C. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of M.S. Ch. 278, as it may be amended from time to time, questioning the amount of validity of taxes, the Council may, on application by the licensee, waive strict compliance with this paragraph. No waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.
- D. No license shall be issued for any place or any business ineligible for a license under state law.
- E. No license shall be granted if the applicant, responsible party, owner, manager or any other

person involved with the licensee:

1. Is under 21 years of age;
2. Who is not of good moral character and repute;
3. Who, if an individual, is not a U.S. citizen or resident alien, or upon whom it is impractical to conduct a background and financial investigation due to the lack of availability of information.
4. Who has been convicted, within five years prior to the application of such license, of any violation of any law of the United States, this state or any other state or territory, or of any local ordinance regarding the manufacture, sale or distribution of intoxicating liquor or whose liquor license has been revoked for any violation of any law or ordinance;
5. Who is a manufacturer or wholesaler of intoxicating liquor; and no manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor;
6. Who is directly or indirectly interested in any other establishment in the city to which an on-sale liquor license has been issued under this section;
7. Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of this paragraph; or
8. Who is the spouse or a person ineligible for a license pursuant to this paragraph or who, in the judgment of the Council, is not a real party in interest or beneficial owner of the business operated, or to be operated, under the license.
9. For the purpose of this paragraph, the following definition shall apply unless the content clearly indicates or requires a different meaning. INTEREST. Any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, but does not include bona fide loans, bona fide rental agreements, bona fide open accounts, or other obligations arising out of the ordinary and regular course of the business of selling or leasing merchandise, fixtures or supplies to the establishment.

F. No license, other than a temporary 3.2% malt liquor license or temporary on-sale intoxicating license, shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.

G. No license shall be issued for a premises owned, operated or managed by a person or by the spouse of a person, who is the holder of a sexually oriented business conditional use permit pursuant to SLPC 11.44.

SECTION 22: **ADOPTION** “11.08.180 Conditions Of License” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.180 Conditions Of License(*Added*)

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

A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to

customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this section and the law equally with the employee.

C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

E. Compliance with financial responsibility requirements of state law and of this section is a continuing condition of any license.

F. Failure by an off-sale intoxicating liquor license who has received a fee reduction pursuant to SLPC 11.08.090 to abide by the provisions of SLPC 11.08.090, Paragraph F.

SECTION 23: **ADOPTION** “11.08.190 Hours And Days Of Sale” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.190 Hours And Days Of Sale(*Added*)

A. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

E. Any violation of any condition of this paragraph may be grounds for revocation or suspension of the license.

SECTION 24: **ADOPTION** “11.08.200 Minors On Premises” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.200 Minors On Premises(*Added*)

- A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.
- B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals, or attend social functions that are held in a portion of the premises where liquor is not sold.

SECTION 25: **ADOPTION** “11.08.210 Restrictions On Purchase And Consumption” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.210 Restrictions On Purchase And Consumption(*Added*)

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

SECTION 26: **ADOPTION** “11.08.220 Suspension And Revocation” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.220 Suspension And Revocation(*Added*)

- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license and/or assess a civil fine not exceeding \$2,000 upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this section relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Administrative Hearings for a hearing officer.

B. The following are the presumptive periods of suspension or revocation for violations of the provisions of this section or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that section as they may be amended from time to time:

1. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of Paragraph D, the license shall be revoked.
2. The license may be suspended by the Council after a finding under Paragraph A that the licensee has failed to comply with any applicable statute, rule, or provision of this section for at least the minimum periods as follows:
 - a. For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
 - b. For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - c. For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - d. For a fourth violation within any three-year period, the license shall be revoked.
3. The periods listed in Paragraph B,2 are presumptive penalties only. The Council is free to depart from the guidelines where it determines aggravating or extenuating circumstances exist.
4. The Council shall select the day or days during which the license will be suspended.

C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this section or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under Paragraph B shall continue until the Council determines that the financial responsibility requirements of state law and this section have again been met.

SECTION 27: **ADOPTION** “11.08.230 Penalties” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.08.230 Penalties(*Added*)

- A. Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- B. The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this section. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to

time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Nonpayment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

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

C. The term **VIOLATION** as used in SLPC 11.08.220 includes any and all violations of the provisions in this paragraph, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

SECTION 28: AMENDMENT “11.12.010 Purpose” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.010 Purpose

Because the city recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of ~~21~~¹⁸ violates both state and federal laws; and because studies, which the city accepts and adopts, have shown that ~~37.9 percent of Minnesota high school students have tried a~~^{37.9 percent of Minnesota high school students have tried}~~youth use of any~~ commercial tobacco product ~~has increased to 26.4% in Minnesota~~; and because nearly 90% of smokers begin smoking before they have reached the age of 18 years, and that almost no one starts smoking after age 25; and because marketing analysis, public health research, and commercial tobacco industry documents reveal that tobacco companies have used menthol, mint, fruit, candy, and alcohol flavors as a way to target youth and young adults and that the presence of such flavors can make it more difficult to quit; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of many serious health problems which subsequently place a financial burden on all levels of government, this ordinance is intended to regulate the sale of commercial tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious health effects associated with use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in M.S. § 144.391, as it may be amended from time to time.

In making these findings, the City Council accepts the conclusions and recommendations of: the U.S. Surgeon General reports, *E-cigarette Use Among Youth and Young Adults* (2016), *The Health Consequences of Smoking — 50 Years of Progress* (2014) and *Preventing Tobacco Use Among Youth and Young Adults* (2012); the Centers for Disease Control and Prevention in their studies, *Tobacco Use Among Middle and High School Students — United States, 2011–2015* (2016), and *Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997* (1998);

and of the following scholars in these scientific journals: Chen, J., & Millar, W. J. (1998). Age of smoking initiation: implications for quitting. *Health Reports*, 9(4), 39-46; D'Avanzo, B., La Vecchia, C., & Negri, E. (1994). Age at starting smoking and number of cigarettes smoked. *Annals of Epidemiology*, 4(6), 455-459; Everett, S. A., Warren, C. W., Sharp, D., Kann, L., Husten, C. G., & Crossett, L. S. (1999). Initiation of cigarette smoking and subsequent smoking behavior among U.S. high school students. *Preventive Medicine*, 29(5), 327-333; Giovino, G. A. (2002). Epidemiology of tobacco use in the United States. *Oncogene*, 21(48), 7326-7340; Khuder, S. A., Dayal, H. H., & Mutgi, A. B. (1999). Age at smoking onset and its effect on smoking cessation. *Addictive Behaviors*, 24(5), 673-677; Luke, D. A., Hammond, R. A., Combs, T., Sorg, A., Kasman, M., Mack-Crane, A., Henriksen, L. (2017). Tobacco Town: Computational Modeling of Policy ~~December 2018~~ www.publichealthlawcenter.org ~~Minnesota City Retail Tobacco Licensing Ordinance 6 Options~~ to Reduce Tobacco Retailer Density. *American Journal of Public Health*, 107(5), 740-746; Minnesota Department of Health. (20182021). *Data Highlights from the 20172020 Minnesota Youth Tobacco Survey*. Saint Paul, MN; ~~Tobacco Control Legal Consortium. (2006).~~ [Public Health Law Center \(2006\).](http://www.publichealthlawcenter.org) *The Verdict Is In: Findings from United States v. Phillip Morris, The Hazards of Smoking*. University of California —San Francisco. Truth Tobacco Industry Documents, <https://www.industrydocumentslibrary.ucsf.edu/tobacco/>; Xu, X., Bishop, E. E., Kennedy, S. M., Simpson, S. A., & Pechacek, T. F. (2015) Annual ~~h~~Healthcare ~~s~~Spending ~~a~~Attributable to ~~e~~Cigarette ~~s~~Smoking: ~~a~~An ~~u~~Update. *American Journal of Preventive Medicine*, 48(3), 326-333; [Maciosek, M. V., LaFrance, A. B., St Claire, A., Xu, Z., Brown, M., & Schillo, B. A. \(2020\). Twenty-Year Health and Economic Impact of Reducing Cigarette Use: Minnesota 1998–2017. Tobacco Control, 29\(5\), 564–569.](#) copies of which are adopted by reference.

SECTION 29: AMENDMENT “11.12.020 Definitions And Interpretations -Tobacco Regulations” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.020 Definitions And Interpretations - Tobacco Regulations

- A. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa.
- B. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD RESISTANT PACKAGING. Packaging that meets the definition set forth in Code of Federal Regulations, Title 16, Section 1700.15(b)(1), as in effect on January 1, 2015, when tested in accordance with the methods described in Code of Federal Regulations, Title 16, Section 1700.20. as in effect on January 1, 2015.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco-related products are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of persons under the age of 21 [who purchase or attempt to purchase tobacco-related products](#)~~authorized by this chapter.~~ **COMPLIANCE CHECKS** shall also mean the use of persons under the age of 21 who attempt to purchase tobacco-related products 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-related products.

ELECTRONIC DELIVERY DEVICES. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption ~~that can be used by a person to simulate smoking in the delivery of nicotine or any other substance~~ through the inhalation of aerosol or vapor from the product. **ELECTRONIC DELIVERY DEVICE** includes, but is not limited to, devices manufactured, marketed or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems or under any other product name or descriptor. **ELECTRONIC DELIVERY DEVICE** includes any component part of a product, whether or not marketed or sold separately. **ELECTRONIC DELIVERY DEVICE** does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

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 or any other tobacco-related product that has been removed from its packaging and ~~sold individually offered for sale.~~ The term **LOOSIES** does not include ~~individual cigars with a retail price, before any sales taxes, of more than \$2 per cigar~~ premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

MAY. The act referred to is permissive. **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.

NICOTINE OR LOBELIA DELIVERY-~~DEVICES~~ PRODUCT. Any product containing or delivering nicotine or lobelia intended for human consumption, whether natural or synthetic, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, ~~not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.~~ **NICOTINE OR LOBELIA DELIVERY PRODUCT** does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

RETAIL ESTABLISHMENT. Any place of business where tobacco-related products are available for sale to the general public. **RETAIL ESTABLISHMENTS** include, but are not 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-related products in any

manner where any person shall have access to the tobacco-related products, 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-related products between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

SHALL. The act referred to is mandatory.

SMOKING. Inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or any other lighted or heated product containing, made or derived from nicotine, tobacco, cannabis or other plant, whether natural or synthetic. The term **SMOKING** also includes carrying or using a lighted or heated cigar, cigarette, pipe or activated electronic delivery device.

SMOKING LOUNGE. A location licensed to sell tobacco-related products where: (a) except for a bona fide sale of a ~~smoking~~tobacco-related device or electronic delivery device, such a device or a nicotine or lobelia delivery device, hookah, water pipe, or similar device is provided or otherwise made available for use by a customer, potential customer or any other person ~~a smoking device~~ for the purpose of smoking, inhaling, aerosolizing or otherwise consuming any tobacco-related products; (b) it is provided in exchange for a fee or any other consideration seating within or access to the indoor area of a ~~tobacco-products-shop~~retail establishment for the purpose of smoking, inhaling, aerosolizing or otherwise consuming tobacco-related products; or (c) it is permitted within the indoor area the sampling, smoking, inhaling, aerosolizing or consumption of any tobacco-related products ~~which was not furnished by the tobacco-products shop on the date and at the time the sampling occurs.~~ **TOBACCO** or **TOBACCO PRODUCTS.** ~~Includes cigarettes and a~~ Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. **TOBACCO** excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose does not include any nicotine cessation product that has been authorized by the United States Food and Drug Administration to be marketed and for sale as "drugs," "devices," or "combination products," as defined in the Federal Food, Drug and Cosmetic Act.

TOBACCO-RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, wrap, ashtray or other device intentionally designed or intended to be used ~~with in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco-related~~ products. **TOBACCO-RELATED DEVICES** includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

TOBACCO-RELATED PRODUCTS. Includes tobacco or tobacco products, tobacco-related devices, electronic delivery devices and nicotine and lobelia delivery devices.

~~**VAPOR LOUNGE.** A location that sells electronic delivery devices where: (a) except for a bona fide sale of a smoking device, provided or otherwise made available for use by a customer,~~

~~potential customer, or any other person a device or product for the purpose of using an electronic delivery device product; (b) it is provided in exchange for a fee or any other consideration seating within or access to the indoor area of a shop that sells electronic delivery devices; or (c) it is permitted within the indoor area of a shop that sells electronic delivery devices the sampling of any electronic delivery device which was not furnished by the shop on the date and time the sampling occurs.~~

VENDING MACHINE. Any mechanical, electric, or electronic, or other type of device which dispenses tobacco-related products upon the insertion of money, tokens, or other form of payment directly into or onto the machine device by the person seeking to purchase the tobacco-related product.

