



CITY COUNCIL WORK SESSION AGENDA
MONDAY, APRIL 06, 2026

SPRING LAKE PARK CITY HALL, 1301 81ST AVE NE at 5:30 PM

- 1. CALL TO ORDER**
- 2. DISCUSSION ITEMS**
 - A. Business Ordinance Updates (*Buchholtz*)
 - B. State Flag Discussion (*Nelson*)
- 3. REPORT**
 - A. Council/Staff Reports
- 4. ADJOURN**

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk at 1301 81st Avenue NE, Spring Lake Park, MN 55432. Ph.763-784-6491 at least 48 hours in advance.

One or more City Councilmembers may participate in this meeting remotely using interactive technology, in compliance with the Minnesota Open Meeting Law (M.S. §13D.02).

City of Spring Lake Park Staff Report



Agenda Date	Status
April 6, 2026 Work Session	
Requestor	Agenda Section
Administrator Buchholtz	Discussion
Agenda Item #: 2b	
Business Ordinance Updates, part 2	
Executive Summary	
<p>Staff is in the process of updating the City’s business regulation ordinances to improve clarity, modernize standards, and ensure alignment with current state law and best practices. A first draft has been completed for the following sections: liquor regulations (last updated 2024), tobacco regulations (last updated 2020), sexually oriented businesses (1992), pawnbrokers and secondhand goods dealers (1990, with updates in 1994, 1995, 1997, 2000, 2002, 2003, 2004, 2008, 2013 and 2020), used car dealers (2011).</p> <p>These updates reflect substantial modernization of provisions that, in several cases, have not been comprehensively reviewed in decades. Staff is seeking City Council feedback on the initial drafts to confirm policy direction before forwarding the revised sections to the City Attorney for formal legal review.</p>	
Background	
<p><u>Liquor Regulations</u></p> <p>The proposed updates to Chapter 11.08 are primarily organizational and technical in nature. The ordinance has been restructured into clearer, more discrete sections to improve readability and day-to-day administration, and to better align with current code drafting practices. The revisions also include minor corrections to internal references to ensure consistency and accuracy. These changes do not alter the City’s underlying licensing framework, operational standards, or authority under Minnesota Statutes Chapter 340A, but instead provide a cleaner and more usable ordinance for staff, applicants, and enforcement.</p> <p><u>Tobacco Regulations</u></p> <p>The proposed updates to Chapter 11.12 modernize and strengthen the City’s tobacco licensing ordinance to reflect current law, public health data, and evolving retail practices. The revisions expand and update the purpose and findings section with current Minnesota-specific data and research to support the City’s regulatory authority, and significantly refine definitions to address electronic delivery devices, nicotine products, and emerging product</p>	

types. The ordinance clarifies licensing procedures, strengthens compliance check requirements, and updates unlawful sales and operational standards, including continued prohibitions on vending machines and self-service merchandising. Enforcement provisions are also enhanced through revised administrative penalties, updated hearing procedures, and clearer accountability for licensees and employees. Overall, the changes improve clarity, strengthen enforceability, and align the ordinance with current best practices, while maintaining the City's existing licensing framework.

Massage Services

The proposed updates to Chapter 11.40 refine and strengthen the City's regulatory framework for massage services, with a focus on improving clarity, enforceability, and public safety protections. The revisions expand the findings section to better document the public health and safety rationale for regulation, including risks associated with certain locations such as hotel and motel rooms, and incorporate sauna-related uses into this chapter, allowing for the elimination of the standalone sauna ordinance. Definitions and licensing requirements are clarified, and application, background investigation, and eligibility standards are updated for consistency with Minnesota law. The ordinance also strengthens operational requirements, including restrictions on where services may be performed, enhanced accountability for licensees, updated professional conduct standards, and revised provisions related to local management and service of process. Overall, the changes modernize the ordinance, address known enforcement challenges, and provide a clearer and more defensible framework for regulating massage and related services within the City.

Pawnbrokers and Secondhand Goods Dealers

The proposed updates to Chapter 11.16 consolidate the City's regulation of pawnbrokers and secondhand goods dealers into a single, unified ordinance, allowing for repeal of the standalone secondhand goods chapter. The revisions expand the purpose and definitions to clearly incorporate both business types and establish consistent regulatory standards across them. The ordinance strengthens licensing requirements, including updated application, investigation, and eligibility provisions, and increases the required bond amount to enhance consumer protection. Operational requirements are also modernized, including expanded recordkeeping, electronic transaction reporting, and law enforcement coordination provisions to improve tracking of goods and support criminal investigations. Additional updates clarify enforcement authority, administrative penalties, and compliance expectations. Overall, the changes streamline administration, improve consistency, and provide a more effective and enforceable framework for regulating pawnbrokers and secondhand goods dealers.

Sexually Oriented Businesses

The proposed updates to Chapter 11.44 modernize and strengthen the City's regulatory framework for sexually oriented businesses, with a focus on improving clarity, enforceability, and legal defensibility. The revisions expand and update the findings section to incorporate recognized secondary-effects studies, including the Minnesota Attorney General's Working Group report, to support the City's regulatory authority. Definitions are clarified and expanded to reflect current business models, including the incorporation of sauna-related uses into this chapter, allowing for elimination of the standalone sauna ordinance. The ordinance also refines licensing procedures, eligibility standards, and operational requirements, including enhanced location restrictions, inspection authority, and performance standards aimed at mitigating adverse secondary impacts. Overall, the changes provide a clearer, more comprehensive, and more defensible framework for regulating sexually oriented businesses while maintaining the City's existing policy approach.

Used Motor Vehicle Dealers

The proposed updates to Chapter 11.20 establish a comprehensive and modern licensing framework for used motor vehicle dealers, replacing more limited or outdated provisions. The ordinance introduces detailed application requirements and clear licensing standards, including criteria for denial based on prior violations, criminal history consistent with Minnesota Statutes Chapter 364, and overall fitness to operate the business. It also incorporates operational requirements tied to zoning, including vehicle storage on approved surfaces and a separation requirement between dealerships to address land use compatibility. In addition, the chapter formalizes City Council authority for license action and establishes a structured administrative penalty framework to improve enforcement and compliance. Overall, the changes strengthen consumer protection, improve regulatory clarity, and provide a more consistent and enforceable framework.

License Background Checks

The proposed updates to Chapter 11.52 clarify and modernize the City's process for conducting criminal history background investigations for business license applicants. The ordinance updates the list of licenses subject to background checks to reflect recent ordinance changes, including consolidation of pawnbrokers and secondhand goods dealers and removal of obsolete license types such as vehicles for hire. The revisions also strengthen alignment with Minnesota Statutes Chapters 13 and 364 by clarifying data handling requirements, consent procedures, and the standards for evaluating criminal history, including rehabilitation and fitness considerations. In addition, the investigation fee provisions are updated to align with the City's fee schedule and to clearly establish when an application is considered complete. Overall, the changes improve consistency, ensure legal compliance, and provide a clearer and more defensible framework for licensing decisions.

Board/Commission Review

N/A

Financial Impact

Cost of publication; City attorney review costs

Staff Recommendation

Staff recommends that the City Council review the proposed ordinance updates and provide feedback on the policy direction and regulatory framework reflected in the drafts. Based on Council input, staff will finalize the revisions and forward the ordinances to the City Attorney for legal review. Following legal review, the ordinances will be brought back to the City Council for formal consideration and potential adoption.

Attachments

1. Liquor Regulations Proposed Ordinance Update
2. Tobacco Regulations Proposed Ordinance Update
3. Massage Services Proposed Ordinance Update
4. Pawnbrokers and Secondhand Goods Dealers Proposed Ordinance Update
5. Sexually Oriented Businesses Proposed Ordinance Update
6. Used Motor Vehicle Dealers Ordinance Update
7. License Background Checks Proposed Ordinance Update

11.08 LIQUOR REGULATIONS

11.08.010 License Regulations

11.08.010 Adoption Of State Law By Reference.

11.08.020 City May Be More Restrictive Than State Law

11.08.030 Definitions

11.08.040 Nudity On The Premises Of Licensed Establishments Prohibited

11.08.050 Consumption In Public Places

11.08.060 Number Of Licenses Which May Be Issued

11.08.070 Term And Expiration Of Licenses

11.08.080 Kinds Of Liquor Licenses

11.08.090 License Fees; Pro Rata

11.08.100 Council Discretion To Grant Or Deny A License

11.08.110 Application For License

11.08.120 Description Of Premises

11.08.130 Application For Renewal

11.08.140 Transfer Of License

11.08.150 Investigation

11.08.160 Hearing And Issuance

11.08.170 Restrictions On Issuance

11.08.180 Conditions Of License

11.08.190 Hours And Days Of Sale

11.08.200 Minors On Premises

11.08.210 Restrictions On Purchase And Consumption

11.08.220 Suspension And Revocation

11.08.230 Penalties

11.08.010 License Regulations

- ~~1. *Adoption Of State Law By Reference.* The provisions of M.S. 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% malt liquor are hereby adopted by reference and are made a paragraph of this section as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this section is adopted.~~
- ~~2. *City May Be More Restrictive Than State Law.* 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.~~
- ~~3. *Definitions.* 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".~~

~~4. *Nudity On The Premises Of Licensed Establishments Prohibited.*~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. 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 Paragraph W,2.~~

~~5. *Consumption In Public Places.*~~

- ~~1. 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.~~
- ~~2. 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.~~

~~6. *Number Of Licenses Which May Be Issued.* 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 number of off-sale intoxicating liquor licenses which may be granted by the Council shall be further limited to one license until January 1, 2026. The Council is not required to issue the full number of licenses that it has available.~~

~~7. *Term And Expiration Of Licenses.* 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.~~

~~8. *Kinds Of Liquor Licenses.* The Council is authorized to issue the following licenses and permits, up to the number specified in Paragraph F:~~

- ~~1. 3.2% malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.~~
- ~~2. 3.2% malt liquor off-sale license.~~
- ~~3. Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.~~

- ~~4. Off sale intoxicating liquor licenses, which 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 M.S. § 340A.408, subd. 3, as it may be amended from time to time.~~
- ~~5. 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 Paragraph I 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.~~~~
- ~~6. 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 Paragraph C, 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 Paragraph I, 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.~~
- ~~7. 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.~~
- ~~8. 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 Paragraph C; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404(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 Paragraph I, 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.~~

- ~~9. 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 Paragraph I 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.~~
- ~~10. 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.~~
- ~~11. 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.~~
- ~~12. 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 _____ Paragraph _____ (I).~~
- ~~13. 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 H,12, 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.~~
- ~~14. 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 H,11 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 H,11, 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. § 340.301, 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.~~

- ~~15. 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.~~
- ~~16. 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.~~
- ~~17. 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.~~
- ~~18. 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.~~

~~19. 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.~~

~~9. *License Fees; Pro Rata.*~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis.~~
- ~~4. 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.~~
- ~~5. 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 Paragraph N 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.~~~~
- ~~6. 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 Paragraph V of this ordinance.~~~~

~~10. *Council Discretion To Grant Or Deny A License.*~~

- ~~1. 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.~~
- ~~2. The Council may take into consideration any nuisance call or calls relating to the premises when considering the operation of the premises, application, transfer, modification or renewal of any license. For the purposes of this paragraph, **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.~~
- ~~3. 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.~~

~~11. Application For License:~~

- ~~1. *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.~~
- ~~2. *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.~~
- ~~3. *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.~~

- ~~12. *Description Of Premises.* 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.~~
- ~~13. *Application For Renewal.* 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.~~
- ~~14. *Transfer Of License.* 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.~~
- ~~15. *Investigation.*~~
- ~~1. *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.~~
 - ~~2. *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 SLPC 3.16.030 Paragraph A. 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.~~
- ~~16. *Hearing And Issuance.* 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.~~

~~17. Restrictions On Issuance.~~

- ~~1. Each license shall be issued only to the applicant for the premises described in the application.~~
- ~~2. Not more than one license shall be directly or indirectly issued within the city to any one person.~~
- ~~3. 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.~~
- ~~4. No license shall be issued for any place or any business ineligible for a license under state law.~~
- ~~5. 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.~~

- ~~6. 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.~~
- ~~7. 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 special use permit pursuant to SLPC 11.44.~~

~~18. *Conditions Of License.* 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.~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. 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.~~
- ~~4. No on sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.~~
- ~~5. Compliance with financial responsibility requirements of state law and of this section is a continuing condition of any license.~~
- ~~6. Failure by an off sale intoxicating liquor licensee who has received a fee reduction pursuant to Paragraph I,6 to abide by the provisions of Paragraph I,6.~~

~~19. *Hours And Days Of Sale.*~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. 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.~~
- ~~4. 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.~~
- ~~5. Any violation of any condition of this paragraph may be grounds for revocation or suspension of the license.~~

~~20. *Minors On Premises.*~~

- ~~1. 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.~~
- ~~2. 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.~~

~~21. *Restrictions On Purchase And Consumption.* 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.~~

~~22. *Suspension And Revocation.*~~

- ~~1. 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.~~
- ~~2. 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 V,1 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:
 - ~~1. 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.~~
 - ~~2. 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.~~
 - ~~3. 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.~~
 - ~~4. For a fourth violation within any three year period, the license shall be revoked.~~~~
 - ~~3. The periods listed in Paragraph V,2,b 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.~~~~
- ~~3. 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 this Paragraph V,2 shall continue until the Council determines that the financial responsibility requirements of state law and this section have again been met.~~

~~23. Penalties.~~

- ~~1. 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.~~
- ~~2. 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.~~
- ~~3. The term **VIOLATION** as used in Paragraph V 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.~~

HISTORY

Amended by Ord. 495 on 7/1/2024

11.08.010 Adoption Of State Law By Reference.

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.

11.08.020 City May Be More Restrictive Than State Law

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.

11.08.030 Definitions

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".

11.08.040 Nudity On The Premises Of Licensed Establishments Prohibited

1. 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.
2. 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.
3. 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.XX.

11.08.050 Consumption In Public Places

1. 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.
2. 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.

11.08.060 Number Of Licenses Which May Be Issued

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.

11.08.070 Term And Expiration Of Licenses

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.

11.08.080 Kinds Of Liquor Licenses

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

1. 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.
2. 3.2 percent malt liquor off-sale licenses.

3. Temporary 3.2 percent malt liquor licenses may be issued only to a club, charitable, religious, or nonprofit organization.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.

11.08.090 License Fees; Pro Rata

1. 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.

2. 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.
3. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis.
4. 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.
5. 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.
6. 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.XXX of this ordinance.

11.08.100 Council Discretion To Grant Or Deny A License

1. 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.
2. The Council may take into consideration any nuisance call or calls relating to the premises 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.
3. 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.

11.08.110 Application For License

1. 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.
2. 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.
3. 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.

11.08.120 Description Of Premises

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.

11.08.130 Application For Renewal

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.

11.08.140 Transfer Of License

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.