SECTION 30: AMENDMENT “11.12.030 License” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.030 License

- A. *License required.* No person shall sell or offer to sell any tobacco-related products without first having obtained a license to do so from the city.
- B. *Application.* An application for a license to sell ~~tobacco~~, tobacco-related products 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 Administrator, Clerk/Treasurer shall forward the application to the Police Department for the purpose of conducting a background check on the applicant. The Police Department shall have ten days to complete the background check, and upon its completion shall forward the application and investigation results to the City Council for action at its next regularly scheduled Council meeting. If the Administrator, Clerk/Treasurer 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 Administrator, Clerk/Treasurer 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 decision.
- D. *Term.* All licenses issued under this chapter shall expire on December 31 of each year.
- E. *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in SLPC 11.12.120 and SLPC 11.12.130.
- 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 premises.
- 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 not 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 section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

SECTION 31: **AMENDMENT** “11.12.060 Unlawful Sales” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.060 Unlawful Sales

It shall be a violation of this chapter for any person to sell any tobacco-related product:

- A. To any person under the age of 21 years;
- B. By means of any type of vending machine, ~~except as may otherwise be provided in this chapter;~~
- 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 premises in order to receive the tobacco-related product and whereby there is not a physical exchange of the tobacco, tobacco-related product between the licensee or the licensee’s employee, and the customer, except as may otherwise be provided in this chapter;
- D. By means of loosies ~~as defined in SLPC 11.12.020;~~
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or other 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; or
- 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.

SECTION 32: **AMENDMENT** “11.12.080 Self-Service Merchandising Prohibited” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.080 Self-Service Merchandising Prohibited

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco-related products by any means whereby 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-related products between the licensee or the licensee's employee~~his or her clerk~~ and the customer. All ~~tobacco,~~ tobacco-related products 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-related products at the time this chapter is adopted shall comply with this section within 90 days.~~ This section shall not apply to retail stores which derive at least 90% of their revenue from tobacco-related products and which cannot be entered at any time by persons younger than 21 years of age.

SECTION 33: **AMENDMENT** "11.12.090 Licensee Responsibility" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.090 Licensee Responsibility

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco-related products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the employee~~clerk~~ to whatever penalties are appropriate under this code, state or federal law, or other applicable law or regulation.

SECTION 34: **AMENDMENT** "11.12.100 Compliance Checks; Inspections" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.100 Compliance Checks; Inspections

All licensed premises shall be open to inspection by the City Police Department or other authorized City official during regular business hours the city shall conduct compliance checks from time to time but at least twice per year. The City will conduct at least ~~one~~two compliance checks that involves the participation of a person between the ages ~~15 and 17~~ and 20 ~~and at least one compliance check that involves the participation of a person of the ages 18 and 20~~ to enter the licensed premises to attempt to purchase tobacco-related products. Prior written consent to participate is required of their parents or guardians for persons ~~over the age of 15 but less than~~ under the age of 18 years. Persons under the age of 21 used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel. Persons under the age of 21 used for compliance checks shall not be guilty of an unlawful purchase or attempted purchase, nor the unlawful possession of ~~tobacco,~~ tobacco-related products when those items are obtained or attempted to be obtained as a part of the compliance check. No person under the age of 21 used in compliance checks shall attempt to use a false

identification misrepresenting the person's age, and all persons under the age of 21 lawfully engaged in a compliance check shall answer all questions about their 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.

SECTION 35: AMENDMENT “11.12.110 Unlawful Acts” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.110 Unlawful 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-related product to any person under the age of 21.~~
- ~~B. *Illegal possession.* It shall be a violation of this chapter for any person under the age of 21 to have in his or her possession any tobacco-related product. This paragraph shall not apply to persons under the age of 21 lawfully involved in a compliance check.~~
- ~~C. *Illegal use.* It shall be a violation of this chapter for any person under the age of 21 to smoke, chew, sniff, or otherwise use any tobacco-related product.~~
- D. ~~*Illegal*~~ Prohibited furnishing or procurement. It shall be a violation of this chapter for any person under the age of 21 to purchase or attempt to purchase or otherwise obtain any tobacco-related product, and it shall be a violation of this chapter for any person to sell, give, procure, purchase or otherwise obtain items of this type to, for, or on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any tobacco-related product. This paragraph 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 person to attempt to ~~disguise his or her true age by the~~ use any form 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.
- F. Child-resistant packaging of liquid used in electronic delivery devices ~~Liquid packaging.~~
~~Effective January 1, 2015, i~~It shall be a violation of this section for any licensee to sell any liquid used in electronic delivery devices, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device, that is not in child resistant packaging.

SECTION 36: **AMENDMENT** “11.12.120 Smoking And Vapor Lounges” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.120 Smoking ~~And Vapor~~ Lounges

Smoking lounges ~~and vapor lounges~~ are prohibited.

SECTION 37: **AMENDMENT** “11.12.130 Violations And Penalty” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.12.130 Violations And Penalty

- A. ~~Misdemeanor prosecution.~~ Violations committed by persons 21 years of age or older.
Individuals, other than persons under the age of 21, who are found to be in violation of the terms of this Chapter may be charged with a misdemeanor except that a violation involving the sale, gift, or furnishing of tobacco-related product pursuant to SLPC 11.12.110, Paragraph A shall be charged as a petty misdemeanor for a first violation and a subsequent violation of the same within five years of a previous conviction shall be charged as a misdemeanor. Alternatively, and in the city’s discretion, such individuals may be charged an administrative penalty in the amount of \$50. The city may also cumulatively or separately pursue an appropriate remedy against a Licensee for a violation. If an administrative penalty is elected or an action against a Licensee is pursued, the city shall follow all due process provisions for a violation contemplated in Section 11.12.130.2 below. If an administrative penalty is imposed after completion or waiver of said process, it shall be treated as a prior conviction for purposes of misdemeanor charging as contemplated herein. No process election utilized herein shall effect the city’s concurrent option to pursue remedy against a Licensee for a violation of this Chapter. Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter.
- B. Violations committed by persons under the age of 21. Individuals under the age of 21 who are found to be in violation of this Chapter shall be subject to the Administrative Penalties set forth in Paragraph D.2.
- C. Violations.
1. *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, an administrative offense citation pursuant to SLPC 3.20, setting forth the alleged violation and the alleged violator's right to be heard on the accusation.
 2. *Hearing.* The person accused of violating this chapter may request a hearing in writing within ~~14~~10 business days of receipt of the notice of violation, and a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.
 3. *Hearing officer.* The Administrator, Clerk/Treasurer or his or her designee 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 officer's reasons for finding a violation and the penalty to be imposed under 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. *Appeal.* Appeals of any decision made by the hearing officer shall be made to the City Council in writing within ~~seven~~ 10 business days of receipt of the hearing officer's decision. The decision of the City Council shall be final.
6. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
7. *Costs.* If a hearing and/or appeal is demanded by a Licensee, and if the administrative penalty is upheld by the hearing officer or City Council, as applicable, the city's actual expenses in holding the hearing up to a maximum of \$1,000 must be paid by the Licensee requesting the hearing.

D. 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~~ \$300 for a first violation of this chapter, ~~\$200~~ \$600 for a second offense at the same licensed premises within a ~~24~~ 36-month period, and ~~\$250~~ \$1,000 for a third or subsequent offense at the same location within a ~~24~~ 36-month period. After the third offense, the license is automatically suspended for seven days commencing the day following the date of the third offense. In addition to the seven-day suspension, the City Council shall conduct a hearing at the regular Council meeting following the third violation to determine whether the license should be suspended longer than seven days. Any additional suspension may be for the remainder of the license period or 90 days, whichever is greater. Upon a fourth violation at the same location within a ~~24~~ 36-month period, the license will be revoked. Actions taken under this Section shall follow the hearing procedures set forth under Paragraph C.
- ~~2. *Other individuals.* Other individuals, other than persons under the age of 21 regulated by Paragraph C, found to be in violation of this chapter shall be charged an administrative fine of \$50.~~
3. *Persons under the age of 21.* ~~Persons under the age of 21 found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco-related products, may be referred to the Anoka County Attorney's Office.~~ Persons under the age of 21 who, purchase or procure or use a false identification to purchase, procure or attempt to purchase tobacco-related products may only be subject to non-criminal, non-monetary civil penalties or remedies such as tobacco-related education classes, diversion programs, community services, or another non-monetary, civil penalty that the city determines to be appropriate. The City Council will consult with educators, parents, guardians, persons under the age of 21, public health officials, court personnel, and other interested parties to determine an appropriate remedy for persons under the age of 21 in the city in the best interest of the underage person. The remedies for persons under 21 who use a false identification to purchase or attempt to purchase licensed products may be established by ordinance and amended from time to time.
4. *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 these established in this section, then the statutory penalties shall prevail.

SECTION 38: **ADOPTION** “11.12.140 Exceptions And Defenses” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.12.140 Exceptions And Defenses(*Added*)

A. Nothing in this division shall prevent the providing of licensed products to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony.

B. It shall be an affirmative defense to the violation of this division for a person to have reasonably relied on proof of age as described by state law.

SECTION 39: **AMENDMENT** “11.16 PAWNBROKERS” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.16 PAWNBROKERS AND SECONDHAND GOODS DEALERS

SECTION 40: **AMENDMENT** “11.16.010 General Provisions” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.16.010 General Provisions

A. Purpose.

1. The City Council finds that the use of services provided by pawnbrokers and secondhand goods dealers provides an opportunity for the commission of crimes and their concealment because such businesses ~~pawn-businesses~~ have the ability to receive and transfer property stolen by others easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving ~~pawnbrokers~~ these businesses. The City Council further finds that the pawn and secondhand goods industries ~~have~~ has outgrown the city’s current ability to effectively or efficiently identify criminal activity related to the same ~~pawn-shops~~. The purpose of this chapter is to prevent these businesses ~~pawn-businesses~~ from being used as facilities for the commission of crimes, and to assure that these businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.
2. To help the Police Department better regulate current and future pawn brokers and second hand goods dealers ~~businesses~~, decrease and stabilize costs associated with the regulation of these businesses ~~pawn-industry~~, and increase identification of criminal activities in the se businesses ~~pawn-industry~~ through the timely collection and sharing of pawn transaction information, this chapter also implements and establishes the required use of an electronic reporting and criminal investigation system.

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

~~**BILLABLE TRANSACTION.** Every reportable transaction conducted by a pawnbroker except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession.~~

PAWNBROKER. Any natural person, partnership, or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a **PAWNBROKER'S** business includes buying personal property previously used, rented, or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

SECONDHAND GOODS DEALER. Any person, partnership or corporation whose regular business includes purchasing, receiving, selling or consigning previously used tangible personal property, excluding motor vehicles

REPORTABLE TRANSACTION. Every transaction conducted by a pawnbroker or secondhand goods dealer in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, except:

1. The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of that merchandise; provided, the pawnbroker or secondhand goods dealer must maintain a record of the purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; or
2. Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and redemption periods have expired.

C. *Exemptions.* This chapter does not apply to or include the following:

1. Sales by a person licensed as a motor vehicle dealer;
2. The sale of secondhand books, magazines, sound or video recordings, or films;
3. The sale of goods at an auction held by a licensed auctioneer;
4. The business of buying or selling only those secondhand goods taken as part of full payment for new or other goods offered for sale and where that business is incidental to and not the primary business of a person;
5. A bulk sale of property from a merchant or manufacturer or wholesaler having an established place of business or of goods sold at open sale from bankrupt stock;
6. Goods sold at a public market;
7. Occasional garage or yard sales conducted at a residence;
8. Retail businesses accepting trade-in goods incidental to their primary business
9. The purchase, receipt, consignment, or sale of used clothing or footwear; or
10. Goods sold at an exhibition.

D. *Violations.* Violation of any provision of this chapter shall be misdemeanor.

SECTION 41: **AMENDMENT** “11.16.020 Licensing” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.16.020 Licensing

A. *Fees.* The annual license fee and the electronic reporting and criminal investigation system fee for a license under this paragraph~~pawnbroker or pawnbrokers~~ for a location where more than one licensee operates~~is engaged in business~~ shall be separately set from time to time, by ~~ordinance~~ordinance of the City Council as it, in its discretion, deems appropriate.

B. *License Application.*

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

a. If the applicant is a natural person:

- (1) The name, place and date of birth, street ~~resident~~ address, and phone number of the applicant;
- (2) ~~Whether the applicant is a citizen of the U.S. or resident alien~~ Is legally authorized to work in or operate a business in the United States;
- (3) Whether the applicant has ever used or has been known by a name other than the applicant’s name, and if so, the name or names used and information concerning dates and places used;
- (4) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time;
- (5) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant’s employer(s) and partner(s), if any, for the preceding five years;
- (6) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions;
- (7) The physical description of the applicant;
- ~~(8) The applicant’s current personal financial statement and true copies of the applicant’s federal and state tax returns for the two years prior to application; and~~
- (9) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in Paragraphs B,1,a,(1) through B,1,a,(7).

b. If the applicant is a partnership:

- (1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in Paragraph B,1,a;
- (2) The name(s) of the managing partner(s) and the interest of each partner

- in the licensed business;
 - (3) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of that certificate must be attached to the application;
 - (4) A true copy of the federal and state tax returns for the partnership for the two years prior to application; and
 - (5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in Paragraphs B,1,a,(1) through B,1,a,(7).
- c. If the applicant is a corporation or other organization:
- (1) The name of the corporation or business form, and if incorporated, the state of incorporation;
 - (2) A true copy of the certificate of incorporation, articles of incorporation, or association agreement, and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, must be attached;
 - (3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in Paragraphs B,1,a,(1) through B,1,a,(7); and
 - (4) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning those persons required in Paragraph B,1,a. This Paragraph B,1,c,(4), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.
- d. For all applicants:
- (1) Whether the applicant holds a current pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;
 - (2) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit;
 - (3) The location of the business premises;
 - (4) If the applicant does not own the business premises, a true and complete copy of the executed lease;
 - (5) The legal description of the premises to be licensed;
 - (6) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
 - (7) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and
 - (8) Other information as the City Council or issuing authority may require.

2. *Site plan.* The application for a ~~pawnbroker~~ license under this paragraph must be accompanied by a site plan drawn to scale. The site plan must contain:
 - a. A legal description of the property upon which the proposed licensed premises are situated;
 - b. A plot plan;
 - c. The exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property, and entrance into the premises;
 - d. The location of and distance from the nearest church, school, hospital, and residence; and
 - e. A floor plan of the licensed premises.
3. *New manager.* When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days. The application must include all appropriate information required in this paragraph.
 - a. *Investigation fee.* Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this paragraph. If the investigation process is conducted solely within this state, the fee shall be as set from time to time by Council ~~ordinance~~ordinance. If the investigation is conducted outside this state, the issuing authority may recover the actual investigation costs not exceeding \$10,000.
 - b. *Application execution.* All applications for a license under this paragraph must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by that person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.
 - c. *Investigation.* The Police Department ~~shall~~must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the police license inspector such evidence as the inspector may reasonably require in support of the statements set forth in the application.
 - d. *Persons ineligible for a license.* No licenses under this paragraph will be issued to an applicant who is a natural person, a partnership if the applicant has any general partner or managing partner, or a corporation or other organization if the applicant has any manager, proprietor, or agent in charge of the business to be licensed, if the applicant:
 - (1) Is a minor at the time that the application is filed;
 - (2) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03~~(2)~~, subd. 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S. § 364.03~~(3)~~, subd. 3, as it may be amended from time to time
 - (3) Has made a material false statement or omission in the application; or
 - (4) Is not of good moral character or repute.

C. *Public Hearing.* A ~~pawnbroker~~ license under this paragraph ~~will not be issued or renewed without a public hearing~~ may be issued by the City Council following review of the application

and investigative report. The City Council may, in its discretion, require a public hearing prior to issuance or renewal of a license. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. If a public hearing is required, A public hearing must ~~it shall~~ be preceded by at least ten days' published notice specifying the location of the proposed licensed business premises.

D. *Bond Required.* Before a license will be issued, every pawnbroker applicant must submit a ~~\$5,000~~25,000 bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be cancelled except upon 30 days' written notice to the city, which shall be served upon the licensing authority. This requirement shall not apply to secondhand goods dealers unless required by the City Council.

E. *Ineligible Places.* A license will not be issued or renewed under this chapter for any place or for any business:

1. If taxes, assessments, or other financial claims of the city or the state on the licensee's business premises are delinquent and unpaid;
2. If the premises are located within five hundred (500) feet of any structure containing a public or private school, ~~church,~~ licensed day care center, public library, or park, ~~or municipal building, or are within 500 feet of any residential district;~~
3. Where operation of a licensed premises would violate zoning ordinances; or
4. Where the applicant's present license was issued conditioned upon the applicant making specified improvements to the licensed premises or the property of the licensed premises which improvements have not been completed.

F. *License Denial, Suspension, Or Revocation; Penalties.*

1. Any license under this chapter may be denied, suspended, or revoked for one or more of the following reasons:
 - a. The proposed use does not comply with ~~the~~ any applicable zoning code;
 - b. The proposed use does not comply with any health, building, building maintenance, or other provisions of this chapter or other ordinances of the city, or state law;
 - c. The applicant or licensee has failed to comply with one or more provisions of this chapter;
 - d. The applicant is not ~~a citizen of the U.S. or a resident alien,~~ legally authorized to work in or operate a business in the United States or the State of Minnesota ~~or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;~~
 - e. The applicant or licensee has failed to provide sufficient and/or verifiable information to allow the city to conduct a background investigation of the applicant or any person in control of the licensed business.
 - f. Fraud, misrepresentation, or bribery in securing or renewing a license;
 - g. Fraud, misrepresentation, or false statements made in the application and investigation for, or in the course of, the applicant's business;
 - h. Violation within the preceding five years of any law relating to theft, damage or trespass to property, sale of a controlled substance, operation of a business, or any other crime showing a lack of moral turpitude;

i. Conviction of an offense directly related to the licensed activity, consistent with M.S. Ch. 364; or

j. The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

2. *Penalties.*

a. *Misdemeanors.* A person who violates this chapter is guilty of a misdemeanor unless otherwise provided by law.

b. *Administrative civil penalties.* If a licensee or an employee of a licensee is found to have violated this chapter, in addition to and independent from any criminal action, the City Council may impose an administrative penalty as follows:

(1) First violation: a civil fine of \$500.00

(2) Second violation within 12 months of another: a civil fine in the amount of \$750.00 and suspension of license for a period often (10) days.

(3) Third violation within 24 months of two others: a civil fine in the amount of \$1,000.00 and suspension of license for a period of twenty (20) days.

(4) Fourth violation within 36 months of three others: revocation of license.

c. *Presumptions regarding administrative penalties.* The administrative penalties described herein are the presumed sanctions for the violations indicated, however, the City Council reserves the right to adjust the term of any suspension due to the severity of a violation. If the City Council determines it is appropriate to deviate from these presumed sanctions, it shall inform the licensee of the reasons for this departure. In the event of any license suspension imposed under this paragraph, the City Council may select which days a suspension will be served. Notwithstanding the provision contained herein, a license may be revoked for any violation of this paragraph when in the judgment of the Council it is appropriate to do so. The City Council may by resolution revise the amount of the above civil penalties or the presumed suspension terms. Other mandatory requirements may be made of the licensee, including but not limited to, meetings with the Police Department staff to present a plan of action to assure that the problems will not continue, mandatory education sessions with Police Department staff, or other action that the City Council deems appropriate.

d. *Hearing.* Before the City Council may revoke or suspend a license under this chapter, it must first notify the licensee of its intention to take such action and provide the licensee the opportunity to be heard during public hearing on the matter.

e. Continuing violations. Each day a violation of this chapter continues shall constitute a separate offense for purposes of administrative or criminal enforcement.

G. *Licensed Business Only At One Location.* A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the police license inspector may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with SLPC 11.16.030 Paragraph G. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions

of this city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises that extends for more than six months.

H. *Refunds*. The Administrator, Clerk/Treasurer will refund a pro rata share of the license fee for a license to the licensee or the licensee's estate if:

1. The business ceases to operate because of destruction or damage; or
2. The licensee dies.

I. *Death Of Licensee*. In the case of the death of the licensee, the personal representative of the estate of the licensee may continue operation of the business for not more than 90 days after the licensee's death.

J. *Use Of "Three Balls" Restricted*. No pawnbroker shall exhibit and maintain any sign usually known as a pawnbroker's sign, such as "three balls," or advertise in any way as such without first being licensed under this chapter.

K. *County License*. ~~Pawnbrokers dealing in precious metals and gems must be licensed by Anoka County.~~ Licensees shall obtain and maintain any license required by the county in which the licensed premises is located for the dealing of precious metals or secondhand goods. Proof of such licensure shall be provided prior to issuance or renewal of a City license.

SECTION 42: AMENDMENT "11.16.030 Operating Regulations" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.16.030 Operating Regulations

A. *Records Required*.

1. *Transaction records*. At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information by using ~~ink or other indelible medium on forms or in a~~ computerized record or other format approved by the Police Department:
 - a. A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;
 - b. The purchase price, amount of money loaned upon, or pledged therefor;
 - c. For pawnbrokers, ~~T~~he maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;
 - d. The date, time, and place the item of property was received by the licensee, and the unique alpha or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;
 - e. The full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, ~~including: sex, height, weight, race, color of eyes, and color of hair;~~

f. The identification number and state of issue from any of the following forms of identification of the seller:

- (1) Current valid driver's license of this state;
- (2) Current valid identification card of this state;
- (3) Current valid photo identification card issued by another state or province of Canada.
- (4) Current valid military identification card; or
- (5) Current valid passport.

g. The signature of the person identified in the transaction;

~~(1) Color photograph or video recording of each customer involved in a billable transaction and every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed to the item;~~

~~(2) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. These photographs must be available to the Police Chief, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The license must keep the exposed videotape for three months.~~

h. A color photograph or digital image of each customer involved in a reportable transaction and every item received that does not have a unique serial or identification number permanently engraved or affixed to the item. The image must include 1) an identifiable front facial view of the person; 2) accurately depict the item; and 2) be electronically linked or otherwise readily matched to the corresponding transaction record. All images shall be maintained in a format approved by the Police Department and shall be made available upon request to the Police Chief or designee. Licensees shall provide notice to customers that photographs or video recordings are being taken by posting a sign in a conspicuous location on the premises; and

i. If a video recording is used to satisfy the requirement of Paragraph A.1.h, the recording must 1) capture a clear and identifiable image of the customer; 2) be time- and date-stamped; and 3) be capable of being matched to a corresponding transaction record.

~~j. Licensees must fulfill the color photograph requirements in this paragraph by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are~~

~~associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in Paragraph A,1,h.~~

2. *Renewals, extensions, and redemptions.* For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
3. *Inspection of records.* The records must at all reasonable times be open to inspection by the Police Department or other city employees or agents. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days. All records required under this section apply equally to pawnbrokers and secondhand goods dealers.

B. Daily Reports To Police.

1. *Daily reports required.* Effective no later than 60 days after the Police Department provides licensees with the most current electronic reporting and criminal investigation system, licensees must submit every reportable transaction to the Police Department daily in the following manner.
2. *Manner of report.* Licensees must provide to the Police Department all information required in this section Paragraphs A,1,a through A,1,f and other required information, by transferring it electronically from their computer to the electronic reporting and criminal investigation system established by the Police Department. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority ~~using procedures that address security concerns of the licensees and the issuing authority.~~ The electronic reporting requirement applies to all licensees under this chapter. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily.
3. *Billable transaction fees.* Licensees will be charged an annual fee for use of the electronic reporting and criminal investigation system.
4. *Technical difficulties; alternative reporting methods.*
 - a. If a licensee is unable to successfully transfer the required reports electronically, the licensee must provide the Police Department printed copies of all reportable transactions along with the video for that date, by 12:00 noon the next business day.
 - b. Until the licensee's system is corrected, the licensee must provide the required reports in Paragraph B,4,a, by printed copy, and resubmit all such transactions electronically when the error is corrected.
 - c. If a licensee is unable to capture, digitize, or transmit the photographs required in Paragraph A,1,h the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the Police Department upon request.
 - d. Regardless of the cause or origin of the technical problem that prevented the licensee from uploading his or her reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

C. Receipt Required.

1. Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years.

2. The receipt must include at least the following information:
- a. The name, address, and telephone number of the licensed business;
 - b. The date and time the item was received by the licensee;
 - c. Whether the item was pawned or sold, or the nature of the transaction;
 - d. An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on the item;
 - e. The signature or unique identifier of the licensee or employee that conducted the transaction;
 - f. The amount advanced or paid;
 - g. The monthly and annual interest rates, including all pawn fees and charges;
 - h. The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date;
 - i. The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller;
 - j. The identification number and state of issue from any of the following forms of identification of the seller:
 - (1) Current valid driver's license of this state;
 - (2) Current valid identification card of this state; or
 - (3) Current valid photo driver's license or identification card issued by another state or a province of Canada.
 - k. A description of the pledger or seller including approximate sex, height, weight, race, color of eyes, and color of hair;
 - l. The signature of the pledger or seller; and
 - m. All printed statements as required by M.S. § 325J.04(2), as it may be amended from time to time, or any other applicable statutes.

D. *Redemption and Holding Periods.* Any person pledging, pawning, or depositing an item for security must have a minimum of sixty (60) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day holding period, items may not be removed from the licensed location except as provided in SLPC 11.16.020 Paragraph G. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the police license inspector. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction record in accordant with Paragraph A. Secondhand goods dealers shall retain all items for a minimum of ten (10) days before resale or transfer.

E. *(Reserved)*

F. *Police Order To Hold Property.*

1. *Investigative hold.* Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold or confiscate is issued, pursuant to Paragraph F,2, whichever comes first.