11.08.150 Investigation

1. 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.
2. 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 SLPC 3.16.030 Paragraph A. 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.

11.08.160 Hearing And Issuance

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.

11.08.170 Restrictions On Issuance

1. Each license shall be issued only to the applicant for the premises described in the application.
2. Not more than one license shall be directly or indirectly issued within the city to any one person.
3. 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.

4. No license shall be issued for any place or any business ineligible for a license under state law.
5. 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.
6. 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.
7. 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.

11.08.180 Conditions Of License

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.

1. 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.
2. 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.

3. 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.
4. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
5. Compliance with financial responsibility requirements of state law and of this section is a continuing condition of any license.
6. 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.

11.08.190 Hours And Days Of Sale

1. 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.
2. 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.
3. 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.
4. 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.
5. Any violation of any condition of this paragraph may be grounds for revocation or suspension of the license.

11.08.200 Minors On Premises

1. 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.
2. 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.

11.08.210 Restrictions On Purchase And Consumption

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.

11.08.220 Suspension And Revocation

1. 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.

2. 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:
 1. 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.
 2. 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.
 3. 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.
 4. 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.
3. 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.

11.08.230 Penalties

1. 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.
2. 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.

3. 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.

2 TOBACCO REGULATIONS

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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~~ ^{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). *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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.020 Definitions And Interpretations - Tobacco Regulations

1. 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.
2. 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.

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.

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, provided or otherwise made available for use by a customer, potential customer or any other person a ~~smoking~~ tobacco-related device, electronic delivery device, nicotine or lobelia delivery device, hookah, water pipe or similar 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-RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, wrap, ashtray or other device intentionally designed or intended to be used ~~within 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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.030 License

1. *License required.* No person shall sell or offer to sell any ~~tobacco-related~~licensed products without first having obtained a license to do so from the city.
2. *Application.* An application for a license to sell ~~tobacco, tobacco-related products~~licensed 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.
3. *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.
4. *Term.* All licenses issued under this chapter shall expire on December 31 of each year.
5. *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.
6. *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.
7. *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.
8. *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
9. *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.
10. *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.

11.12.040 License Fees

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The annual fee for a license under this chapter shall be established in the city's ordinance establishing fees and charges, as may be amended from time to time. Initial license applications covering a period of less than one year shall be charged a fee calculated on a monthly pro rata basis.

11.12.050 Basis For Denial Of License

1. The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license:
 1. The applicant is under the age of 21 years;
 2. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco-related products;
 3. The applicant has had a license to sell tobacco-related products revoked within the preceding 12 months of the date of the application;
 4. The applicant fails to provide any information required on the application, or provides false or misleading information; or
 5. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding this type of license.
2. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.060 Unlawful Sales

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

1. To any person under the age of 21 years;
2. By means of any type of vending machine, ~~except as may otherwise be provided in this chapter;~~
3. 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;
4. By means of loosies ~~as defined in S LPC 11.12.020;~~
5. 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
6. 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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.070 Vending Machines Prohibited

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco-related products by the means of a self-service vending machine.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

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.

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 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~~ 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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.110 Unlawful Acts

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

1. ~~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.~~
2. ~~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.~~
3. ~~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.~~

4. ~~Illegal~~Prohibited furnishing or procurement. It shall be a violation of this chapter for any person ~~under the age of 21~~ years of age or older 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 purchase or otherwise obtain items of this type 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.
5. *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.
6. 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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.120 Smoking Lounges

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

11.12.130 Violations And Penalty

1. *Misdemeanor prosecution.* Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter by a person 21 years of age or older within five years of a previous conviction under the ordinance.
2. *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 the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of \$1,000 must be paid by the person requesting the hearing.
3. *Administrative penalties.*

1. *Licenseses.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of ~~\$75300~~ for a first violation of this chapter, ~~\$200600~~ for a second offense at the same licensed premises within a ~~2436~~-month period, and ~~\$2501,000~~ for a third or subsequent offense at the same location within a ~~2436~~-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 ~~2436~~-month period, the license will be revoked.
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 use a false identification to purchase 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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.140 Exceptions And Defenses

1. 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.
2. 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.

11.40 MASSAGE SERVICES

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11.40.010 Purpose

The purpose of this chapter is to prohibit massage businesses and services to the public except those licensed as therapeutic massage enterprises and massage therapists pursuant to this chapter. The licensing regulations prescribed herein are necessary in order to protect businesses that are operating legitimate enterprises, to prevent criminal activity and to protect the health and welfare of the community. The purpose of this chapter is not to impose restrictions or limitations on the freedom of protected speech or expression.

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.

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.

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:

1. ~~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;~~
2. Has current insurance coverage of \$1,000,000 for professional liability in the practice of massage; and
3. Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and
4. 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.

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.

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.

11.40.040 License Required

1. *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.
2. *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.

11.40.050 Exceptions

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

1. 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;
2. 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;
3. 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;
4. Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings;
5. 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;~~
6. Athletic coaches, directors or trainers employed by public or private schools; and/or
7. 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.

11.40.060 License Application

1. *Therapeutic massage enterprise license application.* An application for a therapeutic massage enterprise license shall be made on a form supplied by the Administrator, Clerk-Treasurer and shall request the following information:
 1. *All applicants.* For all applicants:
 1. Whether the applicant is an individual, corporation, partnership, or other form of organization;
 2. The legal description of the premises to be licensed, together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities;
 3. The floor number, street number, suite number(s) and rooms where the massage services are to be conducted;
 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. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the city's Code Enforcement Department, no plans need be submitted to the issuing authority;
 6. The name and street address 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. § 333.02;
 7. The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment;
 8. All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license and the applicant may be subject to prosecution for forgery as defined by Minnesota Statute;
 9. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
 10. Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place, dates and length of time of the involvement of any and all such establishments;
 11. Such other information as the City Council or issuing authority shall require; and
 12. Applicant is responsible for reading and understanding the city ordinance regarding therapeutic massage and for communicating and providing interpretation when necessary to all massage therapists licensed at the enterprise to ensure compliance.
 2. *Individuals.* For applicants who are individuals:
 1. The name, place and date of birth, and street residence address of the applicant;
 2. Whether the applicant has ever used or been known by a name other than the applicant's name and, if so, the name or names and information concerning dates and places where used;

3. Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States;
 4. Street addresses and dates at which the applicant has lived during the preceding ten years;
 5. The type, name, location and dates of every business or occupation the applicant has been engaged in during the preceding ten years;
 6. Whether the applicant is currently licensed in other communities to perform massage therapy and, if so, where;
 7. Names, addresses, contact information and dates of the applicant's employers for the preceding ten years;
 8. Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had;
 9. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
 10. Whether the applicant has ever been engaged in the operation of massage services. If so, the applicant shall furnish information as to the name, dates, place and length of time of the involvement in such an establishment; and
 11. Such other information as the City Council or issuing authority shall require.
3. *Partnerships.* For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in Paragraph A,1,k,(2). The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application and, if the partnership is required to file a certificate as to a trade name under M.S. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.
 4. *Corporations and other organizations.* For applicants that are corporations or other types of organizations:
 1. The name of the organization and, if incorporated, the state of incorporation;
 2. A true copy of the certificate of incorporation and, if a foreign corporation, a certificate of authority as described in M.S. § 303.02;
 3. The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in Paragraph A,1,k,(2); and
 4. A list of all persons who own or control an interest in the corporation or organization, or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in Paragraph A,1,k,(2).
2. *Massage therapist application.* An application for a massage therapist license shall be made on a form supplied by the Administrator, Clerk-Treasurer and shall request the following information:
 1. The applicant's name and current address;
 2. The applicant's current employer;
 3. The applicant's employers for the previous ten years, including the employer's name, address and dates of employment;
 4. The applicant's addresses and dates for the previous ten years;
 5. The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's MN driver's license or MN I.D., front

- and back, or any other government-issued I.D. If the photocopy is not acceptable to the Police Chief, the Police Department may take photographs for the file;
6. Whether the applicant has ever been arrested, charged or convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the date, time, place, and offense for which arrests, charges or convictions were had;
 7. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
 8. The names, resident and business addresses and contact information of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as to the applicant's character;
 9. Whether the applicant is a United States citizen or resident alien or has the legal authority to work in the United States;
 10. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used;
 11. Whether the applicant has met the definition of a massage therapist in SLPC 11.40.030;
 12. Whether the applicant has ever been the subject of an investigation, public or private, criminal or non-criminal, regarding massage therapy; and
 13. Such other information as the City Council or issuing authority shall require.

11.40.070 License Fees

The fees for a therapeutic massage enterprise and therapist licenses shall be as set forth in SLPC 3.16.030 Paragraph A. An investigation fee shall be charged for therapeutic massage enterprise licenses and an individual therapeutic massage license. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. No investigation fee shall be refunded.

11.40.080 License Application Verification And Consideration

1. *Therapeutic massage enterprise license.* All applications shall be referred to the Chief of Police, or his or her designee, and such other city departments as the Administrator, Clerk-Treasurer shall deem necessary for verification and investigation of the facts set forth in the application. The Chief of Police, or his or her designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The Chief of Police, or his or her designee, is authorized to access data maintained in the State Bureau of Criminal Apprehensions computerized criminal history information system, in accordance with BCA policy. The Chief of Police, or his or her designee, and other consultants shall make a written recommendation to the City Council as to the issuance or nonissuance of the license. The City Council or Chief of Police or his or her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Upon completion of its investigation, the Council shall grant or deny the license.
2. *Massage therapist license.* Within a reasonable period after receipt of a complete application and applicable fees for a massage therapist license, the issuing authority shall make recommendation to grant or deny the application. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized

criminal history inquiry, background check, and/or a driver's license history inquiry on the applicant. The City Council or Chief of Police or his or her designee may order and conduct such additional investigation as it deems necessary, including but not limited to contacting other state agencies. In addition, all applications must include results of a comprehensive national criminal background check from a background investigative provider approved by the city. The national criminal background check is to be obtained and paid for by the therapeutic massage enterprise licensee upon signed release from employee. Notice shall be sent by the Administrator, Clerk-Treasurer by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the City Council within 20 days. If an appeal is properly made, the matter shall be placed on the next available City Council agenda.

11.40.090 Persons Ineligible For License

1. *Therapeutic massage enterprise license.* No therapeutic massage enterprise license shall be issued to an individual or entity which:
 1. Is not 18 years of age or older at the time the application is submitted to the issuing authority;
 2. Has been arrested, charged or convicted of any crime directly related to the occupation licensed, as prescribed by M.S. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee, as prescribed by M.S. § 364.03, subd. 3;
 3. Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last five years of the date the license application is submitted to the issuing authority;
 4. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
 5. Is not of good moral character or repute;
 6. Is not the real party in interest of the enterprise;
 7. Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
 8. Cannot meet the definition of therapeutic massage enterprise in SLPC 11.40.030;
 9. Owes taxes, assessments or other financial claims to the state, county, school district, or city that are due and delinquent; or
 10. Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past ten years.
2. *Massage therapist license.* No massage therapist license shall be issued to a person who:
 1. Is not 18 years of age or older at the time the application is submitted to the issuing authority;
 2. Has been arrested, charged or convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee, as prescribed by M.S. § 364.03, subd. 3;
 3. Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was denied, revoked or suspended within the last ten years of the date the license application is submitted to the issuing authority;
 4. Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
 5. Is not of good moral character or repute;

6. Has knowingly misrepresented or falsified information on a license application at any time in the preceding ten years;
7. Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city; or
8. Cannot meet the definition of massage therapist in SLPC 11.40.030.

11.40.100 Locations Ineligible For Therapeutic Massage Enterprise License

1. *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.
2. *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.
3. *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.
4. *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.
5. *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.

11.40.110 License Restrictions

1. *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.
2. *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.
3. *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.
4. *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.
5. *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.
6. *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.
7. *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.
8. *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.
9. *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.
10. *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.
11. ~~*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.
12. ~~*Inspections.* In light of the high risk of involvement with illegal conduct, an establishment providing massage therapy poses to the general public,~~ *Inspections.* 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.

13. *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.
14. *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.
15. *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.
16. *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.
17. *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.
18. *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.

11.40.120 Restrictions Regarding Sanitation, Health And Safety

1. *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.
2. *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.
3. *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.
4. *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.
5. *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.
6. *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.

11.40.130 Term, Renewal Of License

1. The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire December 31 of the year of issuance. The license fee for a partial calendar year may be prorated to one-half of the annual fee if an application is filed with the issuing authority after June 30.
2. Licenses must be renewed annually. A massage therapist license issued under this chapter shall expire on December 31 of the year of issuance of the license. A therapeutic massage enterprise license issued under this chapter shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.
3. An application for a renewal of an enterprise or individual license shall be made in the same manner as the original application. The license and investigation fees for a renewal shall be the same as those contained in SLPC 11.40.070. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than 10% of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.
4. After the completion of the renewal license verification process, the issuing authority shall present the enterprise license application to the City Council in accordance with this section. If the application is denied, the Administrator, Clerk-Treasurer shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the Administrator, Clerk-Treasurer, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.
5. After the completion of the renewal license verification process, the issuing authority shall present the massage therapist license application to the City Council in accordance with this section. If the application is denied, the Administrator, Clerk-Treasurer shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the Administrator, Clerk-Treasurer, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.

11.40.140 Sanctions For License Violations

1. *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:
 1. A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application;
 2. A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;
 3. Any violation of this chapter or state law;
 4. 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;

5. 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;
 6. 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;_
 7. 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.
 8. Failure to maintain insurance coverage, as required under this chapter; and/or
 9. 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.
 2. *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.
 3. *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.
 4. *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.
 5. *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.

11.40.150 Suspension Of License For Violations

The Chief of Police or his or her designee may immediately suspend a license, pending a hearing, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a breach of the peace or a menace to the health, safety or general welfare of the public, or after repeated complaints received regarding conduct of business practices or method of solicitation.

11.40.160 Penalty

Any person or entity violating the provisions of this chapter is guilty of a misdemeanor under state law, and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this chapter shall constitute a separate offense. Arrests, charges or conviction of a violation of this chapter, while not required, may be grounds for the non-renewal, suspension, denial or revocation of any license issued under this chapter.

11.16 PAWNBROKERS

11.16.010 General Provisions

11.16.020 Licensing

11.16.030 Operating Regulations

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. The City Council further finds that the pawn industry has outgrown the city's current ability to effectively or efficiently identify criminal activity related to 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 pawnbrokers and secondhand goods dealers~~businesses~~, decrease and stabilize costs associated with the regulation of these businesses~~pawn industry~~, and increase identification of criminal activities in these 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 goods 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; or
 9. Goods sold at an exhibition.
- D. *Violations.* Violation of any provision of this chapter shall be misdemeanor.

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 amde 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.

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, ~~The~~ 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 licensee 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.

11.44 SEXUALLY ORIENTED BUSINESSES

11.44.010 Findings And Purpose

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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.