2. *Order to hold.* Whenever the Police Chief, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire 90 days from the date it is placed unless the Police Chief or the Chief's designee determines a hold is still necessary and notifies the licensee in writing.
3. *Order to confiscate.* If an item is identified as stolen or evidence in a criminal case, the Chief or Chief's designee may:
 - a. Physically confiscate and remove it from the shop, pursuant to a written order from the Chief or the Chief's designee; or
 - b. Place the item on hold or extend the hold as provided in Paragraph F,2, and leave it in the shop.
4. *Confiscation; identification.* When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.
5. *Termination.* When an order to hold or confiscate is no longer necessary, the Police Chief or Chief's designee shall so notify the licensee.

G. *Inspections.* At all times during the term of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in SLPC 11.16.020 Paragraph G, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the items, wares, and merchandise, and records therein to verify compliance with this chapter or other applicable laws.

H. *Label Required.* Licensees must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

I. *Unlawful Acts.*

1. No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.
2. No licensee may receive any goods from a person of unsound mind or an intoxicated person.
3. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid identification card from this state, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.
4. No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
5. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not his or her own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.
6. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of

property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out-of- date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

J. *Weapons.* It is the finding of the City Council that pawnbrokers should be authorized and allowed to receive handguns as a pledge and to accept handguns for consignment or sale within the ordinary course of business. Secondhand goods dealers shall not receive or sell firearms or weapons except as otherwise permitted by law.

K. *Hours Of Operation.*

1. Pawnbrokers. No property shall be received as a pledge or purchase by any pawnbroker, nor shall any property be sold by a pawnbroker on any day before 9:00 a.m. or after 8:00 p.m., Monday through Friday, nor after 6:00 p.m. on Saturday and Sunday; further, no pawnbroker shall be open for business on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, or Christmas Day.
2. Secondhand goods dealers. Secondhand goods dealers may operate during hours permitted by the City's zoning code or other applicable ordinances, provided that all transactions subject to this chapter occur only during hours in which the business is open to the public.

SECTION 43: **REPEAL** "11.20 SECONDHAND GOODS DEALERS" of the Spring Lake Park Municipal Code is hereby *repealed* in its entirety.

SECTION 44: **ADOPTION** "11.20 USED MOTOR VEHICLE DEALERS" of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20 USED MOTOR VEHICLE DEALERS(*Added*)

SECTION 45: **ADOPTION** "11.20.010 Purpose" of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.010 Purpose(*Added*)

The purpose of this chapter is to establish licensing and operational standards for used motor vehicle dealers within the City in order to promote consumer protection, prevent fraudulent and deceptive practices, and ensure compliance with applicable state and local laws.

SECTION 46: **ADOPTION** “11.20.020 Definitions” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.020 Definitions(*Added*)

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates otherwise.

MOTOR VEHICLE. Any vehicle propelled by power other than muscular power that is used for transportation on public roadways, including automobiles, trucks, motorcycles, and similar vehicles, but excluding vehicles moved solely by human power or used primarily for off-road recreational or lawn and garden purposes.

USED MOTOR VEHICLE DEALER. Any person whose principal business is buying, selling, exchanging, displaying or offering for sale used motor vehicles.

SECTION 47: **ADOPTION** “11.20.030 License Required” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.030 License Required(*Added*)

A. No person shall engage in the business of a used motor vehicle dealer within the city without first obtaining a license issued by the city.

B. A separate license shall be required for each place of business.

C. A license issued under this chapter is not transferable.

D. All licensees must obtain and maintain any license required by the State of Minnesota for motor vehicle dealers. Proof of such licensure shall be provided prior to issuance or renewal of a City license.

SECTION 48: **ADOPTION** “11.20.040 License Application” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.040 License Application(*Added*)

A. Application for a license shall be made on a form provided by the city and shall be signed under oath.

B. The application shall include:

1. The name and address of the applicant and all persons with a controlling interest in the business;
2. The name and address of the business;
3. The location of the proposed place of business;
4. The name of the manager or person in control of the premises;
5. A description of the business activities;
6. Disclosure of any prior license denial, suspension, or revocation related to motor vehicle sales; and
7. Such other information as the City may reasonably require.

C. The application may include disclosure of criminal history limited to offenses directly related to the licensed activity, consistent with Minnesota Statutes, Chapter 364.

SECTION 49: **ADOPTION** “11.20.050 License Standards” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.050 License Standards(*Added*)

No license shall be issued or renewed under this chapter if the City Council determines that any of the following conditions exist:

- A. The proposed use does not comply with Chapter 16 (Zoning) or any other applicable land use regulation.
- B. The applicant has made a materially false statement or omission in the application or in any supporting documentation.
- C. The applicant, or any person in control of the licensed business, has been convicted of an offense directly related to the business of buying, selling, or financing motor vehicles, including but not limited to theft, receiving stolen property, fraud, false representation, deceptive trade practices, forgery, financial transaction card fraud, title fraud, or odometer fraud, and has not demonstrated sufficient rehabilitation and present fitness to operate the business, consistent with Minnesota Statutes, Chapter 364.
- D. Prior license conduct. The applicant, or any person in control of the business:
 1. Has had a motor vehicle dealer license or similar business license suspended or revoked by any governmental entity within the past five (5) years; or
 2. Has demonstrated a pattern of noncompliance with applicable laws or ordinances governing motor vehicle sales.
- E. The applicant has failed to obtain or maintain any license required by the State of Minnesota for motor vehicle dealers.
- F. The applicant has failed to provide sufficient and verifiable information to allow the City to conduct a background investigation of the applicant or any person in control of the business.

G. The applicant has failed to identify all persons with a controlling interest in the business or the individual responsible for day-to-day operations of the licensed premises.

H. The applicant has outstanding and unresolved violations of City ordinances or has failed to pay fees, fines, or other charges lawfully owed to the City related to business operations.

I. The proposed operation of the business, based on the application and supporting information, would pose a significant risk to the public health, safety, or welfare.

J. The applicant does not maintain, or propose to maintain, an established place of business as required by applicable law.

K. Separation requirement. The proposed location of the licensed premises is within five hundred (500) feet of another licensed used motor vehicle dealer, auto sales dealership, or motor vehicle leasing or rental facility, measured in a straight line from property line to property line.

SECTION 50: **ADOPTION** “11.20.060 License Term; Fee” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.060 License Term; Fee(*Added*)

A. License fees shall be established from time to time by resolution of the City Council.

B. Licenses shall be issued for a period of one year and shall expire on December 31 unless sooner suspended or revoked.

SECTION 51: **ADOPTION** “11.20.070 License Action” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.070 License Action(*Added*)

A. The City Council may approve, deny, suspend, or revoke a license under this chapter.

B. Grounds for suspension or revocation include:

1. Violation of this chapter or applicable law;
2. Revocation or suspension of a motor vehicle dealer license by the State of Minnesota;
3. Material misstatement or misrepresentation in an application; or
4. Failure to maintain an established place of business.

C. Prior to suspension or revocation, the licensee shall be provided notice and an opportunity for a hearing.

SECTION 52: **ADOPTION** “11.20.080 Storage” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.080 Storage(*Added*)

A. No licensee shall use any public street or right-of-way for the storage of motor vehicles offered for sale.

B. All motor vehicles stored or displayed for sale shall be located on an improved surface approved pursuant to SLPC 16, and shall comply with all applicable zoning, screening, and site design requirements.

SECTION 53: **ADOPTION** “11.20.090 Violations” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.090 Violations(*Added*)

Any person who violates any provision of this chapter shall be guilty of a misdemeanor unless otherwise provided by law. Administrative penalties may also be imposed pursuant to SLPC 11.20.90.

SECTION 54: **ADOPTION** “11.20.100 Administrative Penalties” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.20.100 Administrative Penalties(*Added*)

A. Administrative penalties authorized. In addition to and independent from any criminal enforcement, the City Council may impose administrative penalties for violations of this chapter.

B. Schedule of penalties. The following administrative penalties are presumed for violations of this chapter:

1. First violation: a civil fine of \$500.00;
2. Second violation within 12 months of a prior violation: a civil fine of \$750.00 and suspension of the license for a period of ten (10) days;
3. Third violation within 24 months of two prior violations: a civil fine of \$1,000.00 and suspension of the license for a period of twenty (20) days;
4. Fourth violation within 36 months of three prior violations: revocation of the license.

C. Adjustment of penalties. The penalties set forth in this section are presumed sanctions. The City Council may modify the amount of any fine or the duration of any suspension based on the severity of the violation, the risk to the public, the licensee's history of compliance, or other relevant considerations.

D. Hearing required. Before imposing a suspension or revocation under this section, the City Council shall provide the licensee with notice of the proposed action and an opportunity for a hearing. The notice shall 1) be provided at least ten (10) days prior to the hearing; 2) state the time, date and location of the hearing; 3) identify the proposed action; and 4) state the grounds for the proposed action with reasonable specificity. Notice shall be deemed sufficient if sent to the address provided in the application, personally delivered or provided by other method reasonably calculated to provide actual notice.

E. Continuing violations. Each day a violation of this chapter continues shall constitute a separate offense for purposes of administrative enforcement.

SECTION 55: **AMENDMENT** "11.24 AMUSEMENTS" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.24 ~~AMUSEMENTS~~ LAWFUL GAMBLING

SECTION 56: **REPEAL** "11.24.010 Lawful Gambling" of the Spring Lake Park Municipal Code is hereby *repealed* in its entirety.

SECTION 57: **ADOPTION** "11.24.010 Adoption Of State Law By Reference" of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.010 Adoption Of State Law By Reference(*Added*)

The provisions of M.S. Ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of M.S. Ch. 349, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

SECTION 58: **ADOPTION** “11.24.020 City May be More Restrictive than State Law” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.020 City May be More Restrictive than State Law(*Added*)

The Council is authorized by the provisions of Minn. Stat. § 349.213, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on gambling within its limits beyond those contained in M.S. Ch. 349, as it may be amended from time to time.

SECTION 59: **ADOPTION** “11.24.030 Purpose” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.030 Purpose(*Added*)

The purpose of this ordinance is to regulate lawful gambling within the City of Spring Lake Park, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

SECTION 60: **ADOPTION** “11.24.040 Definitions” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.040 Definitions(*Added*)

In addition to the definitions contained in M.S. § 349.12, as it may be amended from time to time, the following terms are defined for the purpose of this ordinance.

BOARD. State of Minnesota Gambling Control Board.

CITY. City of Spring Lake Park.

COUNCIL. The City Council of the City of Spring Lake Park.

LICENSED ORGANIZATION. An organization licensed by the Board.

LOCAL PERMIT. A permit issued by the city.

TRADE AREA. The City of Spring Lake Park and each city contiguous to the City of Spring Lake Park.

SECTION 61: **ADOPTION** “11.24.050 Applicability” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.050 Applicability(*Added*)

This ordinance shall be construed to regulate all forms of lawful gambling within the city except bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, only members of the organization, residents of the nursing home or housing project, and their guests, are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.

SECTION 62: **ADOPTION** “11.24.060 (Reserved)” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.060 (Reserved)(*Added*)

SECTION 63: **ADOPTION** “11.24.070 Lawful Gambling Permitted” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.070 Lawful Gambling Permitted(*Added*)

Lawful gambling is permitted within the city provided it is conducted in accordance with M.S. §§ 609.75-.763, inclusive, as they may be amended from time to time; M.S. §§ 349.11-.23, inclusive, as they may be amended from time to time; and this ordinance.

SECTION 64: **ADOPTION** “11.24.080 Council Approval” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.080 Council Approval(*Added*)

Lawful gambling authorized by M.S. §§ 349.11-.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this ordinance and state law.

SECTION 65: **ADOPTION** “11.24.090 Application And Local Approval Of Premises Permits” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.090 Application And Local Approval Of Premises Permits(*Added*)

- A. Any organization seeking to obtain a premises permit from the Board shall file with the Administrator, Clerk/Treasurer an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the Board.
- B. Upon receipt of an application for issuance of a premises permit, the Administrator, Clerk/Treasurer shall transmit the application to the Police Chief for review and recommendation.
- C. The Police Chief shall investigate the matter and make the review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
- D. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.
- E. The Council shall receive the Police Chief’s report and consider the application within 45 days of the date the application was submitted to the Administrator, Clerk/Treasurer.
- F. The Council shall by resolution approve or disapprove the application within 60 days of receipt of the application.
- G. The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:
 - 1. Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
 - 2. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.
 - 3. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
 - 4. Gambling organization has not maintained an address within the city for at least three years prior to the application or it does not own a commercial building within the city from which it operates.
 - 5. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

SECTION 66: **ADOPTION** “11.24.100 Local Permits” of the Spring Lake Park Municipal Code is hereby *added* as follows:

ADOPTION

11.24.100 Local Permits(Added)

- A. No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by M.S. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by Section 5 of this ordinance.
- B. Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:
1. Name and address of the organization requesting the permit.
 2. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
 3. Dates of gambling occasion for which permit is requested.
 4. Address of premises where event will occur.
 5. Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.
 6. Estimated value of prizes to be awarded.
- C. The fee for a local permit shall be \$100. The fee shall be submitted with the application for a local permit. This fee shall be refunded if the application is withdrawn before the investigation is commenced.
- D. Upon receipt of an application for issuance or renewal of a local permit, the Administrator, Clerk/Treasurer shall transmit the notification to the Police Chief for review and recommendation.
- E. The Police Chief shall investigate the matter and make review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
- F. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.
- G. The Council shall receive the Police Chief's report and consider the application within 45 days of the date the application was submitted to the Administrator, Clerk/Treasurer.
- H. The City Council may deny an application for issuance or renewal of an excluded or exempt lawful gambling permit for any of the following reasons:
1. Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
 2. Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.
 3. The organization has not been in existence for at least three (3) consecutive years prior to the date of application.
 4. The organization does not have at least thirteen (13) active and voting members.