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:~~

- ~~1. A steam bath; and~~
- ~~2. 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 COMPANIONSHIP 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 zoerastia; (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.

11.44.030 Exceptions.

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

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. Activity regulated under M.S. § 617.202;
- E. 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
- F. Movies rated G, PG, PG-13, NC-17 or R.

11.44.040 License Required.

- 1. ~~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.~~
- 2. ~~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.~~
 - 1. ~~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.
 - 2. ~~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.
 - 3. ~~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.
 - 4. ~~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.~~

- ~~5. *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.~~
- ~~6. *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.~~
- ~~7. *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.~~
- ~~8. *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:
 - ~~1. The type of business organization which owns the business, e.g., corporation, partnership, proprietorship;~~
 - ~~2. The names and addresses of all stockholders, partners, or other persons interested in the ownership of the business; and~~
 - ~~3. 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.~~~~
- ~~9. *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.~~
- ~~10. *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.~~

~~11. *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.~~

~~12. *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.~~

~~13. *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:*~~

~~1. *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.~~

~~2. *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.~~

~~3. *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:*~~

~~1. *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.~~

~~2. *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 zoocerastia;~~

~~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, flogging, 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.~~
- ~~1. 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.~~
 - ~~2. 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.

11.44.050 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;
- F. Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application; or

11.44.060 Places Ineligible

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.

11.44.070 License Application

- 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:
 1. (a) Name, and if incorporated, the state of incorporation;
 2. (b) Names and addresses of all officers;
 3. (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
 4. 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.

11.44.080 Fees

- 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.

11.44.090 Granting Of Licenses

- 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. *Interim License Issuance Pending Investigation and Hearing.*
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.

11.44.100 Conditions Of License

- 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.

11.44.110 Restrictions And Regulations

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.

11.44.120 Suspensions And Revocations

- 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.

11.44.130 Penalty

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.

11.20 USED MOTOR VEHICLE DEALERS

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11.20.010 Purpose

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.

11.20.020 Definitions

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.

11.20.030 License Required

- 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.

11.20.040 License Application

- 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.

11.20.050 License Standards

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.

11.20.060 License Term; Fee

- 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.

11.20.070 License Action

- 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.

11.20.080 Storage

- 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.

11.20.090 Violations

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.

11.20.100 Administrative Penalties

- 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, or the licensee's history of compliance.
- 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.

11.52 LICENSE BACKGROUND CHECKS

11.52.010 Purpose

11.52.020 Criminal History License Background Investigations

11.52.030 Investigation Fee

HISTORY

Renumbered by Ord. [483](#) on 9/6/2022

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.

HISTORY

Renumbered by Ord. [483](#) on 9/6/2022

11.52.020 Criminal History License Background Investigations

1. 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 Ssecond-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~~ dealership.
2. *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.
3. 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 ground and reasons for the denial;
2. The applicant ~~complaint~~compliant 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.

HISTORY

Amended by Ord. [483](#) on 9/6/2022

Amended by Ord. [488](#) on 8/7/2023

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.

HISTORY

Renumbered by Ord. [483](#) on 9/6/2022

City of Spring Lake Park Staff Report



Agenda Date	Status
April 6, 2026	Discussion
Requestor	Agenda Section
Nelson	Discussion
Agenda Item #: 3.B.	
State Flag Discussion	
Executive Summary	
Mayor Nelson directed staff to add Resolution 2026-19, directing the City to display the pre-2024 State flag in the Council Chambers, to the April 6, 2026 City Council agenda.	
Background	
<p>At the direction of the Mayor, Resolution 2026-19 has been placed on the agenda for City Council consideration. The resolution proposes displaying the historic (pre-2024) Minnesota State Flag in the City Council Chambers.</p> <p>Minnesota adopted a new official state flag effective May 11, 2024, retiring the prior design. While state agencies display the new flag at state facilities, cities are not required to display any state flag. Across Minnesota, local governments have taken varied approaches: some display the former flag, others have transitioned to the new flag, and some—like Spring Lake Park—have chosen not to display either flag in order to remain neutral.</p> <p>To support the Mayor’s directive while still providing an opportunity for a full policy discussion, the City Council has the following options:</p> <ol style="list-style-type: none"> 1. <i>Adopt Resolution 2026-19 (Display the Pre-2024 State Flag in the Council Chambers).</i> This option places the historic Minnesota State Flag on display in the Council Chambers. 2. <i>Display the New Minnesota State Flag.</i> Under this option, the City would begin displaying the new official state flag. This would align City facilities with the State’s current symbols and with other jurisdictions that have adopted the updated flag. 3. <i>Display Both Flags in the Council Chambers.</i> The City could display both the historic and new state flags together inside the Council Chambers. This provides a balanced 	

approach—recognizing Minnesota’s official flag while also acknowledging the historical significance of the prior design.

4. *Continue Current Practice of Not Displaying a State Flag.* The City may choose to maintain its current neutral position and display neither the historic nor the new state flag.

Board/Commission Review

N/A

Financial Impact

Minimal. Costs would be limited to purchase of flags if a change in practice is directed.

Staff Recommendation

None

Attachments

1. State Emblems Redesign Commission Report
2. State Emblems Redesign Commission Minority Report
3. MinnPost article – Did Minnesota Change Its State Flag Without Public Input?
4. Minnesota Star Tribune article – Twin Cities Suburbs Refuse to Fly New State Flag
5. Draft Resolution

The New Official Flag and Great Seal

Report of
the Minnesota
State Emblems
Redesign Commission
to the Minnesota
Legislature and Governor

JANUARY 1, 2024

State Emblems Redesign Commission – Selection for the New Official Flag and Great Seal for the State of Minnesota





January 1, 2024

Governor Tim Walz
130 State Capitol
St. Paul, MN 55155

Sen. Bobby Joe Champion
President of the Minnesota Senate
231 State Capitol
St. Paul, MN 55155

Rep. Melissa Hortman
Speaker of the Minnesota House
463 State Office Building
St. Paul, MN 55155

Dear Governor Walz, Lieutenant Governor Flanagan, President Champion, Speaker Hortman, and Members of the Minnesota Legislature,

The Minnesota State Emblems Redesign Commission is honored to present to the people of Minnesota, through their Governor and Legislature, designs for a new state flag and state seal.

Through extensive public input, a design contest that drew over 2,500 entries, and many hours of deliberations by the Commission, together, we have created designs that reflect the spirit of Minnesota — the people, the land and water, and the history of our state.

We are particularly inspired by broad public support for including the North Star on both the flag and the seal. Minnesota has much to be proud of — seeing this powerful, aspirational symbol is a daily reminder of our guiding light, the North Star. It will remind us of how strong we are united and the bright future that we will create together.

We look forward to extensive and proud use of these new emblems for generations to come.

Sincerely,

Luis Fitch, *Chair*
Dr. Kate Beane
Michael Harralson
President Robert Larsen
Philip McKenzie
Aaron Wittnebel

Dr. Anita Gaul, *Vice Chair*
Shelley Buck
Kim Jackson
Denise Mazone
Secretary Steve Simon

Rep. Mike Freiberg
Sen. Mary Kunesh
Lauren Bennett McGinty
Kent Whitworth

13

Voting Commission members

4

Nonvoting
Commission members

236,579

All-time views to the main MNHS SERC page

4

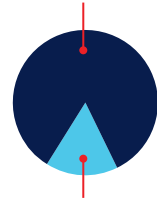
In-person meetings

14

Virtual meetings

2,128

Flag redesign
submissions



399

Seal redesign
submissions



1,785

North Star cameos



291

Common loon
cameos



6

Flag redesign
finalists

5

Seal redesign
finalists

8

Point star on the
New Official Flag of
Minnesota

21,882

Total public comments for redesign finalists via main MNHS SERC page

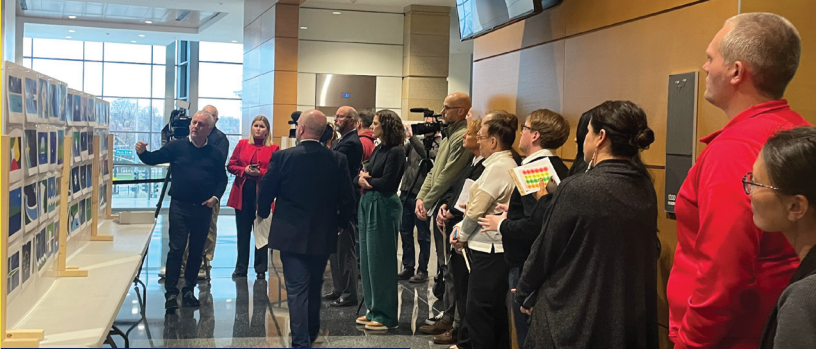
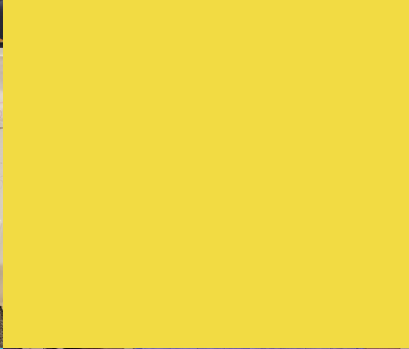
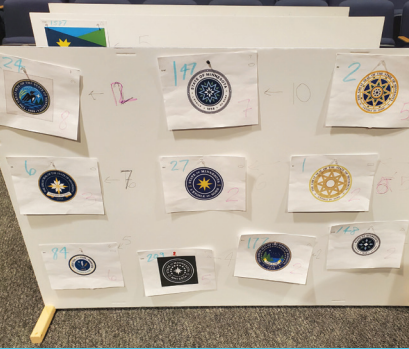
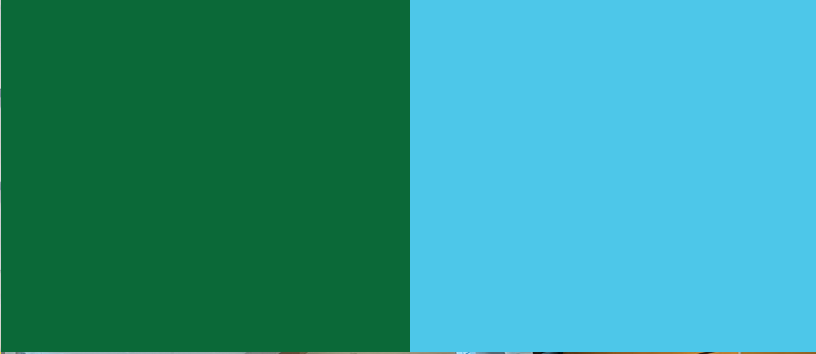
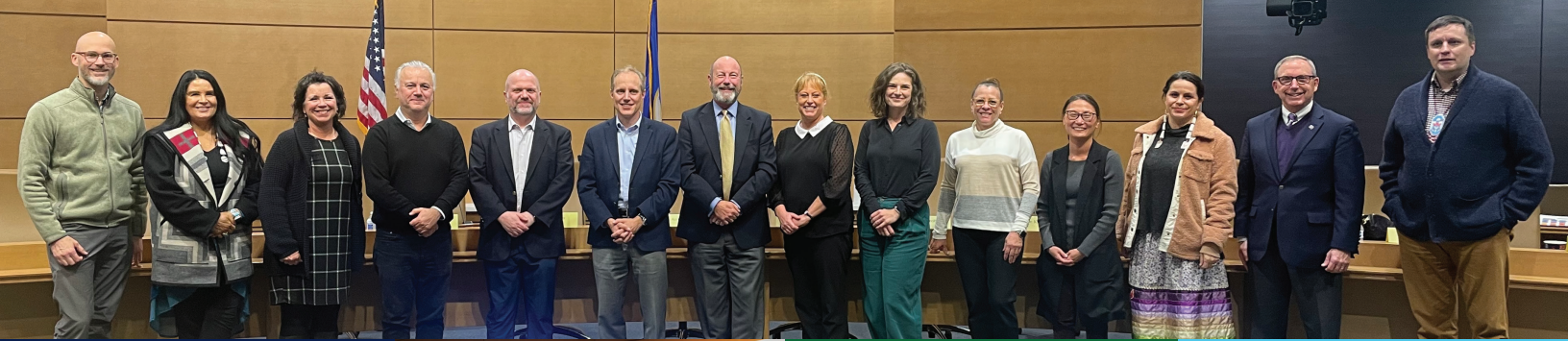


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Background

Created by legislation passed in 2023, the State Emblems Redesign Commission was formed to design a new state flag and state seal. Within a short period of time, the Commission organized itself, created a work plan including an extensive design brief, then turned to public engagement through a design contest and commentary opportunities.

This report will provide a detailed description of the background and activities of the Commission's work, including enabling legislation, the Commission's meetings, public input, and a description of the symbols and elements contained within the new state flag and state seal.

The Commission would like to thank the designers who submitted entries for the new flag and seal, members of the public who submitted comments, and Minnesotans who engaged in discussions around their dinner tables. The Commission was responsible for creating a new flag for Minnesota, informed by more than 2,100 design concepts and, in particular, the designs of Andrew Prekker, who submitted the design concept which inspired Minnesota's new flag and Ross Bruggink, who submitted the design concept which inspired Minnesota's new seal. Together, we have created a new flag and seal that represents ***all*** Minnesotans and the land and water which give us life.

Legislation

Legislation passed by the 2023 Legislature and signed by the Governor provided for membership of the Commission, guidance on how the Commission would conduct its work, and general instruction on what should be contained in the new state flag and state seal. Additional provisions are noted in the reference at the bottom of this section.

Primary Section of Authorizing Legislation:

Laws of Minnesota, 2023, Chapter 62, Article 2, Section 118.

(additional sections are noted below)

Sec. 118. STATE EMBLEMS REDESIGN COMMISSION.

Subdivision 1. **Establishment.** The State Emblems Redesign Commission is established. The purpose of the commission is to develop and adopt a new design for the official state flag and the official state seal no later than January 1, 2024.

Subd. 2. **Membership; meetings.** (a) The commission consists of the following members:

- (1) three members of the public, appointed by the governor;
- (2) one member appointed by the Council for Minnesotans of African Heritage;
- (3) one member appointed by the Minnesota Council on Latino Affairs;
- (4) one member appointed by the Council on Asian-Pacific Minnesotans;
- (5) one member representing the Dakota community and one member representing the Ojibwe community, appointed by the executive board of the Indian Affairs Council;
- (6) the secretary of state or the secretary's designee;
- (7) the executive director of the Minnesota Historical Society or the director's designee;
- (8) the chair of the Capitol Area Architectural and Planning Board or the chair's designee;
- (9) the chair of the Minnesota Arts Board or the chair's designee; and
- (10) the executive director of Explore Minnesota Tourism or the director's designee.

(b) The following serve as ex officio, nonvoting members of the commission: (1) two members of the house of representatives, one each appointed by the speaker of the house and the minority leader of the house; and (2) two members of the senate, one representing the majority caucus appointed by the senate majority leader and one representing the minority caucus appointed by the senate minority leader.