- 5. Failure of the applicant to pay the permit fee provided by Paragraph C within the prescribed time limit.
- 6. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

I. Local permits shall be valid for one (1) year after the date of issuance unless suspended or revoked.

SECTION 67: **ADOPTION** “11.24.110 Revocation And Suspension Of Local Permit” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.110 Revocation And Suspension Of Local Permit(*Added*)

- A. A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.
- B. A license shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by certified or registered mail. If the person refuses to accept notice or cannot be found, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

SECTION 68: **ADOPTION** “11.24.120 License And Permit Display” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.120 License And Permit Display(*Added*)

All permits issued under state law or this ordinance shall be prominently displayed during the permit year at the premises where gambling is conducted.

SECTION 69: **ADOPTION** “11.24.130 Notification Of Material Changes To Application” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.130 Notification Of Material Changes To Application(*Added*)

An organization holding a state-issued premises permit or a local permit shall notify the city within ten (10) days in writing whenever any material change is made in the information submitted on the application.

SECTION 70: **ADOPTION** “11.24.140 Local Gambling Tax” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.140 Local Gambling Tax(*Added*)

- A. A local gambling tax of three percent (3%) per year is imposed on the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the organization.
- B. The tax shall be paid by the organization on a monthly basis and shall be reported on a copy of the monthly gambling activity summary and tax return filed with the Minnesota Department of Revenue. The report shall be an exact duplicate of the report filed with the Department, without deletions or additions, and must contain the signatures of organization officials as required on the report form.
- C. The tax return and payment of the tax due must be postmarked, or, if hand-delivered, received in the office of the Administrator, Clerk/Treasurer, on or before the last business day of the month following the month for which the report is made.
- D. An incomplete tax return will not be considered timely filed unless corrected and returned by the due date for filing.
- E. Interest shall be charged at a rate of eight percent (8%) on all overdue taxes owed by the organization under this Section.

SECTION 71: **ADOPTION** “11.24.150 (Reserved)” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.150 (Reserved)(*Added*)

SECTION 72: **ADOPTION** “11.24.160 Designated Trade Area” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.160 Designated Trade Area(*Added*)

A. Each organization licensed to conduct gambling within the city shall expend one hundred percent (100%) of its lawful purpose expenditures on lawful purposes conducted within the city’s trade area.

B. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city’s jurisdiction.

SECTION 73: **ADOPTION** “11.24.170 Records And Reporting” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.170 Records And Reporting(*Added*)

A. Organizations conducting lawful gambling shall file with the city clerk one copy of all records and reports required to be filed with the Board, pursuant to M.S.. Ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.

B. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by SLPC 11.24.160. Such report shall be made on a form prescribed by the city and shall be submitted annually.

SECTION 74: **ADOPTION** “11.24.180 Hours Of Operation” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.180 Hours Of Operation(*Added*)

Lawful gambling shall not be conducted between 2 a.m. and 8 a.m. on any day of the week.

SECTION 75: **ADOPTION** “11.24.190 Penalty” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.24.190 Penalty(*Added*)

Any person who violates any provision of this ordinance; M.S. §§ 609.75-609.763, inclusive, as they may be amended from time to time; or M.S. §§ 349.11-349.21, inclusive, as they may be amended from time to time; or any rules promulgated under those sections, as they may be amended from time to time, shall be guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. The City may pursue any remedy authorized by law, including criminal prosecution, administrative citation, civil enforcement, injunctive relief or suspension or revocation of the registration or permit. In addition, violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization’s license.

SECTION 76: **REPEAL** “11.28 VEHICLES FOR HIRE” of the Spring Lake Park Municipal Code is hereby *repealed* in its entirety.

SECTION 77: **AMENDMENT** “11.32 FOOD SALES AND SERVICE” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.32 ~~FOOD SALES AND SERVICE~~ MOBILE FOOD UNITS

SECTION 78: **REPEAL** “11.32.010 Soliciting And Vending By Catering Food Vehicles” of the Spring Lake Park Municipal Code is hereby *repealed* in its entirety.

SECTION 79: **ADOPTION** “11.32.010 Purpose and Intent” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.010 Purpose and Intent(*Added*)

The purpose of this Chapter is to protect the public health, safety and welfare by establishing reasonable regulations governing the operation of Mobile Food Units within the City of Spring Lake Park, including standards intended to ensure safe pedestrian and vehicular movement, minimize adverse impacts on surrounding properties, prevent nuisances, and protect public and private property. This Chapter is further intended to coordinate City regulation of Mobile Food Units with applicable County

ordinances and State laws and shall be construed as a reasonable time, place and manner regulation that does not prohibit Mobile Food Units where otherwise allowed by law and this Ordinance.

SECTION 80: **ADOPTION** “11.32.020 Definitions” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.020 Definitions(*Added*)

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

MOBILE FOOD UNIT (MFU). A vehicle-mounted or trailer-mounted food service establishment that is readily movable and used to store, prepare, serve or vend food or beverages.

FOOD TRUCK. A Mobile Food Unit from which food or beverages are prepared or cooked on-site and sold directly to consumers.

PREPACKAGED FOOD VENDOR. A Mobile Food Unit that sells only prepackaged food or beverages, including ice cream, and does not conduct on-site cooking.

OPERATE or OPERATION. The vending, selling, offering for sale, or serving of food or beverages from a Mobile Food Unit, whether or not a sale occurs.

PUBLIC PROPERTY. City-owned land, parks, parking lots and other City facilities, including the public right-of-way.

REGULATORY AUTHORITY. The county and/or state agency having jurisdiction over food licensing and inspection for a Mobile Food Unit.

SECTION 81: **ADOPTION** “11.32.030 Applicability And Exemptions” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.030 Applicability And Exemptions(*Added*)

A. This Chapter applies to all Mobile Food Units operating within the City limits, whether or public or private property, unless expressly exempted.

B. The following are exempt from City permitting under this Chapter but remain subject to applicable state and county requirements:

1. Mobile Food Units operating exclusively for a private, invitation-only event not open to the general public;

2. Caterers operating pursuant to a valid catering authorization and not engaging in general on-site vending; and
3. Mobile Food Units operating as part of a City-sponsored special event.

C. Exemptions under this Section do not relieve any person from compliance with generally applicable laws, including traffic, noise, fire and health regulations.

SECTION 82: **ADOPTION** “11.32.040 City Authorization Required” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.040 City Authorization Required(*Added*)

- A. Registration required. No Mobile Food Unit shall operate within the City unless the operator has obtained a current Mobile Food Unit registration issued by the City.
- B. Public Property permit required. In addition to registration, a Public Property permit is required for operation on public property.
- C. Right-of-way restriction. Mobile Food Units shall not operate within the public right-of-way except:
 1. As part of a City-permitted special event, pursuant to SLPC 9.36; or
 2. With written authorization from the Administrator, Clerk/Treasurer, or designee.
- D. Compliance with other laws. Issuance of a Mobile Food Unit registration or Public Property permit by the City does not authorize the preparation or sale of food or beverages without all required licenses and approvals from the applicable Regulatory Authority. The operator remains solely responsible for compliance with all applicable federal, state and county laws.

SECTION 83: **ADOPTION** “11.32.050 Application Requirements; Fees” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.050 Application Requirements; Fees(*Added*)

- A. Applications shall be submitted on forms provided by the City and shall include, at a minimum:
 1. Applicant name, business name, mailing address, phone number, and email address;
 2. Description of the Mobile Food Unit, including license plate or trailer identification number and photographs;
 3. Description of food and beverage items to be sold;
 4. Proof of current licensure from the applicable Regulatory Authority;
 5. Proof of insurance meeting the requirements of SLPC 11.32.060;
 6. Proof of current fire safety inspection for food truck.
 - a. Fire safety reciprocity. A fire safety inspection conducted within the calendar

year by a Fire Department or Fire Marshal located in either Anoka or Ramsey County may be accepted as meeting the fire inspection requirements of this provision, provided the inspection addresses applicable provisions of the Minnesota State Fire Code. The City Fire Marshal may require a supplemental inspection when specific, articulable fire safety concerns are identified related to the Mobile Food Unit's equipment, configuration or operation.

B. Fees for Mobile Food Unit registrations and Public Property permits shall be established by ordinance and incorporated into the City fee schedule

C. Issuance standards. The City shall issue a registration or permit upon determining that the application is complete, fees have been paid and applicant complies with this Chapter and all applicable laws and ordinances. Denial of an application shall be provided in writing and shall state the specific reasons for denial.

D. Registration term. Mobile Food Unit registrations shall be valid for the calendar year in which issued unless sooner suspended or revoked. Registrations shall expire on December 31 of each year and are not automatically renewable.

SECTION 84: **ADOPTION** “11.32.060 Insurance Requirements” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.060 Insurance Requirements(*Added*)

A. Required insurance. Every Mobile Food Unit operator shall maintain commercial general liability insurance covering bodily injury and property damage arising out of the ownership, use, and operation of the Mobile Food Unit.

B. Minimum limits. The commercial general liability insurance required under this Section shall have limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate.

C. Proof of insurance. Proof of insurance shall be provided by a Certificate of Insurance issued by a carrier authorized to do business in the State of Minnesota. The City of

Spring Lake Park shall be listed as the certificate holder on the Certificate of Insurance. Insurance required by this Section shall be maintained for the full duration of operations within the City or the term of the permit, whichever is longer. The Certificate shall specify that 30 days' prior notice (10 days' for non-payment) will be provided to the City in the event any policy listed on the Certificate is cancelled or suspended. Failure to maintain required insurance constitutes grounds for suspension or revocation pursuant to SLPC 11.32.100.

D. Public property; additional insured. When operating on Public Property, the policy shall list the City of Spring Lake Park as an additional insured.

SECTION 85: **ADOPTION** “11.32.080 Display; Non-Transferability” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.080 Display; Non-Transferability(*Added*)

A. All registrations and permits shall be available for inspection upon request.

B. Registrations and permits issued under this Chapter are non-transferable.

SECTION 86: **ADOPTION** “11.32.070 Operating Standards” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.070 Operating Standards(*Added*)

A. Hours of operation.

1. Commercial and industrial zoning districts. Mobile Food Units may operate between the hours of 7:00 a.m. and 10:00 p.m., unless otherwise authorized by permit.

2. Residential zoning districts. Except as provided in Paragraph A,3, Mobile Food Units may operate between the hours of 10:00 a.m. and 8:00 p.m.

3. Prepackaged food vendors and ice cream trucks. Prepackaged Food Vendors, including ice cream trucks, may operate in a residential zoning district between the hours of 10:00 a.m. and 8:00 p.m. and in commercial and industrial zoning districts between the hours of 7:00 a.m. and 10:00 p.m.

B. Traffic and pedestrian safety. Mobile Food Units shall not obstruct sidewalks, trails, curb ramps, drive aisles, fire lanes or interfere with required sight triangles, or create unsafe pedestrian or vehicular conditions.

C. Noise; nuisance standards. Mobile Food Units shall comply with the City's noise and public nuisance standards set forth in SLPC 9.20. Except as provided wherein, no amplified sound, horn, bell or similar device shall be used to attract customers. Prepackaged Food Vendors may use sound devices customarily associated with ice cream vending only during permitted hours and in compliance with SLPC 9.20.

D. Sanitation and waste. Operators shall provide a refuse container for customer use. All litter generated within twenty five (25) feet of the Mobile Food Unit shall be removed daily. Wastewater, grease or other liquids shall not be discharged onto the ground, pavement or storm sewer system.

E. Power and lighting. Power generation equipment, including generators and associated fuel systems, shall be properly installed, maintained, and operated in accordance with manufacturer specifications and applicable fire and safety codes, and shall be operated in a manner that does not create a nuisance, excessive noise, vibration, odor, or safety hazard. Temporary or

permanent lighting used in connection with a Mobile Food Unit shall be directed away from adjacent properties, public rights-of-way, and residential dwellings so as to prevent glare or light trespass, shall not interfere with traffic visibility or pedestrian safety, and shall be operated in compliance with applicable provisions of this Code, including the City's nuisance and noise regulations.

F. Number of units. No more than three (3) Mobile Food Units may operate simultaneously on a single parcel unless authorized as part of a Special Event permit.

G. Private property authorization. When operating on private property, a Mobile Food Unit shall have the written consent of the property owner or lawful tenant in possession. Such authorization shall be maintained by the operator and provided to the City upon request.

SECTION 87: ADOPTION “11.32.090 Suspension And Revocation; Penalties” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.32.090 Suspension And Revocation; Penalties(*Added*)

A. Any registration or permit under this Chapter may be denied, suspended or revoked for one or more of the following reasons:

1. Violation of this Chapter or any condition of a registration or permit;
2. Violation of applicable federal, state, or local law related to food service, fire safety, traffic, noise, or public safety;
3. Failure to maintain required insurance or licensure from the applicable Regulatory Authority;
4. Fraud, misrepresentation, or material omission in an application or renewal; or
5. Conduct by the operator or any person acting on the operator's behalf that poses a threat to public health, safety, or welfare.

B. Notice of proposed action. Except as provided in Paragraph D, the City shall provide written notice to the registration or permit holder stating: 1) the proposed action, the factual basis for the proposed action; the specific provisions of this Code or other applicable law alleged to have been violated; and notice of the right to request a hearing. Service of notice may be made by personal delivery, USPS mail, or electronic mail to the address provided in the application. Service shall be deemed complete upon mailing or transmission. The applicant shall be responsible for maintaining current mailing and electronic contact information with the City.

C. Request for hearing. The registration or permit holder may request an administrative hearing by submitting a written request to the Administrator, Clerk/Treasurer within ten (10) calendar days after service of the notice. A hearing shall be scheduled, the time and place of which shall be provided to the registration or permit holder. Failure to timely request a hearing constitutes a waiver of the right to a hearing, and the proposed action shall become final.

D. Summary suspension. The Administrator, Clerk/Treasurer, or designee, may immediately suspend a registration or permit without prior notice or hearing if an imminent threat to public health or safety exists. Written notice of the summary suspension and the reasons therefor shall

be provided as soon as practicable. The registration or permit holder shall be afforded an opportunity for an administrative hearing within ten (10) calendar days after service of the notice of summary suspension.

E. *Hearing procedure.* The hearing shall be conducted by the Administrator, Clerk/Treasurer, or his/her designee. The registration or permit holder may appear personally or through counsel, present testimony and evidence and respond to the evidence relied upon by the City.

F. *Decision.* Following the hearing, the hearing officer shall issue a written decision setting forth findings of fact and conclusions supporting the action taken.

G. *Appeal.* Appeals of any decision made by the hearing officer shall be made to the City Council in writing within seven (7) days after service of the hearing officer's decision. The decision of the City Council shall be final.

H. *Penalties.* A person who violates this chapter is guilty of a misdemeanor unless otherwise provided by law. See SLPC 1.04.200. The remedies provided in this Section are cumulative. The City may pursue any remedy authorized by law, including criminal prosecution, administrative citation, civil enforcement, injunctive relief or suspension or revocation of the registration or permit.

SECTION 88: **REPEAL** “11.36 SAUNAS” of the Spring Lake Park Municipal Code is hereby *repealed* as follows:

R E P E A L

11.36 ~~SAUNAS~~Reserved

SECTION 89: **AMENDMENT** “11.40.020 Findings” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.020 Findings

The City Council makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public.

- A. Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.
- B. Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
- C. License qualifications on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the

community.

- D. Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
- E. Massage businesses which employ persons with no specialized and standardized training can tax city law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
- F. The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.

G. Massage services conducted within hotel or motel guest rooms present heightened risks of unlawful activity, including prostitution and human trafficking, due to the temporary nature of occupancy, reduced public visibility, and limited access for regulatory inspection and law enforcement oversight. Regulating the locations where massage services may be performed is necessary to protect the public health, safety, and welfare.

H. Establishments offering private steam rooms, heat rooms, or sauna facilities to the public for consideration present regulatory concerns similar to those associated with massage enterprises when such facilities are designed for private or semi-private use. Without reasonable operational standards and licensing oversight, such establishments may facilitate prostitution, criminal sexual conduct, human trafficking, and other unlawful activity, and may pose risks to public health and safety. The Council therefore finds that regulating steam or heat bath establishments and private sauna facilities under this chapter is necessary to protect the public health, safety, and welfare, to prevent criminal activity, and to ensure appropriate inspection and code compliance, while not imposing restrictions on legitimate health clubs, spas, or therapeutic facilities that operate in compliance with law.

SECTION 90: **AMENDMENT** “11.40.030 Definitions - Massage Services” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.030 Definitions - Massage Services

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

ACCREDITED INSTITUTION. An educational institution holding accredited status approved by the United States Department of Education or the Minnesota Office of Higher Education.

ACCREDITED PROGRAM. A professional massage program or educational institution accredited by the Commission on Massage Therapy Accreditation (COMTA) or other accrediting agency recognized by the United States Department of Education or the Minnesota Office of Higher Education.

CLEAN. The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

ISSUING AUTHORITY. The City of Spring Lake Park.

MASSAGE. Any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations. This includes the concept of touch therapy or snuggling.

MASSAGE THERAPIST. An individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

~~A. Possessed a massage therapist license issued by the city on December 31, 2013 and is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city;~~

B. Has current insurance coverage of \$1,000,000 for professional liability in the practice of massage; and

C. Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and

D. Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program, accredited institution, or a program or institution licensed or verified by a state licensing board or agency that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma. In the event the accredited program or accredited institution is no longer in existence, in the sole discretion of the city, a certified copy of the transcript of academic record may be accepted directly from the applicant with an affidavit stating said transcript of academic record is authentic. The transcript of academic record must be from a program or institution that was once accredited and approved by the issuing authority. The certified copy of the transcript of academic record must contain the applicant's name, last address of the accredited institution at the time of closing, and reflect the 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice, as required.

OPERATE. To own, manage, or conduct, or to have control, charge, or custody over.

PERSON. Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

PRIVATE SAUNA FACILITY. An establishment or portion of an establishment that offers to the public, for consideration, the use of enclosed steam rooms, heat rooms, hot air rooms, or similar bathing or relaxation facilities designed for use by one or more patrons in a private or semi-private setting, whether or not massage services are provided.

STEAM OR HEAT BATH ESTABLISHMENT. A business that operates one or more private sauna facilities as a principal or substantial part of its business activity.

THERAPEUTIC MASSAGE ENTERPRISE. An entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a **THERAPEUTIC MASSAGE ENTERPRISE** need not be licensed as a therapeutic massage therapist if he or she does not, at any time, practice or administer massage to the public. A **THERAPEUTIC MASSAGE ENTERPRISE** may employ other individuals, such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public. **THERAPEUTIC MASSAGE ENTERPRISE shall also include any steam or heat bath establishment offering private sauna facilities to the public for consideration.**

WITHIN THE CITY. Includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

SECTION 91: **AMENDMENT** “11.40.040 License Required” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.040 License Required

- A. *Therapeutic massage enterprise license.* It shall be unlawful for any person or entity to own, operate, engage in or carry on within the city any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city, pursuant to this chapter.
- B. *Massage therapist license.* It shall be unlawful for any individual to practice, administer or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city, pursuant to this chapter.
- C. *License Required for Massage and Steam Bath Establishments.* It shall be unlawful for any person or entity to own, operate, engage in, or carry on within the city a steam or heat bath establishment offering private sauna facilities without first obtaining a therapeutic massage enterprise license pursuant to this chapter, whether or not massage services are provided.

SECTION 92: **AMENDMENT** “11.40.050 Exceptions” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.050 Exceptions

A therapeutic massage enterprise or therapist license is not required for the following persons and places:

- A. Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business;
- B. Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck;
- C. Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry;
- D. Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings;
- E. Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services under the supervision or authority of the accredited institution, at the location of the accredited institution and provided the students are identified to the public as students of massage therapy and provided that the student or accredited institution maintains professional liability insurance covering such services. ~~Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution must have at least 150 hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution, must have proof of liability insurance, and must be identified to the public as a student of massage therapy;~~
- F. Athletic coaches, directors or trainers employed by public or private schools; and/or
- G. Individuals licensed in another municipality performing massage services as part of a wellness event/expo where such event will not be more than three days in length. Written notice must be provided to the city and must include dates, times and location(s) of such event.

SECTION 93: **AMENDMENT** “11.40.100 Locations Ineligible For Therapeutic Massage Enterprise License” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.100 Locations Ineligible For Therapeutic Massage Enterprise License

- A. *Delinquent taxes.* No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes, assessments, or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under M.S. §§ 278.01-278.13, questioning the amount or validity of taxes, the City Council may, on application, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

- B. *Improper zoning.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with the city's zoning code.
- C. *Building, fire and code compliance violations.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in compliance with State Building and Fire Codes in addition to the city's Code of Ordinances.
- D. *Previous license infractions.* No therapeutic massage enterprise license shall be issued or renewed if the massage therapy enterprise has employed two or more massage therapists whose licenses have been suspended and/or revoked within any 12-month period during time of employment.
- E. *Distinct entrance.* No therapeutic massage enterprise, unless a home-based enterprise, shall be licensed if the location of such enterprise does not have a distinct, front-facing public entrance. A distinct front-facing public entrance for an entire building is required for enterprise locations with multiple suites.

SECTION 94: **AMENDMENT** "11.40.110 License Restrictions" of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.110 License Restrictions

A. *Posting of license.*

1. A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used.
2. A person licensed as a massage therapist shall also post their massage therapist license in a conspicuous place on the premises at which the therapist is associated.

B. *Licensed premises.*

1. A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. Before the licensed premises is enlarged, altered, or extended, the licensee shall inform the Administrator, Clerk-Treasurer within ten business days.
2. A massage therapist license shall entitle the licensed therapist to perform on-site massage at the therapeutic massage enterprise they are licensed for, the place of residence of the licensed massage therapist or client, or at an office, business, park or institution ~~excluding hotel and motel guest rooms.~~ A licensed therapist shall not provide massage services within a hotel or motel guest room.
3. It shall be the continuing duty of each licensee to properly notify the Administrator, Clerk-Treasurer, within ten business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this chapter shall constitute cause for revocation or suspension of such license.
4. All therapeutic massage must be performed within a building with a valid certificate of occupancy and not in or upon any vacant lot, motor vehicle, trailer, or tent, including but not limited to structures not meant for human habitation.

- C. *Transfer of license prohibited.* The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.
- D. *Affiliation with enterprise required.* A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license in SLPC 11.40.050.
- E. *Employment of unlicensed massage therapists prohibited.* No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this chapter, unless the person is specifically exempted from obtaining a therapist license in SLPC 11.40.050.
- F. *Coverage of genitals/breasts during massage.* The licensee shall require that the person who is receiving the massage shall completely cover, at all times, genitals and breasts with non-transparent material or clothing.
- G. *Therapist dress/uniform requirements.* Any therapist performing massage shall, at all times, be dressed ~~professionally, including short sleeved shirts, skirts no shorter than three inches above the knees, no cleavage showing, nails trimmed and neat, hair pulled back and closed-toed shoes~~ in professional attire consistent with industry standards and not sexually suggestive.
- H. *Effect of license suspension or revocation.* No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.
- I. *Massage of certain body parts prohibited.* At no time shall the massage therapist intentionally massage, or offer to massage, the penis, scrotum, mons veneris, vulva, vaginal area or breasts of a person, unless massage of pectoral muscles is requested by customer or patron.
- J. *Restrictions regarding hours of operation.* No therapeutic massage enterprise shall be open for business, nor shall any therapeutic massage therapist offer massage services, before 7:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 7:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.
- K. ~~*Proof of local residency required.* In the case of a therapeutic massage enterprise, the licensee, managing partner, or manager of the licensed premises must show proof of residency in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix or Pierce in Wisconsin. In the case of therapeutic massage therapists, the licensee must show proof of residing in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix or Pierce in Wisconsin.~~ *Local contact and service of process.* Each therapeutic massage enterprise shall maintain a manager who is regularly present at the licensed premises during business hours and who is responsible for ensuring compliance with this chapter. The enterprise shall designate a Minnesota resident or registered agent authorized to receive service of process.
- L. *Inspections.* ~~In light of the high risk of involvement with illegal conduct, an establishment providing massage therapy poses to the general public, t~~ The issuing authority, Code Enforcement Department and/or the Police Department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for

business to ensure compliance with all provisions of this chapter. Any search of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The licensee is subject to a \$250 fee for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.