(c) Appointments to the commission must be made no later than August 1, 2023. The voting members of the commission shall elect a chair and vice-chair. An appointee designated by the governor shall convene the commission's first meeting. Decisions of the commission must be made by majority vote. The Minnesota Historical Society must provide office space and administrative support to the commission.

Subd. 3. **Meetings.** Meetings of the commission are subject to Minnesota Statutes, chapter 13D.

Subd. 4. **Duties; form and style of recommended state emblems.** The commission shall develop and adopt a new design for the official state seal and a new design for the official state flag. The designs must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that represent only a single community or person, regardless of whether real or stylized, may not be included in a design. The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work.

Subd. 5. **Report.** The commission shall certify its adopted designs in a report to the legislature and governor no later than January 1, 2024. The commission's report must describe the symbols and other meanings incorporated in the design.

Subd. 6. **Expiration.** The commission expires upon submission of its report.

Additional Sections of the 2023 legislation related to the state's flag and seal are referenced here and printed in Appendix 1:

Laws of Minnesota, 2023, Chapter 62, Article 2, Sections 1-5; 118; 133, Subdivision 1; and Article 1, Section 24, Subdivision 2 (b)

Members of the State Emblems Redesign Commission

Members of the Commission (voting members) and Appointing Authority

Luis Fitch, <i>Chair</i>	Minnesota Council on Latino Affairs
Dr. Anita Gaul, <i>Vice Chair</i>	Governor - Member of the Public
Dr. Kate Beane	Capitol Area Architectural and Planning Board (CAAPB)
Shelley Buck	Governor - Member of the Public
Michael Harralson	Governor - Member of the Public
Kim Jackson	Council on Asian Pacific Minnesotans
President Robert Larsen	Minnesota Indian Affairs Council (MIAC) - Dakota Community
Denise Mazone	Council on Minnesotans of African Heritage
Lauren Bennett McGinty	Explore Minnesota
Philip McKenzie	Minnesota State Arts Board
Secretary Steve Simon	Minnesota Secretary of State
Kent Whitworth	Minnesota Historical Society
Aaron Wittnebel	Minnesota Indian Affairs Council (MIAC) - Ojibwe Community

Ex Officio, Nonvoting Members

Senator Steve Drazkowski, Minnesota Senate - Member of the Minority
Representative Mike Freiberg, Minnesota House of Representatives - Member of the Majority
Senator Mary Kunesh, Minnesota Senate - Member of the Majority
Representative Bjorn Olson, Minnesota House of Representatives - Member of the Minority



The Great Seal of the State of Minnesota



Description of the New Seal

The seal of the State of Minnesota is used in a variety of ways. Traditionally, a seal was used to mark official documents of governments. Today, the seal is still used on official documents, including notaries' stamps, as well as stationery of government officials; it is also used in formal settings of government buildings on podiums and walls.

The new state seal is contained within a traditional round design. Elements of the seal, listed from the outside into the center of the circle, are as follows:

The outer circle of the seal contains 98 rectangular golden bars, representing the state's 87 counties and the 11 federally-recognized American Indian Tribes within the border of Minnesota;

Lettering of the seal is in Georgia bold font and states "The Great Seal of the State of Minnesota," and, moving towards the center, then contains a series of blue roundels, which are decorative only;

Symbols and Etymological History of Minnesota. The innermost part of the circle contains several symbols representing the State of Minnesota, including:

- images of **wild rice**, the official state grain of Minnesota;
- the **common loon** (*gavia immer*), the official state bird of Minnesota, including a red eye;
- a white, four-pointed **star** representing the Star of the North, or, "L'étoile du Nord," the state motto;
- the **phrase "Mni Sóta Makoce"** represents the historical roots of the name of our state. It is the Dakota language term for "Land of the sky tinted water" or "Land where the waters reflect the skies." This phrase is the source of the name of our state — Minnesota — and represents both continuity and change, in language over time. The name "Minnesota" was originally given to the Minnesota River, the longest river contained within the state, and became the state's official name upon statehood in 1858. At the time of statehood, alternate spellings of our state's name were used and considered, including "Minesota" and "Minasota," among others. The phrase "Mni Sóta Makoce" is simply the original rendering of our state's name. The phrase is in Montserrat-Variable font.

The Commission’s intent is that this phrase represents the directive in the authorizing legislation which states that “[t]he designs must accurately and respectfully **reflect Minnesota’s shared history...**” The intent of the Commission is that the phrase does not represent one group of Minnesotans, but rather was selected to demonstrate the roots of the name of our state, honoring our past, our “shared history” as called for in the legislation which created the Commission and directed its work;

- **trees** representing the official state tree, Norway Pine, and other natural areas of the state of Minnesota;
- and, a stylized representation of a body of **water**, representing Minnesota’s many lakes, rivers, and abundance of water.

Anatomy and Origins

On December 12 and 19, 2023, the State Emblems Redesign Commission voted to adopt design modifications to the official Great Seal of the State of Minnesota.

- A. **Outer circle** of the seal contains 98 rectangular yellow golden bars, representing the state’s 87 counties and the 11 federally-recognized American Indian Tribes within the border of Minnesota;
- B. **“Mni Sóta Makoce”** the Dakota language term for “Land of the sky tinted water” or “Land where the waters reflect the skies.” The phrase is in Montserrat-Variable font;
- C. **White four-pointed star** representing the Star of the North, or, “L’étoile du Nord,” the state motto;
- D. **Norway Pine** representing the official state tree;
- E. **Stylized water** representing Minnesota’s many lakes, rivers, and abundance of water;
- F. **Common loon** representing the official state bird of Minnesota;
- G. **Wild rice** representing the official state grain of Minnesota;
- H. **Lettering** of the seal is in Georgia bold font and states, “The Great Seal of the State of Minnesota.”

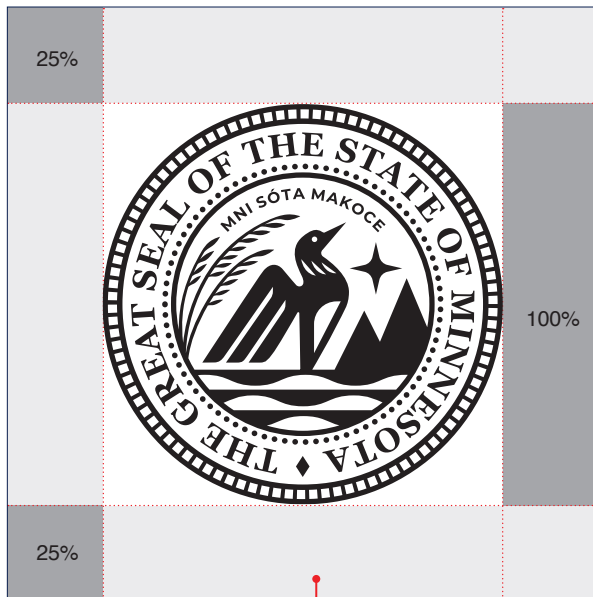


Technical Specifications

To maintain the integrity of the seal, the minimum diameter size should be 1 inch for print or 116 pixels for digital applications.

The clearspace for the seal should always be a minimum of 25% of the overall height (see below diagram).

The color version of the seal uses six colors. (see below details)

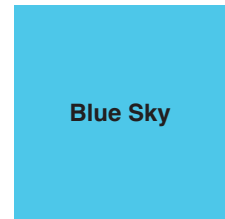


Printed and Digital Color Applications



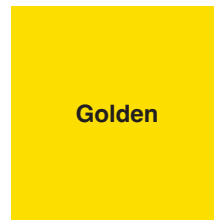
Blue Water

Pantone 648
 C: 100 M: 86 Y: 35 K: 31
 R: 0 G: 45 B: 93
 Hex Code: #002D5D



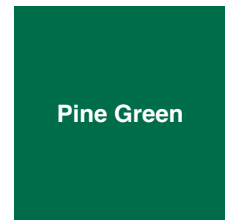
Blue Sky

Pantone 305
 C: 59 M: 0 Y: 6 K: 0
 R: 82 G: 201 B: 232
 Hex Code: #52C9E8



Golden

Pantone 7405
 C: 0 M: 8 Y: 100 K: 1
 R: 242 G: 206 B: 0
 Hex Code: #F2CE00



Pine Green

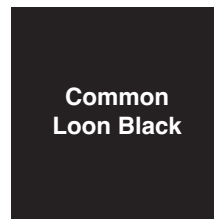
Pantone 7728
 C: 94 M: 3 Y: 78 K: 44
 R: 0 G: 104 B: 71
 Hex Code: #006847



Digital Applications:
 116 px

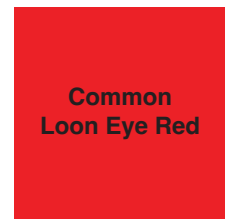


Printed Applications:
 1 inch



Common Loon Black

Pantone Process Black
 C: 1 M: 1 Y: 0 K: 99
 R: 44 G: 42 B: 41
 Hex Code: #2C2A29



Common Loon Eye Red

Pantone 185
 C: 0 M: 100 Y: 89 K: 0
 R: 228 G: 0 B: 50
 Hex Code: #E40032



The New Minnesota Flag

THE NEW MINNESOTA FLAG



Obverse



Reverse



Greyscale



Folded



With flag spreader



Vertical

Description of the New Flag

The new Minnesota flag is simple, yet rich with meaning for all Minnesotans.

On its left side, the flag contains a dark blue background with a white, 8 point star. One of the points of the star points north. The dark background is in the shape of the outline of the State of Minnesota. The remainder of the flag is a solid, bright blue.

The star represents the North Star, or “L'étoile du Nord,” Minnesota’s state motto. As the northernmost state in the Continental United States, Minnesota aspires to serve as an inspiration not only for its citizens, but also the rest of the nation. The point of the star faces north, inspiring Minnesotans to follow the North Star to a better future.

The dark blue field represents the night sky, where Minnesotans from all cultures look and imagine a larger universe, while working to create a better North Star State. The dark blue field also represents the shape of the State of Minnesota, representing the land on which we all live, together.

The bright blue field on the right side of the flag **represents water**: Minnesota is the land of 10,000 lakes (actually 11,842!), 6,564 rivers and streams, including the source or Headwaters of the world-famous Mississippi River, and part of Lake Superior, the start of the Great Lakes Basin. Water is life-sustaining for all Minnesotans. It represents life, leisure, and commerce.

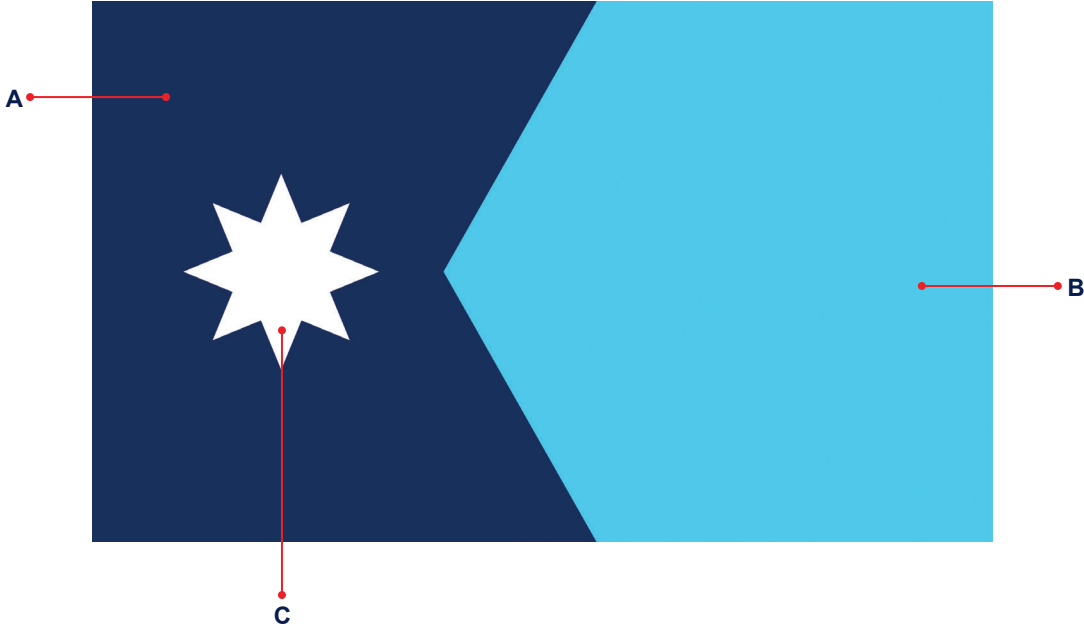
As an 8 point star, the star also represents **many cultures** over time and across the globe. More recently, the 8 point star has been used extensively in quilting by both Indigenous people and some new immigrants.

The 8 point star also evokes the image of one of the most prominent features of the **Minnesota State Capitol**. The floor of the Rotunda features inlaid African marble with a brass outline of the 8 point star as designed by Cass Gilbert. As one walks on either the first floor or the second floor of the Capitol building, one may notice the illusion of the letter M, which is made by the outline of sections of the 8 point star. The orientation of the star in the new Official Flag of Minnesota matches the orientation of the 8 point star of the Capitol Rotunda — both point to the North.

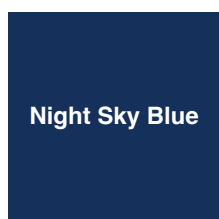
Anatomy and Origins

The Official Flag of the State of Minnesota was adopted on December 19, 2023.

- A. **The dark blue field** representing the night sky and the shape of the state of Minnesota;
- B. **The bright blue field** representing abundance of water: Minnesota is the land of 10,000 lakes (actually 11,842!), 6,564 rivers and streams;
- C. **The 8 point star** representing the North Star, or “L’étoile du Nord,” Minnesota’s state motto.