- M. *Posting of rates.* All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.
- N. *Illegal activities.* In addition to the license restrictions set forth in this section, any advertising by a licensee or representative of a licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises. No audio or visual recording is allowed at any time.
- O. *Restrictions involving minors.* No person under the age of 18 shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by his/her parent or guardian.
- P. *Food preparation.* Food preparation on site shall only occur in locations specifically designed for that purpose and with proper building permits having been obtained. Food preparation is limited to use for employees during breaks during the regular shift.
- Q. *Habitation.* Massage enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots or mattresses. Home-based enterprises shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots or mattresses in any area where massage is performed.
- R. *Intoxicating alcoholic beverages.* Per M.S. § 340A.401, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of intoxicating alcoholic beverages onsite. Intoxicating alcohol does not include alcohol used in direct conjunction with massage therapy such as in cleaning.

SECTION 95: **AMENDMENT** “11.40.120 Restrictions Regarding Sanitation, Health And Safety” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.120 Restrictions Regarding Sanitation, Health ~~And Safety~~, Safety and Operational Controls

- A. *Toilet room requirements.* A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be

enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.

- B. *Paper/linen requirements.* A licensed therapeutic massage enterprise shall provide single service disposal paper or clean linens to cover the massage therapy table or chair on which the patron receives the massage; or, in the alternative, if the massage therapy table or chair on which the patron receives the massage is made of material impervious to moisture, such massage therapy table or chair shall be properly sanitized after each massage.
- C. *Washing of hands required.* The massage therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.
- D. *Door latches and locks.* Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door, with or without a key, cannot be present on any doors of rooms intended for massage therapy.
- E. *Equipment.* All modalities shall be performed on a raised massage therapy table or chair: no bed, mattress or other similar type equipment shall be allowed onsite except for a mat similar to those used in yoga. No modality may be performed that requires a massage therapist to stand on the massage therapy table or chair unless necessary due to size ratio of massage therapist/client.
- F. *Prohibited modalities.* Modalities involving work performed on the floor or requiring a massage therapist to stand on a massage therapy table, including but not limited to Shiatsu are strictly prohibited unless completely clothed and massage therapist is certified in Shiatsu or other modality by an accredited institution or program.

G. Private sauna and steam bath operational standards.

- 1. Applicability. This subsection applies to any therapeutic massage enterprise that operates a private sauna facility or steam or heat bath establishment as defined in this chapter.
- 2. Doors and access.
 - a. Doors to private sauna or steam rooms shall not be equipped with locking devices that prevent entry by management or law enforcement.
 - b. Hallways and common areas shall remain accessible and capable of inspection during business hours.
- 3. Supervision. A responsible manager shall be present on the premises at all times during business hours.
- 4. Prohibited conduct. No sexual conduct, prostitution, or criminal sexual conduct, as defined in SLPC 11.44 or Minnesota Statutes, shall occur on the premises.
- 5. Compliance with other laws. All private sauna facilities shall comply with applicable building, fire, plumbing, mechanical, and zoning regulations.

SECTION 96: **AMENDMENT** “11.40.140 Sanctions For License Violations” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.40.140 Sanctions For License Violations

A. Suspension or revocation.

1. The City Council may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:
 - a. A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application;
 - b. A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;
 - c. Any violation of this chapter or state law;
 - d. A violation by any licensee or individual that is directly related to the occupation or business licensed, as defined by M.S. § 364.03, subd. 2;
 - e. Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community;
 - f. If the owner, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription;
 - g. If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this section.
 - h. Failure to maintain insurance coverage, as required under this chapter; and/or
 - i. A material variance in the actual plan and design of the premises from the plans submitted;
2. Neither the charging of a criminal violation nor a criminal conviction is required in order for the Council to impose an administrative penalty or suspend or revoke a license.

B. Notice and hearing. A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days’ notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

C. Ability to reapply after revocation. The holder of a massage enterprise license or massage therapist license may not reapply for a new license for a period of five years if their license is revoked under this section.

D. Ability to reapply after denial. The applicant for a massage enterprise license or massage therapist license may not reapply for a license for a period of five years if the applicant’s license has previously been denied due to fraud, misrepresentation or false statement contained in a previous license or renewal application.

E. Previous license infractions. In the event there is a license infraction or a pending citation

involving a licensed establishment and/or a licensed massage therapist, the city may, at its option, choose to not take action on any license or renewal application until such infraction or pending citation has been resolved. The applicant for a massage enterprise license or massage therapist may not be eligible to reapply for a license for a period of five years if the licensee is convicted of any violation of the ordinance.

SECTION 97: AMENDMENT “11.44.010 Findings And Purpose” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.44.010 Findings And Purpose

~~The city recognizes that the existence of sexually oriented businesses within the city presents unique problems in a variety of areas, including crime prevention, protection of retail trade, maintenance of protection of the quality of life in the city, and public health concerns as a result of sexually transmitted diseases. In particular, the city also recognizes problems that other communities throughout the country have had with sexually oriented businesses in terms of their location and effect upon adjoining neighborhoods. Finally, the city makes note of the spread of the sexually transmitted disease known as acquired immune deficiency syndrome (AIDS), and the lack of any adequate cure or treatment for this disease.~~

~~In order to provide for the general safety and welfare of the citizens of the city, the preservation of property values, and to minimize public health risks, the city finds it necessary to regulate sexually oriented businesses in terms of their physical location, condition of the premises, and the like.~~

A. Purpose. The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually transmitted diseases. This chapter is intended to supersede the provisions of M.S. § 617.242, as it may be amended from time to time, and render M.S. § 617.242 inapplicable as authorized by the statute.

B. Findings. The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council hereby incorporates by reference the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses dated June 6, 1989, together with the studies, judicial decisions, and materials cited therein. A copy of the report is on file with the Administrator, Clerk/Treasurer and available for public inspection. The City Council further finds that the conclusions and recommendations contained in the report provide a reasonable evidentiary basis for the regulations adopted in this chapter.

1. Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on city crime-prevention programs and law enforcement services.
2. Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.
3. Sexually oriented businesses can increase the risk of exposure to communicable diseases, including Acquired Immune Deficiency Syndrome (AIDS), for which there is

- currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments but also the general public.
4. Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
 5. A licensing and regulatory scheme as prescribed in this chapter facilitates enforcement of the City's zoning, property maintenance, nuisance, and building code regulations, and assists the City in preventing deterioration of surrounding properties, protecting neighborhood character, and monitoring sexually oriented businesses for adverse secondary effects on the community.
 6. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

SECTION 98: AMENDMENT “11.44.020 Definitions - Sexually Oriented Businesses” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.44.020 Definitions - Sexually Oriented Businesses

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

~~**ADULT ENTERTAINMENT CENTER.** An enclosed building or a part of an enclosed building, a portion of which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person 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 pubic hair, anus, cleft of the buttocks, vulva, or genitals, or the charging of any admission fee for the viewing of this type of activity.~~

~~**ADULTS ONLY BOOKSTORE.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for rent, sale, or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined in this section, or an establishment with a segment or section devoted to the sale, rental, or display of this type of material, for sale or rental to patrons therein. A “substantial or significant portion” of its stock in trade shall be deemed to exist if 10% or more of the gross revenue from the business is derived from this type of sales or rentals, or if 10% or more of the floor area of the building used for these purposes is occupied by this stock in trade.~~

~~**ADULTS ONLY THEATER.** An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing, or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined in this section, for observation by patrons therein.~~

~~**MESSAGE PARLOR.** An establishment or place primarily in the business of providing massage services.~~

~~**NUDITY.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depicting of covered male genitals in a discernibly turgid state.~~

~~**RAP PARLOR.** An establishment or place primarily in the business of providing non-professional conversation or similar services for adults.~~

~~**SADOMASOCHISTIC ABUSE.** Flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.~~

~~**SAUNA.** An establishment or place primarily in the business of providing:~~

- ~~A. A steam bath; and~~
- ~~B. Massage services.~~

~~**SEXUAL CONDUCT.** Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such a person be a female, her breast.~~

~~**SEXUAL EXCITEMENT.** The condition of human male or female genitals when in a state of sexual stimulation or arousal.~~

SEXUALLY ORIENTED BUSINESS. Includes (1) any business that, measured on a daily, weekly, monthly, or yearly basis, has more than twenty-five percent (25%) of its inventory, stock-in-trade, or publicly displayed merchandise consisting of sexually oriented materials; devotes more than twenty-five percent (25%) of its floor area, excluding storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public, to sexually oriented materials; or derives more than twenty-five percent (25%) of its gross revenues from sexually oriented materials or (2) any business that engages, for any length of time, in a sexually oriented use as defined in this section or in any other use that emphasizes specified sexual activities or specified anatomical areas.

SEXUALLY ORIENTED MATERIALS. Any visual, printed, or aural materials, or any objects or devices, that contain, depict, simulate, or describe specified sexual activities or specified anatomical areas; that are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or that are designed for sexual stimulation.

SEXUALLY ORIENTED USE. Any of the following activities and businesses, even if the activity exists for only a short time:

ADULT BODY PAINTING STUDIO. An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

ADULT BOOKSTORE. An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.

ADULT CABARET. A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (a) the depiction of nudity, specified sexual

activities or specified anatomical areas; or (b) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

ADULT CAMPANIONSHIP ESTABLISHMENT. A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT CONVERSATION/RAP PARLOR. A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT HEALTH/SPORT CLUB. A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT HOTEL OR MOTEL. A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT MODELING STUDIO. A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

ADULT MOTION PICTURE ARCADE. Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used 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.

ADULT MOTION PICTURE THEATER. A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

ADULT NOVELTY BUSINESS. An establishment or business that has a variety of items for sale if it meets the criteria established in division (1) of the definition of “sexually oriented business” defined in this section.

ADULT SAUNA. A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT STEAM ROOM/BATHHOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS. Shall include the following: (1) less than completely and opaquely covered human genitals, pubic area, buttocks, anus, or female breast below a point immediately above the top of the areola; and (2) human male genitals in a state of sexual arousal,

whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Shall include 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; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia; (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 regions, buttocks, or female breasts; (5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person; (6) erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or (7) human excretion, urination, menstruation or vaginal or anal irrigation.

SECTION 99: **AMENDMENT** “11.44.030 Zoning Restriction” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.44.030 ~~Zoning Restriction~~Exceptions

This chapter does not regulate the following:

A. Material with significant literary content or social commentary;

B. A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;

C. A person or organization exempted under M.S. § 617.295;

D. Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license; and

E. Movies rated G, PG, PG-13, NC-17 or R.

~~No sexually oriented businesses shall be permitted to be located in any area which is zoned other than C-1 (commercial).~~

SECTION 100: **AMENDMENT** “11.44.040 Special Use Permit Required; Conditions”
of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.44.040 ~~Special Use Permit Required; Conditions~~ License Required

~~A. Within the C-1 zoning district, sexually oriented businesses shall be permitted only by special use permit, to be issued on an annual basis, to be reviewed on an annual basis.~~

~~B. The special use permit shall be issued, with the following exceptions, which shall apply to all special use permits issued for sexually oriented businesses:~~

~~1. Conditions common to all sexually oriented businesses.~~

~~a. *Location.* All sexually oriented businesses shall exist in free-standing buildings, located at least 500 feet from any structure containing any public or private school, church, licensed day care center, public library, park, or municipal building. All sexually oriented businesses shall be located at least 500 feet from any residential district.~~

~~b. *Parking.* All driveways and parking facilities shall be paved with concrete or bituminous material in accordance with specifications to be established from time to time by the City Engineer.~~

~~c. *Illumination.* Parking lots and access roads shall be illuminated by exterior lighting facilities with a sufficient candle power or illuminating capacity to meet standards which shall be from time to time established and publicly available through the office of the City Engineer.~~

~~d. *Inspection.* During business hours, all areas of the facility shall be open and available for inspection by law enforcement personnel, public health officials, and Fire Department or building code officials. The premises of each business shall be completely covered by television camera surveillance devices, with sufficient closed circuit monitors to permit the inspection of all locations within and without the premises on a constant basis. These monitors shall be available to law enforcement personnel at all times during business hour operations. Standards for the quality and type of television camera monitoring equipment shall be established at the time of issuance of the special use permit, by the City Council upon recommendation of its staff and other experts as may be employed by the City Council.~~

~~e. *Minors.* No person under the age of 18 years shall be permitted on or about the premises, whether or not accompanied by an adult, at any time.~~

~~f. *Signage.* No exterior signage containing reference to any of the activities going on within the business shall be permitted except a simple, generic sign identifying the type of establishment, as defined in SLPC 11.44.020. Sign lettering shall not exceed six inches in height. Sign prohibition shall not include the AIDS warning sign noted below.~~

~~g. *AIDS warning.* Each sexually oriented business shall display, immediately adjacent to its main entrance, an AIDS warning sign. The AIDS warning sign shall be purchased from the city, which shall charge a fee equal to the cost of production of the sign. The content of the AIDS warning sign shall be as determined from time to time by the City Council and shall not be altered in any way by the merchant displaying the sign. The sign shall be displayed at all times and shall be illuminated at all times.~~

~~h. *Annual fee and information.* Each sexually oriented business shall pay an~~

annual license fee to be established from time to time by resolution of the City Council.