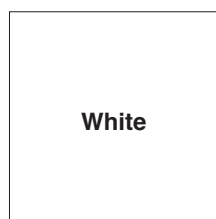


Construction Sheet



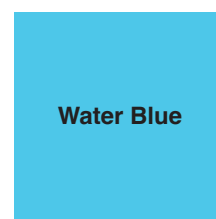
Night Sky Blue

Pantone 648
C: 100 M: 86 Y: 35 K: 31
R: 0 G: 45 B: 93
Hex Code: #002D5D



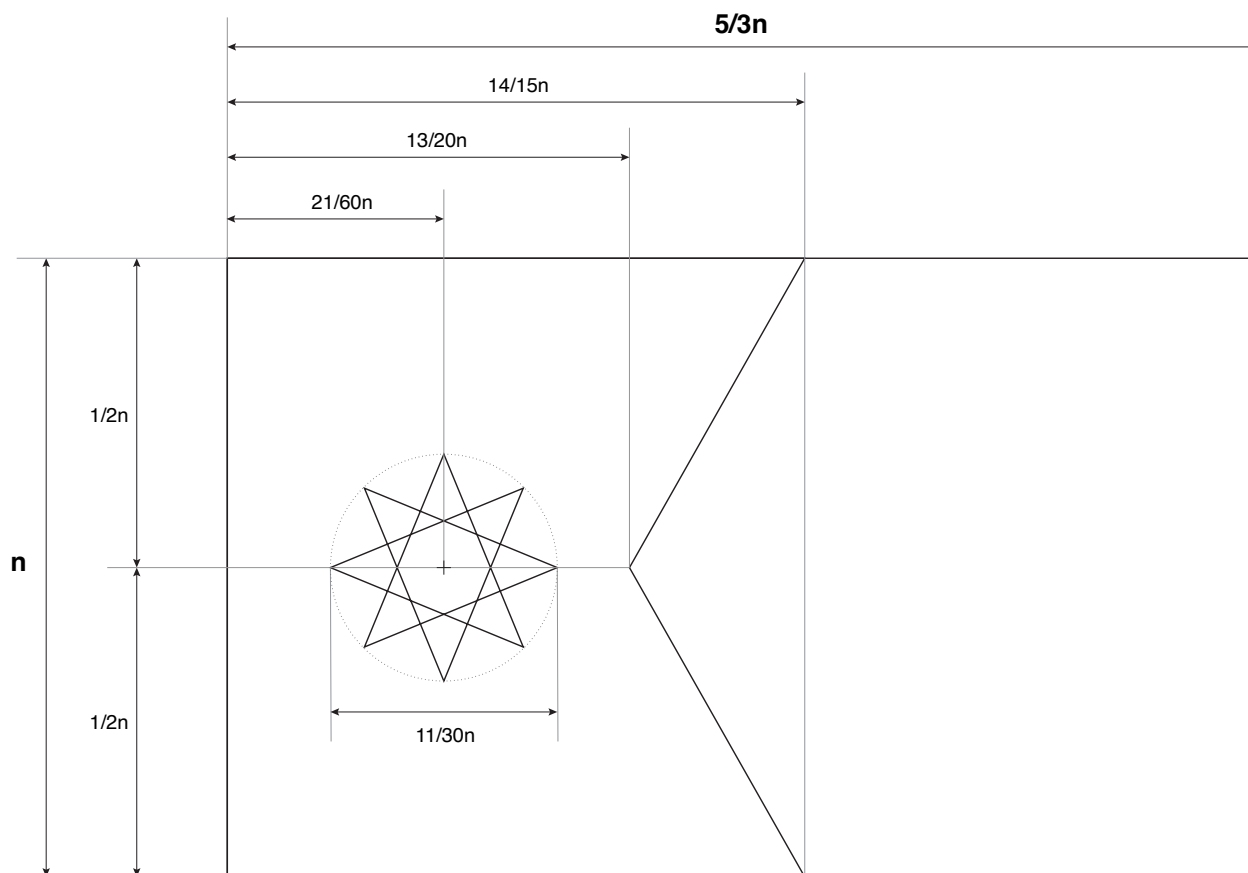
White

Pantone White
C: 0 M: 0 Y: 0 K: 0
R: 255 G: 255 B: 255
Hex Code: #FFFFFF



Water Blue

Pantone 305
C: 59 M: 0 Y: 6 K: 0
R: 82 G: 201 B: 232
Hex Code: #52C9E8



The star is a regular octagram with the Schläfli symbol $\{8/3\}$.
It is constructed from 8 vertices arranged equally around a circle.
Each vertex is connected to the vertex that is 3 turns away.



Public Meetings and Engagement Summary

State Emblems Redesign Commission – Public Meetings, Public Engagement, and Participation

Despite having a relatively brief amount of time to plan and carry out its work, the [State Emblems Redesign Commission \(SERC\)](#) conducted an active schedule of meetings, each of which was public. A summary of meeting dates and actions follows:

The State Emblems Redesign Commission (SERC) met on the following dates:

Video recordings of Commission meetings can be accessed at the [SERC web page](#).

Tuesday, September 5, 2023 (virtual)

Tuesday, September 12, 2023 (virtual)

Wednesday, September 20, 2023 (virtual)

Tuesday, September 26, 2023 (virtual)

Tuesday, October 3, 2023 (virtual) part 1

Tuesday, October 3, 2023 (virtual) part 2

Tuesday, October 10, 2023 (virtual)

Tuesday, October 17, 2023 (virtual)

Tuesday, October 24, 2023 (virtual)

Tuesday, October 31, 2023 (virtual) part 1

Tuesday, October 31, 2023 (virtual) part 2

Tuesday, November 7, 2023 (virtual)

Tuesday, November 14, 2023 (virtual)

Tuesday, November 21, 2023 (hybrid–Room 1200 in the Minnesota Senate Building, 95 University Ave W, St. Paul, MN 55155)

Tuesday, November 28, 2023 (virtual)

Tuesday, December 5, 2023 (virtual)

Tuesday, December 12, 2023 (hybrid—Room 1200 in the Minnesota Senate Building, 95 University Ave W, St. Paul, MN 55155)

Friday, December 15, 2023 (hybrid—Room 1200 in the Minnesota Senate Building, 95 University Ave W, St. Paul, MN 55155)

Tuesday, December 19, 2023 (hybrid—Room 123 in the Minnesota State Capitol, 75 Rev. Dr. Martin Luther King, Jr. Blvd, St. Paul, MN 55155)

Wednesday, December 27, 2023 (virtual)

Meeting notices and agendas were posted on the SERC website in advance of meetings. All meetings were open to the public. A Zoom link was provided and publicized on the SERC website, as was the time and location of hybrid meetings. All meetings were recorded and made available online for public viewing, as were notes summarizing each meeting.

The State Emblems Redesign Commission (Commission) held its first meeting on Tuesday, September 5, 2023. At this inaugural meeting of the Commission, members learned about the Commission’s responsibilities, met one another, and elected Luis Fitch as Chair and Dr. Anita Gaul as Vice Chair.

At the meeting held September 12, Dr. Bill Convery of the Minnesota Historical Society gave a brief presentation on the history of Minnesota’s current flag and seal. Commissioners reviewed drafts of a proposed timeline for adopting a new flag and seal, as well as drafts of the creative briefs for the flag and seal.

The timeline and creative brief were approved by the Commission at the meeting held on September 19. The Commission discussed draft rules for public submission of flag and seal designs at the September 19 meeting.

These rules were approved by a vote of the Commission members at the September 26 meeting. Commissioners discussed methods and best practices for sorting through the design submissions in order to determine finalists at its October meetings. A timeline for the design selection process was also determined.

Ted Kaye of the North American Vexillological Society (NAVA) gave a presentation on the principles of “good flag design” to the Commission at its meeting on October 31. Commissioners heard expert testimony on the principles of good seal design from Dr. Jonathon Good at its meeting on November 14.

In preparation for the Commission's first in-person meeting, members selected up to 25 designs each for the flag and seal to move onto the next round. Those designs were printed for the meeting so that Commission members would have an opportunity to see what each of the designs looked like in a format other than a small image on a computer screen.

On November 21, the Commission held its first hybrid (in-person and virtual) meeting. Commissioners heard testimony from Lee Herold, Rochester, MN on good flag design. Commissioners then narrowed down the pool of over 2,500 submitted seal and flag designs to five finalists for the seal design and six finalists for the flag design.

Commissioners heard public testimony regarding the flag and seal finalists at its December 5 virtual meeting. The final design for the new state seal was also chosen by commissioners at this meeting.

At the hybrid meeting held December 12, Commissioners voted on modifications to the seal design. Commissioners then winnowed the pool of flag designs from six to three.

For the December 12th meeting, the Commission invited designers of the finalists (or their designees) for flag design concepts to present their inspiration and rationale for their designs.

At the subsequent hybrid meeting held December 15, Commissioners selected the final flag design concept. Modifications to the final flag design—as well as additional modifications to the seal design—were discussed and adopted at the Commission's hybrid meeting of December 19. Also at this meeting, Commission members approved a motion to send records of its work to Minnesota State Archives for use by future researchers and historians.

At the final meeting of the State Emblems Redesign Commission on December 27, a draft of the Commission's final report was discussed and approved. Commissioners also finalized color specifications for both the flag and seal.

Public Engagement and Participation

Authorizing legislation for flag and seal redesign (Laws of Minnesota, 2023, Chapter 62, Article 2, Section 118, Subd. 4) states: “The Commission must also solicit public feedback and suggestions to inform its work.” The Commission took this charge seriously and incorporated participation into its work.

The Commission solicited public feedback and suggestions at every stage of the redesign process, utilizing all forms of media outlets. An official State Emblems Redesign Commission website was created and administered by the Minnesota Historical Society. The main SERC website page received over 236,000 hits throughout the redesign process, a testament to a high level of public interest and engagement.

Throughout the state flag and seal redesign process, the Commission conducted its work in a transparent manner. Meeting notices and agendas were posted on the SERC website. All meetings were open to the public. A Zoom link was provided and publicized on the SERC website, as was the time and location of hybrid meetings. All meetings were recorded and made available online for public viewing, as were the notes summarizing actions taken at each meeting.

The Minnesota Historical Society Communications team sent periodic press releases and distributed a weekly newsletter to those who subscribed to the newsletter distribution list. Media outlets of all forms—digital, print, television, and radio—published the information distributed in the press releases. Media outlets around the state and the entire nation closely followed the redesign process, resulting in over 1,000 media mentions.

The six finalist flag designs were printed as full-size fabric flags and hung for display at the Mall of America in Bloomington, Minnesota, on the weekend of December 9-10, 2023, for mall shoppers to view and comment on. This display drew extensive media coverage, resulting in greater attention for the Commission’s work. A set of the six finalist flag designs was also displayed at the Becker County Museum for public review and comment.

A public submission form for seal and flag designs was launched by the Minnesota Historical Society on October 2, 2023. This resulted in 2,128 flag design submissions and 399 seal design submissions by the October 30, 2023 deadline.

All submissions were compiled and released for public viewing and comment on the SERC website on November 7, 2023. This resulted in 5,000 comments left for Commission members' consideration. Once the Commission determined the five seal and six flag finalist designs, public comment was again solicited and received through the SERC website. Public comment was subsequently received through the SERC website after the Commission reduced the six flag finalists to three finalists at its December 12 meeting, and again after the Commission selected the final design at its December 15 meeting.

The continuous solicitation of public feedback and suggestions resulted in over 21,882 public comments submitted on the SERC website. Public testimony was also heard by Commissioners at their virtual meeting of December 5, 2023.

The Commission also received public comment from experts to guide them in decision making and the selection process. Dr. Bill Convery of the Minnesota Historical Society informed Commission members of the history of the current flag and seal. Ted Kaye of the North American Vexillological Association, author of the "Good Flag, Bad Flag" guidebook on best practices for flag design, presented information on principles of good flag design. Commissioners heard expert testimony on the principles of good seal design from Dr. Jonathon Good. Graphic designers Tyler and Jenae Michaletz presented modification options for the finalist flag designs at meetings held on December 15 and December 19.

In summary, the Commission clearly fulfilled its legislative mandate to "solicit public feedback and suggestions to inform its work." Its work was transparent and open to the public at every step of the process. Public feedback and suggestions were continuously sought, resulting in broad media coverage and tens of thousands of comments received. Public testimony from members of the general public and experts was received and considered. The people of Minnesota were informed, heard, and consulted throughout the entire state flag and seal redesign process.



Acknowledgements and Appendix 1

Acknowledgements

The State Emblems Redesign Commission gratefully acknowledges:

Minnesota citizens and others who submitted design concepts, which have informed the Commission in their work to create a new state flag and state seal;

Minnesota citizens and others who shared their comments and observations on flag and seal concepts and designs. Together, we have created a new flag and seal for all Minnesotans;

Flag Design Experts: Ted Kaye, Brian Cham, and the North American Vexillological Association (NAVA), who provided their expertise in best practices in flag design pro bono to the Commission;

Lee Herold (who provided testimony to the Commission) and Reverend William Becker, who both have helped Minnesotans better understand the importance of good flag design and have advocated for an improved flag for all Minnesotans;

David Wicai and Sarina Ehrgott from the Utah Department of Cultural and Community Engagement, who shared their experience with Utah's adoption of a new flag;

Jenae and Tyler Michaletz who served as the Commission's design consultants pro bono providing revision and refinement services;

Jennifer Huang and Cameron Miller with Fish & Richardson, P.C. a Minnesota-based global intellectual property law firm for serving as pro bono counsel to the Commission;

Dr. Jonathan Good, Heraldic Fellow with the Royal Society of Canada and Mr. Bruce Patterson, Deputy Chief Herald for the Canadian Heraldic Authority for providing pro bono expert testimony and opinions on the Great Seal and the differences between it and a Coat-of-Arms or Crest to the Commission;

The Commission is very thankful to each individual, group, and agency, who supplied professional expertise, technical support, logistics, and other assistance pro bono so that we were able to complete our work on time and within the confines of our limited budget.

ACKNOWLEDGEMENTS (CONTINUED)

Matt Gehring from the Minnesota House Research Department and Diane Henry-Wangensteen from the Legislative Coordinating Commission for their advice on authorizing legislation and Commission operations.

Adam Sorenson from the Minnesota Attorney General's Office, who provided assistance with the Commission's work.

The Minnesota Senate, who provided the Commission with meeting space in the Minnesota Senate Building and the Minnesota State Capitol. We appreciate the efforts of Sven Lindquist, Senate Sergeant at Arms, and Jack Standish, Assistant Electronics Technician, Senate Sergeants Office.

Commission member and graphic designer, Kim Jackson, for the pro bono layout design and production of the SERC Final Report.

Staff from the Minnesota Historical Society, who have contributed support for the Commission's operations. You have made meetings run smoothly, made design concepts accessible to the public, helped to facilitate public participation, assisted with media inquiries and much more. We appreciate the work of: Brett Baldwin, Jack Baret, Dr. Bill Convery, Lindsey Dyer, Olivia Gentilcore, Jaired Johnson, Nick Jungheim, Brian Juntti, David Kelliher, Sue Leas, Cecily Marcus, Ann Oldenkamp, Allison Ortiz, Brenda Raney, and others who have supported this effort.

Appendix 1

Legislation passed by the 2023 Legislature and signed by the Governor provided for membership of the Commission, guidance on how the Commission would conduct its work, and general guidance on what should be contained in the new state flag and state seal. Additional provisions are noted in this Appendix.

Laws of Minnesota, 2023, Chapter 62, Article 2, Section 118.
(additional sections are noted below)

Laws of Minnesota, 2023, Chapter 62, Article 2, Sections 1-5; 118; 133,
Subdivision 1; and Article 1, Section 24, Subdivision 2 (b)

Section 1. Minnesota Statutes 2022, section 1.135, subdivision 2, is amended to read:

Subd. 2. **Official seal.** The seal described in subdivision 3 3a is the “Great Seal of the State of Minnesota.” When the seal, the impression of the seal, the scene within the seal, or its likeness is reproduced at state expense, it must conform to subdivision 3 and section 4.04. A seal, impression, scene, or likeness which does not conform to these provisions is not official.

EFFECTIVE DATE. This section is effective May 11, 2024.

Sec. 2. Minnesota Statutes 2022, section 1.135, is amended by adding a subdivision to read:

Subd. 3a. **Official seal; May 11, 2024, and thereafter.** The Great Seal of the State of Minnesota is the design as certified in the report of the State Emblems Redesign Commission, as established by this act.

EFFECTIVE DATE. This section is effective May 11, 2024.

Sec. 3. Minnesota Statutes 2022, section 1.135, subdivision 4, is amended to read:

Subd. 4. **Additional effects; size.** Every effort shall be made to reproduce the seal with justification to the 12 o’clock position ~~and with attention to the authenticity of the illustrations used to create the scene within the seal. The description of the scene in this section does not preclude the graphic inclusion of the effects of movement, sunlight, or falling water when the~~

seal is reproduced. Nor does. This section does not prohibit the enlargement, proportioned reduction, or embossment of the seal for its use in unofficial acts.

EFFECTIVE DATE. This section is effective May 11, 2024.

Sec. 4. Minnesota Statutes 2022, section 1.135, subdivision 6, is amended to read:

Subd. 6. **State's duties.** State agencies and departments using the seal, its impression, ~~the scene within the seal~~ or its likeness shall make every effort to bring any seal, impression, ~~scene~~, or likeness currently fixed to a permanent object into accordance with this section and section 4.04. Expendable material to which the seal in effect prior to May 11, 2024, or any impression, scene, or likeness of that seal is currently affixed may be used until the supply is exhausted or until January 1, 2025, whichever occurs first. All unused dies and engravings of the Great Seal shall be given to the Minnesota Historical Society, along with all historical information available about the seal, to be retained in the society's permanent collection.

EFFECTIVE DATE. This section is effective May 11, 2024.

Sec. 5. Minnesota Statutes 2022, section 1.141, subdivision 1, is amended to read:

Subdivision 1. **Adoption.** The design of the state flag ~~proposed by the Legislative Interim Commission acting under Laws 1955, chapter 632, as certified in the report of the State Emblems Redesign Commission, as established by this act~~, is adopted as the official state flag.

Sec. 118. STATE EMBLEMS REDESIGN COMMISSION.

Subdivision 1. **Establishment.** The State Emblems Redesign Commission is established. The purpose of the commission is to develop and adopt a new design for the official state flag and the official state seal no later than January 1, 2024.

Subd. 2. **Membership; meetings.** (a) The commission consists of the following members:

- (1) three members of the public, appointed by the governor;
- (2) one member appointed by the Council for Minnesotans of African Heritage;
- (3) one member appointed by the Minnesota Council on Latino Affairs;
- (4) one member appointed by the Council on Asian-Pacific Minnesotans;
- (5) one member representing the Dakota community and one member representing the Ojibwe community, appointed by the executive board of the Indian Affairs Council;
- (6) the secretary of state or the secretary's designee;
- (7) the executive director of the Minnesota Historical Society or the director's designee;
- (8) the chair of the Capitol Area Architectural and Planning Board or the chair's designee;

(9) the chair of the Minnesota Arts Board or the chair’s designee; and

(10) the executive director of Explore Minnesota Tourism or the director’s designee.

(b) The following serve as ex officio, nonvoting members of the commission: (1) two members of the house of representatives, one each appointed by the speaker of the house and the minority leader of the house; and (2) two members of the senate, one representing the majority caucus appointed by the senate majority leader and one representing the minority caucus appointed by the senate minority leader.

(c) Appointments to the commission must be made no later than August 1, 2023. The voting members of the commission shall elect a chair and vice-chair. An appointee designated by the governor shall convene the commission’s first meeting. Decisions of the commission must be made by majority vote. The Minnesota Historical Society must provide office space and administrative support to the commission.

Subd. 3. Meetings. Meetings of the commission are subject to Minnesota Statutes, chapter 13D.

Subd. 4. Duties; form and style of recommended state emblems. The commission shall develop and adopt a new design for the official state seal and a new design for the official state flag. The designs must accurately and respectfully reflect Minnesota’s shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that represent only a single community or person, regardless of whether real or stylized, may not be included in a design. The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work.

Subd. 5. Report. The commission shall certify its adopted designs in a report to the legislature and governor no later than January 1, 2024. The commission’s report must describe the symbols and other meanings incorporated in the design.

Subd. 6. Expiration. The commission expires upon submission of its report.

Sec. 133. REPEALER.

Subdivision 1. State emblems redesign. Minnesota Statutes 2022, sections 1.135, subdivisions 3 and 5; and 1.141, subdivisions 3, 4, and 6, are repealed, effective May 11, 2024.

Note:

Repealed Sections of 1.135 can be found at: <https://www.revisor.mn.gov/statutes/cite/1.135>

Repealed Sections of 1.141 can be found at: <https://www.revisor.mn.gov/statutes/cite/1.141>

Appropriation to the Minnesota Historical Society:
Laws of MN, 2023, Chapter 62, Article 1, Section 24, Subdivision 2(b)

Subd. 2 (b) \$35,000 the first year is to support the work of the State Emblems Redesign Commission established under article 2, section 118.

MINNESOTA STATE EMBLEMS REDESIGN COMMISSION

Minority Report

Senator Steve Drazkowski District 20, Mazeppa, Commissioner, ex officio

Representative Bjorn Olson District 22A, Fairmont, Commissioner, ex officio

Aaron Wittnebel, Commissioner for the Ojibwe Community

December 29, 2023

Introduction

In 2023, the Minnesota Legislature passed a provision in the State Government Finance Omnibus Bill, Chapter 62, which created a commission to redesign the state's official seal and flag. The members were appointed, and the commission chose a final seal design on December 12 and a final flag design on December 19, 2023. The Report was finalized on December 27, and we expect it to be certified by January 1, 2024. If the legislature takes no action to change the emblems or the effective date, they will go into effect as the official flag and seal on May 11, 2024.

We three members of the commission, would like to point out defects in the process and outcome of the commission's work that led us to reject the flag and seal proposed by the commission or portions thereof as indicated.

This is in no way to disparage the extraordinary efforts of the staff of the Minnesota Historical Society (MNHS) or other members of the commission personally. We believe they were handed a challenging task without the proper resources, including time. We believe that the legislature delegated tasks and responsibilities to them that they should have taken upon themselves. Nor does this report mean to disparage the designers of the 2128 Flag submissions and 399 Seal Submissions received by the commission. Many of these showed great creativity, thought, and effort, for which we are grateful.

A tight timeline

The law went into effect on July 1, 2023. The appointment of the members was to be made no later than August 1. Secretary of State Steve Simon was a named member of the Commission and chose not to send a designee. The Arts Board and Explore Minnesota sent designees. The Historical Society was tasked with staffing the committee and had a designated representative, the Executive Director, which gave them quite a lot of influence over the process. The legislature made appointments during the summer months before the deadline; Senator Mary Kunesch and Rep. Mike Freiberg were the authors of the bill to create the commission and redesign the flag and seal. Rep. Bjorn Olson and Senator Steve Drazkowski were appointed by the minority leaders of their respective bodies. The legislators served as ex officio members who could not vote or make motions but frequently spoke during meetings.

Member	Appointment made by	Effective Date of Appointment
Michael Haralson	Governor Walz	August 2, 2023 ¹
Shelley Buck *	Governor Walz	August 2, 2023
Anita Gaul	Governor Walz	August 2, 2023
Luis Fitch	MN Council on Latino Affairs	August 2, 2023
Dr. Kate Beane*	Capitol Area Architectural and Planning Board Chair (Lt. Governor Peggy Flannagan)	August 28, 2023 ²
Robert Larsen	MN Indian Affairs Council (Dakota member)	No date is mentioned regarding his appointment His application date on the Secretary of State's website is September 6, 2023. ³

¹ All the Governor's Appointments for the Commission were announced on the same day, July 28, 2023. effective August 2, 2023.

<https://mn.gov/governor/appointments/boardscommissions/boardsnews.jsp#/detail/appld/1/id/586053>

² Secretary of State's Website. Accessed December 22, 2023.

<https://commissionsandappointments.sos.state.mn.us/Agency/328/Member/Details/36811>

³ Secretary of State's website. Accessed December 22, 2023.

<https://commissionsandappointments.sos.state.mn.us/Agency/328/Member/Details/37684>

Aaron Wittnebel	MN Indian Affairs Council (Dakota member)	July 19, 2023 ⁴
Kim Jackson	MN Council on Asian and Pacific Island Affairs	August 1, 2023
Denise Mazone	Council for Minnesotans of African Heritage	August 1, 2023

*It is worth noting that Shelley Buck and Dr. Kate Beane were also applicants for the position of Dakota representative from MIAC according to the Secretary of State's Website. Instead, they were chosen, respectively, by the Governor as one of his 3 "public" representatives and by the Lt. Governor in her capacity as Chair of the Capitol Area Architectural and Planning Board. Dr. Beane is a commissioner on the Capitol Board.

As seen from this table, a couple of the appointees were appointed after the deadline.

Defects in the Commission Law

The language creating the commission and how the result was supposed to be enacted is contained in Sections 5 and 118 of Chapter 62, Article 2 of Laws 2023. As passed into law, the provisions were contained in HF 1830, the State Government Finance Omnibus Bill of 2023.

In Chapter 62, Section 118, the members were specified as representing various offices and agencies. There was also legislative representation and public member representation. In effect, this gave an outsized role to the Walz-Flannagan administration in determining who the commissioners would be. Making the legislators ex-officio members gave them a much smaller role. If you count Secretary Simon as part of the Executive Branch, despite his obvious tie to the state seal, the whole Commission looks directed from the Executive branch.

As much as we appreciate the work of MNHS in making this Commission function, the Legislative Coordinating Commission would have been a better place to situate this commission or at least provide MNHS with the technical resources they needed. The LCC is experienced in making commission work

⁴ Secretary of State's Website. Accessed December 22, 2023.
<https://commissionsandappointments.sos.state.mn.us/Agency/328/Member/Details/3315>

open to the public. The meetings would have been advertised through the joint legislative schedules and promoted through the legislature's YouTube channels. Instead, MNHS had to build a standalone website with an obscure address and ask the public to log in to Zoom or unlisted YouTube links, which, judging from some of the complaints received, only sometimes worked, or were confusing for some to navigate.

Defects in the Process of Public Engagement and Transparency

Public Comments

Authorizing legislation for flag and seal redesign (Laws of Minnesota, 2023, Chapter 62, Article 2, Section 118, Subd. 4) states: “The commission must also solicit public feedback and suggestions to inform its work.”

The Commission Report has a section on Public Comments. They cited the steps taken to fulfill the direction to solicit public input adequately. We must qualify some of these points as follows:

(1) Outreach to formal media in the state by press release, Engagement by the commission staff, and chair with interviews upon request.

The MNHS communications team used familiar channels to promote the flag submission and comment process to their other statewide activities. However, given the shrinking number of media outlets in greater Minnesota, it's likely that coverage was better in the Twin Cities metro. Having remote, out-of-state media contact the commission is interesting but not what the legislature envisioned for public input for the commission's work.

The media mentions, which numbered about 1000 according to the report, are impressive; however, one thing must be noted—the commission did not bother to review the content. They were only interested in promotion. Some media outlets also solicited opinions from the public, such as in this *Star Tribune* article published on December 10, 2023.⁵ The story detailed the display of the six flag finalists at the Mall of America and contained critiques of the flags by random individuals. When the story was brought to their attention by Senator Drazkowski at the December 12 meeting, the

⁵ <https://www.startribune.com/minnesota-state-flag-finalists-mall-of-america-display/600325833/>

Commission was dismissive of it, and Senator Mary Kunesh remarked that the comments were from out-of-state tourists. The story contained the name and town of everyone quoted, and all were from Minnesota. This was typical of the attitude the commission displayed toward critical comments by the public.

- (2) **An official State Emblems Redesign Commission website.** Meeting notices and agendas were posted on the SERC website. All meetings were open to the public. A Zoom link was provided and publicized on the SERC website, as was the time and location of hybrid meetings. All meetings, as were the notes summarizing actions taken at each meeting, were recorded and made available online for public viewing.

As stated earlier, the stand-alone website with an opaque web address was difficult for those not “in the know” to find, even if you went to the Minnesota Historical Society website. Even legislative staffers who were fielding questions about the Commission that was created by law couldn’t find it. This also led to public confusion about online polls vs. the official comment process. For example, FairVote.org conducted an online poll based on rank-choice voting. Some members of the public thought it was an official vote, judging from comments received by legislators. We believe that having the broadcasting and media support from the legislature and its joint agency, the LCC, would have made a substantial difference in eliminating the confusion. (See the “Defects in the Construction of the Commission” section above on the issues regarding the Zoom meetings).. There was a strong marketing communications approach to the SERC Commission process, which may work for MNHS and Explore Minnesota’s agency missions when what was needed for this Commission was more of a public transparency approach.

- (3) **The Minnesota Historical Society Communications team distributed a weekly newsletter to those who subscribed to the newsletter distribution list.**

Getting on the list required scrolling down to the bottom of the long front page on the SERC site. Most of the people on this list were likely reporters and a dedicated group who followed the commission closely because they had submitted a design, were flag hobbyists, or

for some other reason. In other words, this was a highly self-selected group. This is an important fact to remember because only individuals who read this email newsletter would be notified in time to get on the list for the small amount of time set aside for public testimony.

(4) The six finalist flag designs were printed as full-size fabric flags and hung for display at the Mall of America in Bloomington, Minnesota, on the weekend of December 9-10, 2023, for mall shoppers to view and comment on. A set of the six finalist flag designs was also displayed at the Becker Historical Museum for public review and comment.

Making the flags available for public display was an excellent idea, but why only two locations?

Early in the meetings of the Commission, there was some discussion about outreach to Greater Minnesota, including sending final versions of the flag to each congressional district to solicit input around the state.

According to Commissioner Wittnebel:

“The flags were displayed in Becker due to me finding out from a reporter about the Mall of America display. It was not approved by the Commission, yet it was paid for out of the Commission’s budget to let Explore Minnesota put them on display. The original, tentative plan was to order the final flag so that one could be on public display in each Congressional District for feedback and comment. Upon being confronted, staff sent me a set, which turned out to be a spare for the MOA display to put up somewhere in the 7th Congressional District, which took place at the Becker County Museum. I found out afterward that they were a spare set and that no others had been ordered or would be displayed in other districts.”

As discussed earlier and as was the normal practice, the response by the commission to the ensuing public feedback was to ignore it.

(5) A public submission form for seal and flag designs was launched by the Minnesota Historical Society on October 2, 2023. This resulted in 2,128 flag and 399 seal design submissions by the October 30, 2023 deadline.