- (1) Prior to issuance of the license, the owner of each sexually oriented business shall provide the following information to the city:
 - (A) The type of business organization which owns the business, e.g., corporation, partnership, proprietorship;
 - (B) The names and addresses of all stockholders, partners, or other persons interested in the ownership of the business; and
 - (C) Other information as the City Council may from time to time direct. Forms shall be prepared by city staff listing the types of information which are deemed necessary for investigation of the background of the owner of any sexually oriented business.
 - (2) No person shall be eligible, and no business shall be eligible, to obtain a special use permit for a sexually oriented business if any principal, stockholder, or other interested party having an interest in the business has ever been convicted of any type of felony, or has ever been convicted of any type of gross misdemeanor or misdemeanor involving a sexual offense or illegal sale of liquor, tobacco, or other materials to minors.
- i. *Alcohol and drugs.* No sexually oriented business shall permit on the premises any alcoholic beverage or other mood-altering substances. Owners of all sexually oriented businesses shall make concerned efforts to prohibit any illicit or illegal activities from taking place upon their premises, including the illegal sale, use, or distribution of alcohol or controlled substances, or acts of prostitution or criminal sexual conduct of any kind.
 - j. *Revocation.* All special use permits for sexually oriented businesses shall be subject to revocation under the procedures established for revocation of special use permits for any violation of any term or condition of the special use permit. Further, upon the revocation of a special use permit for a violation, the premises where the violation occurred shall not be eligible for another special use permit for a sexually oriented business for a period of ten years following that revocation.
 - k. *Other codes.* All sexually oriented businesses shall strictly observe the conditions of all state, fire, health, and building codes. All buildings housing sexually oriented businesses shall be completely sprinkled with an approved fire detection and sprinkler system.
 - l. *Consumables.* No sexually oriented business shall engage in the sale or distribution of any item for human consumption, and no sexually oriented business shall be eligible for any vending machine license of any kind.
 - m. *Violations of law.* The special use permit of any sexually oriented business shall be subject to revocation in the event any employee, owner, interested principal, or agent of the business is convicted of any of the following crimes on more than one occasion within any calendar year, or on three occasions within any ten-year period:
 - (1) Prostitution;
 - (2) Sale of any material, device, or item to any minor which is prohibited by state law;
 - (3) Trafficking in controlled substances including the use, possession, or distribution thereof; or

- (4) Any sex crime as defined in M.S. §§ 609.293 - 609.352, inclusive, as they may be amended from time to time.

2. *Conditions common to bookstores.*

- a. *Windows.* All bookstores shall be completely surrounded on the exterior walls by transparent windows which shall not be covered in any manner. Windows shall be at least four feet in height, and the interior of the premises shall be illuminated at all times during regular business hours. Windows shall not be tinted and shall be specifically designed and aligned so as to permit the observance from the outside of patrons and employees on the inside.
- b. *Booths.* No private booths of any kind will be allowed within the bookstore, excepting a private business office for use only by store employees. All other areas of bookstores at all times shall be open and accessible.
- c. *Parking.* Each bookstore shall provide one parking stall for every ten square feet of retail floor space located in the bookstore.

3. *Conditions common to theaters.*

- a. *Parking.* One parking stall shall be provided for every ten square feet, as measured at the foundation level, of the building housing the theater, or one space per seat allocated for patron seating, whichever figure is greater.
- b. *Obscenity.* For any theater offering live entertainment, the following activities are hereby defined as obscene and shall be prohibited:
 - (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, piqueurism, sapphism, or zooerastia;
 - (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 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 restraining of those persons;
 - (6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
 - (7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

4. *Conditions common to parlors.*

- a. *Enclosures.* No private booths or enclosed areas shall be permitted in any parlor or any sauna having a steam bath facility; any such steam bath shall be completely surrounded by transparent windows, to permit observation of all areas within those steam baths from the outside. A massage parlor or sauna may provide for separate enclosed areas where members of the same sex may be shielded from view from members of the opposite sex, but for no other purposes.
- b. *Obscenity.* No person shall engage in any of the acts described in Paragraph

B,3,b, publicly or in private, for remuneration or no remuneration, in any parlor.

5. *Additional conditions.* The City Council, upon recommendation of its Planning Commission, may make or propose other conditions and restrictions on sexually oriented businesses as the City Council deems from time to time to be appropriate, where those restrictions or regulations are designed to protect the general health, safety, and welfare of the public.

No person may own or operate a sexually oriented business within the city unless the person is currently licensed under this chapter.

SECTION 101: **AMENDMENT** “11.44.050 Initial Investigation Fee” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.44.050 ~~Initial Investigation Fee~~ Persons Ineligible

~~In addition to the annual permit fee required by SLPC 11.44.040 Paragraph B,1,h, at the time of initial application for a special use permit, an initial investigation fee shall be charged, in an amount to be established from time to time by resolution of the City Council.~~

No license may be issued to a person who:

A. Is not a citizen of the United States or a resident alien;

B. Is a minor at the time the application is filed;

C. Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually oriented business under

M.S. § 364.03, Subd. 3, as it may be amended from time to time, or a person not of good moral character and repute;

D. Holds a liquor license under SLPC 11.08;

E. In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license; or

F. Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application.

SECTION 102: **ADOPTION** “11.44.060 Places Ineligible” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.060 Places Ineligible(*Added*)

No license may be issued for:

- A. A place or a business ineligible for a license under city ordinance or state law;
- B. Operation in a zoning district where the business is not allowed pursuant to SLPC 16;
- C. A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or
- D. Operation on a premises on which taxes, assessments or other financial claims of the city or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

SECTION 103: **ADOPTION** “11.44.070 License Application” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.070 License Application(*Added*)

- A. The application for a sexually oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:
- 1. The business in connection with which the proposed license will operate;
 - 2. The location of the business premises;
 - 3. The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;
 - 4. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
 - 5. Whether the applicant is the owner and operator of the business and if not, who is;
 - 6. Whether the applicant has ever used or been known by a name other than his or her true name, and if so, what was the name or names, and information concerning dates and places where used;
 - 7. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
 - 8. Street address at which the applicant and spouse have lived during the preceding ten years;
 - 9. Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;
 - 10. Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;
 - 11. Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;
 - 12. Whether the applicant or spouse has ever been engaged as an employee or in operating a

sexually oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;

13. Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;

14. If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners must be designated. The interest of each partner or partners in the business must be submitted with the application and, if the partnership is required to file a certificate as to trade name under the provisions of M.S. Ch. 333, as it may be amended from time to time, a copy of the certificate must be attached to the application;

15. If the applicant is a corporation or other organization, the applicant must submit the following:

a. Name, and if incorporated, the state of incorporation;

b. Names and addresses of all officers;

c. The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and

d. A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

16. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade, and proof of the source of the money;

17. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state;

18. Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;

19. Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and

20. Other information that the city deems appropriate.

B. No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.

C. Each licensee has the continuing duty to properly notify the Administrator, Clerk/Treasurer of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for revocation or suspension of the license.

D. The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.

SECTION 104: **ADOPTION** “11.44.080 Fees” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.080 Fees(*Added*)

- A. An applicant for a license must pay to the city the investigation fee specified in the Ordinance Establishing Fees and Charges, adopted pursuant to SLPC 3.16.030, as that ordinance may be amended from time to time. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.
- B. The annual fees for a license are set forth in the Ordinance Establishing Fees and Charges, adopted pursuant to SLPC 3.16.030 of this code, as that ordinance may be amended from time to time.
- C. Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.
- D. No refund of a fee will be made except as authorized by ordinance.

SECTION 105: **ADOPTION** “11.44.090 Granting Of Licenses” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.090 Granting Of Licenses(*Added*)

- A. No license may be issued until the Police Department has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate with this investigation.
- B. No license, except for a renewed license, may be issued for a sexually oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in SLPC 16 of this code, for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application.

If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

- C. 1. The City Council may issue a license before an investigation, notice and public hearing for an applicant who:
- a. Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;
 - b. Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;
 - c. Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and
 - d. Otherwise qualifies and meets the requirements for a license.
2. In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.
- D. A license will 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 application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.
- E. In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

SECTION 106: **ADOPTION** “11.44.100 Conditions Of License” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.100 Conditions Of License(*Added*)

- A. A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.
- B. A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as

well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.

C. The license must be posted in a conspicuous place in the premises for which it is used.

SECTION 107: **ADOPTION** “11.44.110 Restrictions And Regulations” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.110 Restrictions And Regulations(*Added*)

A sexually oriented business is subject to the following restrictions and regulations:

- A. No owner, manager or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- B. No owner, manager or employee may allow a person under the age of 18 to enter the business.
- C. No owner, manager or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch or other means.
- D. No owner or manager may employ a person under the age of 18 on the licensed premises.
- E. No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.
- F. No business may exceed 10,000 square feet in gross floor area.
- G. No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.
- H. A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.
- I. No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
 - 1. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
 - 2. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.

J. A licensee must not be open for business to the public:

1. Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday; and
2. Between 1:00 a.m. and 12:00 noon on Sundays.

SECTION 108: **ADOPTION** “11.44.120 Suspensions And Revocations” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.120 Suspensions And Revocations(*Added*)

A. Delinquent taxes. The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.

B. Violations.

1. The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in Paragraph (B)(2). No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in Paragraph (B)(2).
2. Conviction of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

C. Prompt judicial review. Prompt and final judicial review shall be provided to any applicant or licensee when a license is denied, suspended or revoked.

SECTION 109: **ADOPTION** “11.44.130 Penalty” of the Spring Lake Park Municipal Code is hereby *added* as follows:

A D O P T I O N

11.44.130 Penalty(*Added*)

Except as otherwise provided by state law, a person violating a provision of this chapter is subject to the penalties established in SLPC 1.04.200. A fine or sentence imposed does not affect the right of the city

to suspend or revoke the license of the licensee as the Council deems appropriate.

SECTION 110: **AMENDMENT** “11.52.010 Purpose” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.52.010 Purpose

The purpose and intent of this chapter is to establish regulations that will allow law enforcement access to Minnesota’s computerized criminal history information for specified non–criminal purposes of licensing background checks.

SECTION 111: **AMENDMENT** “11.52.020 Criminal History License Background Investigations” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.52.020 Criminal History License Background Investigations

A. The Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following licenses within the city:

1. Peddlers, solicitors and transient merchants;
2. Tobacco;
3. Intoxicating liquor;
4. Wine and 3.2% malt liquor;
- ~~5. Liquor pawnbrokers;~~
6. Pawnbrokers and ~~S~~second-hand goods dealers;
- ~~7. Dealer vehicles for hire;~~
- ~~8. Sauna;~~
9. Massage services;
10. Sexually oriented business;
11. Lawful gambling premises;
- ~~12. Permit bingo hall;~~
13. Kennel license; and
14. Used motor vehicle~~car~~ dealers~~hip~~.

B. *Conducting the criminal history background investigation.* In order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee and shall be classified and handled in accordance with M.S. Ch. 13, as it may be amended from time to time. A summary of the results of the Computerized Criminal History

data may be released by the Police Department to the licensing authority, including the City Council, the City Administrator or other city staff involved in the license approval process.

- C. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. The City shall evaluate an applicant's criminal history in accordance with M.S. Ch. 364, as it may be amended from time to time. A license may be denied based on criminal history only if the conviction is directly related to the licensed activity and the applicant has not demonstrated sufficient rehabilitation and present fitness to perform the duties of the licensed activity. ~~Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence.~~ If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:
1. The grounds and reasons for the denial;
 2. The applicant's complaint~~complaint~~ and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;
 3. The earliest date the applicant may reapply for the license; and
 4. That all competent evidence of rehabilitation will be considered upon reapplication.

SECTION 112: **AMENDMENT** “11.52.030 Investigation Fee” of the Spring Lake Park Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.52.030 Investigation Fee

~~Upon application, the potential licensee must pay an investigation fee which shall be set from time to time by Council resolution to cover the cost of the investigation.~~ Upon submission of an application, the applicant shall pay a background investigation fee in an amount established by the City's ordinance establishing fees and charges, as may be amended from time to time. The fee shall be nonrefundable and shall cover the cost of conducting the investigation. No application shall be deemed complete, and no investigation shall commence, until the required investigation fee has been paid.

SECTION 113: **EFFECTIVE DATE** This ordinance shall become effective upon its passage and publication according to law.

PASSED AND ADOPTED BY THE SPRING LAKE PARK COUNCIL ON THIS ____ DAY OF AUGUST, 2026

	A Y E	N A Y	A B S E N T	A B S T A I N
Councilmember Wendling	_____	_____	_____	_____
Councilmember Goodboe-Bisschoff	_____	_____	_____	_____
Councilmember Dircks	_____	_____	_____	_____
Councilmember Moran	_____	_____	_____	_____
Mayor Nelson	_____	_____	_____	_____

P r e s i d i n g O f f i c e r

A t t e s t

Robert Nelson, Mayor, Spring Lake
Park

Daniel R. Buchholtz, Administrator,
Clerk/Treasurer, Spring Lake Park