This is less than 30 days to inform the public of the seal and flag competition and have designers submit their designs. Although there was preliminary promotional activity before the competition opened around the formation of the commission, the website submission promotional process fit into this shorter period and favored people who were already following it.

(6) The continuous solicitation of public feedback and suggestions resulted in over 21 thousand public comments submitted on the SERC website. Commissioners also heard public testimony at their virtual meeting on December 5, 2023.

It was clear from the beginning that the constrained timeline demanded an extraordinary effort by the MNHS staff to create the website and the back end for collecting public comments. Comments made by MNHS Executive Director David Kelliher in the initial virtual meetings show he was concerned about getting a comments collection mechanism working in time.

Once comments began to come in, they were delivered to the individual commissioners as spreadsheets with thousands upon thousands of comments, in batches contemporaneous to the opening and closing of the submissions period, the choosing of the six flag finalists, five seal finalists, and just before the final revisions made to F1953. The comments were not made available for the public to see. There needed to be an attempt at addressing the comments consistently or summarizing the overwhelming number of comments. Commissioners were left to do that on their own, or they could assign staff to that task as government appointees or elected officials. There was no attempt to provide guidance on how to process these comments. A couple of issues were raised through public comments toward the end of the process. Still, these were simple refinements, like whether the Minnesota State shape would be symmetrical or asymmetrical.

The elected officials on the commission did receive public comments or had public comments directed to them. At least in the case of the two members signed on this report, they were responded to directly by legislative staff as direct communications are in the usual way. The commissioners' email addresses were not made public and were only shared through the commission process emails sent by MNHS and in reply all messages. Some commissioners mentioned receiving emails directly from the public, perhaps through their other public roles or the groups they represented.

Public Testimony

Thirty-four people signed up to testify. 2 were from England, and several mentioned they were vexillology group members. Several were there to advocate for their own flag designs. It was an extremely closed process. The only people informed about this opportunity were those who signed up for email updates on the Historical Society's website. One person contacted one of the legislator's offices and complained that as soon as she got the email, she contacted the Historical Society and was told the list was already full. If a legislative committee tried to limit testimony in this way, there would be an outcry and some attempt at making more time available to testifiers.

(7) The Commission also received public comment from experts to guide them in the selection process and decision-making.

Members did hear from the experts at almost every meeting. Entire meetings were set aside to hear from experts, designers, and historians from across the country and even other countries about what a "good" flag should look like. It's important to note the difference between design expert testimony and public testimony. The Commission Law makes this distinction by describing them in separate sentences:

"The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work... "

Attention must also be paid to the use of the words "may" and "must." The Commission may secure voluntary expertise. But the commission "must" solicit public input. We think that the commission reversed the importance of these tasks.

At the 12/2 meeting to select the three flag finalists, the designers were brought in to present their designs. This took up fully half of that critical meeting, the Commission listening to what the designers thought their designs meant. Commissioner Aaron Wittnebel noted that we should have been

hearing from Minnesotans what they think about the flag designs. These weren't the designers' flags anymore; they belonged to the people of Minnesota. We agree.

Two designs popular with the public get short shrift

One of the most popular flag designs from the first round of comments was submission F29, titled by its designer as “starflake.” It was clear from the sheer volume of comments that this was the most consistently popular design. Secretary Simon acknowledged this fact by asking for it to be included in the final round of designs (adding a 6th selection to the final round). Another significantly popular design idea that the Commission did not consider was putting the most popular state seal selection, S224, on a dark blue background and using that as the state flag. This outside-the-box suggestion was made by many people in the comments solicited by the Commission on the website, on social media, and Reddit.

The chair of the Commission, Luis Fitch, urged members of the commission to send their design ideas to him, and he would do mockups of design changes to the seals and flags. Senator Drazkowski suggested to him in an email (See Exhibit B), and Chair Fitch responded and reached out to the designer to create some preliminary sketches of flags with the loon seal and with loon seal elements on a flag.

Senator Drazkowski asked Chair Fitch if these would be considered at the next meeting, which would be the first hybrid meeting, and he assured him they would. But no mention was made of these designs at the next meeting. Senator Drazkowski was never given an explanation as to why by Chair Fitch.

If the members had read the comments, they would know this was a popular idea. It may not have made the final round of selections, but it might have been considered. It’s simply too bad that a popular “hive mind” type idea couldn’t even be brought to the commission because they were too wedded to listening to the experts, at the expense of the public’s opinion.

Defects in the Seal construction by the commission

We want to point out the following issues with the seal design. Since the participants in this minority report have different issues, we will label them by the member(s) asserting them.

[Senator Steve Drazkowski and Rep. Bjorn Olson]

- **The removal of the state motto from the seal design** and its replacement with a phrase in the Dakota language meaning ““land of sky tinted water” Mni Sóta Makoce.” We oppose this for several reasons. First, the charge to the commission in the law to not single out a particular race or ethnic group in our state symbols is violated. This was noted by Secretary Simon as a legally challengeable issue. Secondly, the phrase is redundant. The name “Minnesota” is derived from that phrase, so it is like having the name “Minnesota” in two languages as if the seal was essentially bilingual. What may appear to some as simply a respectful nod to the Dakota may, in fact, be legally challengeable. It is the singling out of a particular language or an elevation of the status of a language or a phrase requiring further legal support. Future legislation changing the state motto was mentioned by one of the legislators on the Commission, but this was not the charge of the commission, nor was it part of the underlying legislation.
- **The removal of the date of Statehood from the seal.** The removal was done at the request of the Capitol Board Representative, Dr. Kate Beane, who characterized Minnesota Statehood as a purely negative event. This was after Secretary of State Simon gave a speech indicating that Statehood Day was an event Minnesotans could share in and take pride in. It was an exchange that questioned the whole concept of designing new symbols for a common purpose, if no common view exists of Minnesota Statehood. Commissioner Wittnebel did some research on his own, contacted notaries and other end users of the seal, and adds his findings in the section below. One of the things he learned was that seals generally contain a year of foundation. The omission of a date of any kind makes the Minnesota Seal non-compliant with general standards of official seals. We find this peculiar, given the attention that applying general standards of flag design got in the Commission’s work.
- **The addition of rondels to the seal to make the total of rondels reflect 87 counties plus 11 tribes within the borders of Minnesota.** The state seal is a not merely symbolic, it is a symbol of authority. There is no reason to have the state symbol of authority encompass 11 other sovereign nations. These entities were not separately consulted to see if they wanted to be included in this manner. Minnesota counties were created by the state and are subject to state authority, so their representation alone is entirely appropriate.

[Aaron Wittnebel]

**Minority Report in Rebuttal of the State Emblem Redesigns Commissions' Report's
Portion on the Great Seal of the State of Minnesota**

I. Introduction

In the 2023 Regular Session of the Minnesota Legislature, HF1830 known as the State Government Finance bill was amended by the House Ways and Means Committee to include a provision for the State Emblems Redesign Commission as reported in the Journal of the House on the 48th Day of Session, Thursday, April 13, 2023 (Top of Page 4578). HF1830 was passed by Conference Committee on the 76th Day of Session, May 21, 2023 (Top of Page 10454) as reported to the House by the Secretary of Senate, Thomas S. Bottern.

The records show that there was little to no debate on the substance of the State Emblems Redesign Commission clause, except by Senator Drazkowski and Representative Kurt Daudt.

II. The Law Establishing the State Emblems Redesign Commission

Minnesota Session Laws - 2023, Regular Session

CHAPTER 62

Sec. 118. STATE EMBLEMS REDESIGN COMMISSION.

Subd. 4. Duties; form and style of recommended state emblems.

"The designs must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that

represent only a single community or person, regardless of whether real or stylized, may not be included in a design. The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work.”

III. Questions Both Unanswered and Answered

- A. Is the annulus (label) defined as being part of the design under the enabling legislation?

Unclear.

- B. When looked at separately is the annulus (or label) and the blazon (design) defined as being the design under the enabling legislation?

No. If the Commission listened to its own expert on the official Great Seal.

“The annulus is the label of, and the blazon is the design or center icon, together they complete the Great Seal.” – Dr. Jonathan Good, Heraldic Fellow

- C. Is the placement of a non-state symbol or statement on the blazon of the Great Seal allowed under the enabling legislation?

No.

- D. Does the Commission have the authority to change the State Motto under the enabling legislation?

No.

- E. Did the Commission have a responsibility to listen to the tribal representatives assigned to serve on the Commission, over other members of the Commission appointed to represent certain state agencies who also may be enrolled tribal members?

Yes. The legislation does assign members by certain communities and agencies, except for the three Gubernatorial Appointees. With that being the case, the Commissioner for the Ojibwe Communities and the Commissioner for the Dakota Communities would speak for their communities, not the Commissioner for the Capitol Area Architectural & Planning Board.

- F. Did the Commission have a responsibility to listen to the 87 County Recorders (or Registrar of Titles) and Public Notaries regarding the Great Seal?

The Commission was responsible for soliciting feedback from the public but did not do so in matters consistent with state laws in the first, second, and final rounds of design comments. *See Minn. Stat. § 13, § 13D, and §15.17, subd. 1.*

When asked if his office would poll the Public Notaries on the potential designs for the Great Seal, at the different stages of comments; the Secretary of State stated that his office would. However, no polling or surveying of the Public Notaries was ever conducted. This is known because two Commissioners, Commissioner Mazone and I serve as Public Notaries and have colleagues who do as well and no survey or poll was ever conducted and in proving that point further, no results were ever shared with the Commission or published.

However, when I surveyed all 87 County Recorders (Registrar of Titles in Counties without a Recorder) and their staffs, who are public officials that have professional obligations in relation to the Great Seal of the State of Minnesota were asked; all 87 unanimously requested that at least the date of Statehood be placed in the annulus if the year alone was not kept. They also preferred that the State Motto was removed all together if the language proved divisive. If it was kept, they preferred that it be written in Dakota, Minnesota's first language over French.

No member of the public or the Commission was aware in advance that Commissioner Kate Beane, who represents the Capitol Area Architectural Planning Board, and Commissioner Anita Gaul, who is a Gubernatorial Appointee, were planning to propose the placement of a Dakota phrase on the blazon, which was not directly related to an official state symbol or motto. The proposed motion was kept secret until prior to the adoption of the Great Seal by the Commission, and it allowed no opportunity except for a notation that it did not comply with the criteria, and that it was not the state motto nor a state symbol.

- G. Did the Commission review the foreign laws on how each country or region (state) within a country recognizes the Great Seal of the State of Minnesota for Notary and Apostille purposes?

No, beyond this Commissioner, no other Commissioner or support staff reviewed such laws. When this was brought up during the December 12 in-person meeting of the State Emblems Redesign Commission, both Commissioner Michael Harralson, a Gubernatorial Appointee and Commissioner Kent Whitworth, Representing the Minnesota Historical Society made comments on how this Commissioner was not an attorney, although neither of them has a background in International Law either; nor did they conduct any collating of relevant research.

IV. Other Laws Directly Related to the Great Seal of the State of Minnesota

A. International Law

1. Statute of the Hague Conference on Private International Law 1955
(revised in 2007 for publication in alternative languages, English and French)
2. Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (a/k/a The Apostille Convention of 1961)
 - a. As of 2016, 113 countries are parties to the Apostille Convention (The United States included.) All 113 will recognize document authentication and certification by the state or regional governments within the member countries that delegate such authority.
 - i. Germany, the United States of America, Brazil*, etc., allow delegation of duties.
 - ii. The United Kingdom and Commonwealth Nations do not**

*Brazil will not accept documents authenticated or certified by private agents, only State/Foreign Departments or Secretaries of State.
**Canada is a party to the Hague Convention but not a party to the section known as the Apostille Convention.
 - b. As of 2016, there are 63 countries that are not parties to the Apostille Convention but will recognize document authentication by the originating country (not but not political subdivisions such as counties, regions, or states), and will also require what is known as a C3 Document to accompany them.
3. In all 113 countries that are parties to the Apostille Convention their Foreign Office must recognize the Great Seal of Minnesota, along with the state/provincial/county subdivisions that also handle Public Notary and Apostille services on behalf of the government. In the 63 countries who are not parties to the Apostille Convention will not recognize document authentication or certification by political subdivisions; requires that the Great Seal of Minnesota is recognized by the U.S. State Department to handle authentication and certification services of Apostille.

4. U.S. Supreme Court precedence on the Hague Convention

VOLKSWAGENWERK AKTIENGESELLSCHAFT v. SCHLUNK, 486 U.S. 694, No. 86-1052 (1988)

- B. U.S. Federal Code, Regulations, and Rules

1. 15 U.S. Code § 1061 (1970)
2. 28a U.S. Code § 44 (1948)
3. 35 U.S. Code § 115 (1953)
4. 35 U.S. Code § 261 (1953)
5. 37 CFR § 1.66 (2003)
6. Fed. R. Civ. P. 44 (1948)

- C. Uniform Commercial Law (aka Uniform Commercial Code)

1. Law on Notarial Acts & Apostilles
 - a. 2021 Newly Revised – 6 States, the District of Columbia and the U.S. Virgin Islands approve of this Uniformed Law Revision.
 - b. Uniform Law – 22 States approved the Uniform Law on Notarial Acts prior to its newest revision. (Includes Minnesota)
 - c. 22 States and 4 U.S. Territories have individual laws pertaining to Notarial Acts, none which are like the other.
 - d. Nearly half of all U.S. States and Territories have their own unique laws pertaining to Notarial Acts and Apostilles.

- D. Minnesota Statutes and Administrative Rules

1. Minn. Stat. § 1.135
2. Minn. Stat. § 357.17
3. Minn. Stat. § 358.115
4. Minn. Stat. §§ 358.51-358.76
5. Minn. Stat. § 359
6. Minn. R. 2810.9920 (2007)
7. Minn. R. 2810.9950 (2017)
8. Minn. R. 2860.9920 (2007)
9. Minn. R. 2860.9930 (2007)
10. Minn. R. 4601.0100 § Subp. 18. (2015)
11. Minn. R. 5219.0300 (2011)
12. Minn. R. 6400.6100 (2021)
13. Minn. R. 7035.2805 (2006)
14. Minn. R. 7045.0524 (2013)
15. Minn. R. 7900.0500 (2002)
16. Minn. R. 8210.0500 (2019)
17. Minn. R. 8210.0600 (2016)
18. Minn. R. 8210.3000 (2016)
19. Minn. R. 8215.0500 (2018)
20. Minn. R. 8610.0160 (2023)
21. Minn. R. 9500.1206 (2021)
22. Minn. R. 9560.0030 (2016)

V. Summary of Dissent

- A. The Commission did not solicit public comment in a manner consistent with state law (*See Minn. Stat. § 13, § 13D, and §15.17, subd. 1.*), therefore the anonymous comments received cannot be counted as fulfilling this specific requirement under the Commission's enabling legislation.
- B. While I proposed the compromise of writing the State Motto in the Dakota language as reference to the history of Minnesota, and Dakota being the first language here and not French; I believe that would not have violated the clause in the enabling legislation as it would

have been a historical reference and not a symbol stylized that represents one group of people over others. However, the adoption of a phrase for to be placed on the blazon of the Great Seal, that is not a state symbol or the state motto in the Dakota Language favors the Dakota people over other groups of peoples in Minnesota. This clearly violates the statute and should be removed from the Great Seal as adopted.

- C. The State Emblems Redesign Commission in Minnesota eliminated the year of statehood from the Great Seal because it is deemed offensive, based on the opinion from the Commissioner representing the Capitol Area Architectural Planning Board who use their credentials of a PhD as being an expert on the matter, all though no disclosure on what specific subject that PhD covers. However, many other experts (including the Commission's expert, Dr. Jonathan Good, a Heraldic Fellow) believe that either the date or the year should be placed in the annulus of the Great Seal, where the current Year of statehood is positioned; this includes both the Commissioner for the Ojibwe Community and the Commissioner for the Dakota Community. The inclusion of the year of statehood on the Great Seal of the State of Minnesota is a longstanding tradition that represents the state's history and culture. The annulus is an official label that is used to display the state's name and the year or date of statehood, and it is not part of the blazon. Therefore, it is reasonable to include the year or of statehood on the Great Seal, within the annulus.
- D. Though there are a few Great Seals of other U.S. States that do not have their date or year of statehood on them currently, as they have been used since their entry into the Union; the Apostille Convention does recommend that if a change is made, that those dates or years are included on the seal. (See the *Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.*) In this day of Artificial Intelligence, the physical seal utilizing the date or year of statehood within the annulus and stylized the same way as the rest of the annulus could be considered and extra security measure when authenticating or certifying documents.

VI. Other Issues of Concern to Address

- A. Basic Rules of Procedure for State Boards, Commissions, Committees, and Task Forces
1. The Commission at its first meeting elected a Chair and Vice Chair to preside over meetings, as Commissioners are considered equals among each other. The Chair and Vice Chair exceeding their purview on several occasions, but a few specifically stuck out:
 - a. The Chair for legitimate purposes that could not wait and with full transparency afterwards to the Commission when he changed the agenda to schedule expert and public testimony for us to meet deadlines.

- b. The Vice-Chair utilized an MNHS Support Staff Member as their own personal press aide to schedule interviews nearly every week. This led to the Vice Chair making a claim during a Valley News Live interview stating that she could speak for the BIPOC Commissioners and Communities; afterward, when I suggested these Commissioners provide interviews where our opinions are asked for, we could provide them. After doing so, there were consistently times when the Vice Chair and that Staff Member made under-the-radar biased remarks purposely when I was around during discussions about the press; this complaint was reported to Chair Fitch and Mr. Kelliher, and the incidents did not stop." While we had MNHS Support Staff, like David Kelliher, Lindsey Dyer, Olivia Gentilcore, and intern Jack Barrett who went above and beyond in their duties and commitment to the Commission, Commissioners, and our work, I do feel that the other staff member referenced as the press aide was not an appropriate use of Commission funding as that particular staff member only worked with or for the Vice Chair, a very confusing situation to say the least.
 2. At the first meeting, Rules of Procedure for the Commission were brought up as something we should establish but passed over because of our short deadline to do our work.
 3. The enabling legislation for the Commission stated that all appointments to it needed to be made by August 1st. However, this Commissioner was told that certain appointments had not been made. This caused us and the state to lose one month's worth of work.
 4. The Legislature should establish an outline of rules under the advisement of the Secretary of the Senate, the Clerk of the House, and the Legislative Reference Librarian for all State Boards, Commissions, Committees, Councils, and Task Forces when they receive no such outline with specificity in statute.
- B. Conflict of Interest Disclosures
- 1.) The Commission set up a Conflict-of-Interest rule where no one who had financial interests or familial ties could submit design concepts. I was the only Commissioner to complete a Conflict-of-Interest form, that was also publicly accessible. I don't understand as a commissioner who did not receive payment, unlike four Commissioners that we know of, from an agency or other organization while serving on this Commission, why I was the only one to complete an "Ethical Practices & Conflict-of-Interest Disclosure Form." After the fact, it was brought to my attention that the artist that provided the flag design concept, "The Ojibwe Loom" had some form of previous relationship with the Commissioner for the Area Architectural Planning Board and it could not be determined if it were familial or financial in nature, as no disclosure form was provided. As recent as the time of writing my portion of the Minority Report, I have continued to be contacted by people working directly for the Lt. Governor and CAAPB upset that I did support a Native Artist, which I didn't know until after and based on the design submitted still would not have voted in favor. The same issue happened with the Vice Chair for the Commission,

who was a Gubernatorial Appointee; it was brought to light prior to our selection of flag designs during our first in-person meeting that they had a pre-existing relationship with a particular artist, who “they actively campaigned to other Commissioners to choose that artist’s design, placing him into the first final six and then the second final round of three.

- 2.) Gubernatorial Appointees in the past had to sign and turn in Campaign Finance & Disclosure Economic Interest Statement forms in addition to conflict-of-interest forms; I believe this practice should be returned, as it would be for the betterment of the public trust.

C. Unpaid versus Paid

1. In the Commission’s Report to the Legislature and Governor it thanks all the Commissioners for volunteering and the extra work that they put into the Commission. However, that is an incorrect statement as four Commissioners were paid to participate unlike the rest of the Commission:
 - A. Kent Whitworth, Executive Director for the Minnesota Historical Society
 - B. Philip McKenzie, Chair, Minnesota State Arts Board
 - C. Lauren McGinty, Explore Minnesota
 - D. Steve Simon, Secretary of State

Two of the above, Mr. Whitworth and Mr. Philip McKenzie appointed themselves to the Commission as the heads of their appointing authorities. Secretary Simon was written into the enabling legislation. Though the work of the Commission could have serious implications for tourism in the state, I would disagree that our flag or seal should be dependent on the latest branding advisory, the most recent being from Explore Minnesota in 2018. I don’t exactly know why a seat for a Commissioner was available for Explore Minnesota when it may have been better to have supplied the Commission with additional support staff or expert testimony instead

2. For the most part, when groups like this meet in person, it works better for everyone. Pandemic procedures are no longer in effect and not necessary at this time. It’s time for the Legislature to start requiring state boards, commissions, committees, councils, and tasks forces to meet in person instead of online. And with that, they should consider small stipends or per diems in addition to the typical expenses incurred. It wasn’t long ago that the Legislature placed the Office of State Treasurer on the ballot to eliminate as an elected official for sending faxes from his vacation home to conduct state business; I wonder how that is different from Zoom, WebEx, Google Meet, and MS Teams today?

3. I also need to point out that funds from the Commission's budget were expended on purchasing flags based on design concepts that were not yet refined at the request of Explore Minnesota to show residents and gauge feedback. I feel that this venture did more harm than good, and that Explore Minnesota should have paid for the flags, since the Commission did not have an opportunity to vote on whether the plan was sound or the funding appropriate.
4. Greater Participation. To obtain greater participation in commissions we need to look at establishing seats for each Congressional District back in, and a more representative balance between DFL, GOP, and independent members, even on Boards, Committees, Councils, and Task Forces as we once did, and had to disclose on our open appointment forms for the public record.

In closing, while I feel there are other issues that need attention as noted, my main concern and reason for this Minority Report is the inclusion of non-state symbol stylized in favor of one group over all others on the Great Seal of the State of Minnesota and the date being omitted. The flag process would have been better with clearer direction from the Legislature and a longer deadline. I am happy with the flag adopted, I'm unsure whether we would find a better one. I am so glad that we were able to accomplish the first part of the Commission's main goal by separating the Great Seal from the State Flag. However, I have serious concerns about the Great Seal and its functionality as a tool and symbol of the authority of the state of Minnesota's government. It is not a mere ceremonial symbol for press conferences (although it will also be used for those by elected officials). It was my general feeling that the liberal majority of the Commission could care less about what the Great Seal is or isn't and more interested in treating it like a middle school art project. I also believe a review by the Office of the Legislative Auditor of the State Emblems Redesign Commission is warranted. It would be good to get a set of best practices regarding Minnesota's system of Boards, Commissions, Committees, Councils, and Task Forces.

Defects in the Flag construction by the commission

[Senator Steve Drazkowski and Rep. Bjorn Olson]

Although our main criticism is with the flag and seal selection process and the committee's construction, we want to point out a few issues with the flag. Not so much with what it is but what it is not. The law commits the commission to select a flag that "must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that represent only a single community or person, regardless of whether real or stylized, may not be included in a design." This flag has three elements.

- **A stylized depiction of the shape of the state** (which it happens, leaves out Angle Inlet, the part of Minnesota geography which gives us the designation of being the northernmost part of the United States.) It also over-emphasizes the state's southern half because it was agreed that the design should be symmetrical. From a design perspective, that may be true, but that's of little consolation to people in Minnesota's 7th and 8th congressional districts.
- **There is no Green or any nod to agriculture or environment** on the Flag. We are apparently only known for our water.
- **The 8-pointed star is known as a "Dakota Star, but it appears in many cultures.** It can also be a compass rose, a quilt pattern, or a Scandinavian knitting pattern. It's a religious symbol to Christians, Jews, Muslims, and Hindus, each with its own separate meaning, NOT a universal meaning that creates unity. A symbol with that many meanings does not mean "the North Star," which is usually depicted with the four compass points as more prominent as it is a directional aid in the sky. Equidistant points do not aid in showing a direction. They fan out in every direction. This North Star would get you lost.

Although not intentional, and no disrespect meant to any designer or group, country or state whose flag this final flag may resemble, the final design accepted by the commission looks to some members of the public like some of the flags designed for Somalia. To clarify, the similarity is to the country flag itself and to states within Somalia.⁶ The Commission needed to take seriously the sense of the people who noticed this and not just brush off the comment as inspired by some ill intention. In no way do we mean to argue that this is an intentional similarity, but the Commission needed to have more awareness of the totality of the effects of their reductions as they were designing and the effect their work would have after it was designed. Is the final flag identical to one of these flags? No. But the "swallowtail" created by the reduction of the state shape and the contrast between the white star and light blue next to it are probably creating that impression.

⁶ https://en.wikipedia.org/wiki/List_of_Somali_flags

EXHIBITS

Exhibit A: State Emblems Redesign Commission Law

Laws Chapter 62, 2023, Art 2, Sections 5 and 118.

Sec. 5.

Minnesota Statutes 2022, section 1.141, subdivision 1, is amended to read:

Subdivision 1

Adoption.

The design of the state flag ~~proposed by the Legislative Interim Commission acting under [Laws 1955, chapter 632](#)~~, as certified in the report of the State Emblems Redesign Commission, as established by this act, is adopted as the official state flag.

EFFECTIVE DATE.

This section is effective May 11, 2024.

*Sec. 118.***STATE EMBLEMS REDESIGN COMMISSION.**

Subdivision 1.

Establishment.

The State Emblems Redesign Commission is established. The purpose of the commission is to develop and adopt a new design for the official state flag and the official state seal no later than January 1, 2024.

Subd. 2.

Membership; meetings.

(a) The commission consists of the following members:

(1) three members of the public, appointed by the governor;

(2) one member appointed by the Council for Minnesotans of African Heritage;

(3) one member appointed by the Minnesota Council on Latino Affairs;

(4) one member appointed by the Council on Asian-Pacific Minnesotans;

(5) one member representing the Dakota community and one member representing the Ojibwe community, appointed by the executive board of the Indian Affairs Council;

(6) the secretary of state or the secretary's designee;

(7) the executive director of the Minnesota Historical Society or the director's designee;

(8) the chair of the Capitol Area Architectural and Planning Board or the chair's designee;

(9) the chair of the Minnesota Arts Board or the chair's designee; and

(10) the executive director of Explore Minnesota Tourism or the director's designee.

(b) The following serve as ex officio, nonvoting members of the commission: (1) two members of the house of representatives, one each appointed by the speaker of the house and the minority leader of the house; and (2) two members of the senate, one representing the majority caucus appointed by the senate majority leader and one representing the minority caucus appointed by the senate minority leader.

(c) Appointments to the commission must be made no later than August 1, 2023. The voting members of the commission shall elect a chair and vice-chair. An appointee designated by the governor shall convene the commission's first meeting. Decisions of the

commission must be made by majority vote. The Minnesota Historical Society must provide office space and administrative support to the commission.

Subd. 3.

Meetings.

Meetings of the commission are subject to Minnesota Statutes, chapter 13D.

Subd. 4.

Duties; form and style of recommended state emblems.

The commission shall develop and adopt a new design for the official state seal and a new design for the official state flag. The designs must accurately and respectfully reflect Minnesota's shared history, resources, and diverse cultural communities. Symbols, emblems, or likenesses that represent only a single community or person, regardless of whether real or stylized, may not be included in a design. The commission may solicit and secure the voluntary service and aid of vexillologists and other persons who have either technical or artistic skill in flag construction and design, or the design of official seals, to assist in the work. The commission must also solicit public feedback and suggestions to inform its work.

Subd. 5.

Report.

The commission shall certify its adopted designs in a report to the legislature and governor no later than January 1, 2024. The commission's report must describe the symbols and other meanings incorporated in the design.

Subd. 6.

Expiration.

The commission expires upon submission of its report.

Exhibit B: Loon Seal Flag email exchange and designs

(See attached pages).

Re: [EXTERNAL] Loon seal in a flag as requested

Sen. Steve Drazkowski <sen.steve.drazkowski@mnsenate.gov>

Thu 12/7/2023 11:51 AM

To: Luis Fitch <luis@unobranding.com>

Thanks so much, Luis. I agree wholeheartedly with your private comment from last night. Pushing a rock uphill is no fun, ever. It feels like that is what the current flag selections are attempting to do.

Steve.

From: Luis Fitch <luis@unobranding.com>

Sent: Thursday, December 7, 2023 9:21 AM

To: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>

Subject: Re: [EXTERNAL] Loon seal in a flag as requested

All these concepts will be printed, numbered, and displayed like last time. Commissioners can discuss and vote on all these new alternative directions submitted by designers, NAVA experts, and Commissioners.

LUIS FITCH

(he/him/his)

Founder and Creative Director

AIIGA MN Fellow

UNO Branding / A Strategic Cross-Cultural Design Agency

Ph. + 1 612. 874 1920 Ext. 11

[Commission Chair for the MN State Emblems Redesign](#)

www.unobranding.com

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From: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>

Date: Wednesday, December 6, 2023 at 5:29 PM

To: Luis Fitch <luis@unobranding.com>

Subject: Re: [EXTERNAL] Loon seal in a flag as requested

Thank you for your legwork on this, Luis. I believe that the last example, where the loon image is show full-page (or full-flag) is what people were suggesting.

Can we show this to the commission at the next meeting, to show the members a direction for the flag, that is different than the current one, and would match up the visual identity in both the seal and the flag?

Steve.

From: Luis Fitch <luis@unobranding.com>

Sent: Wednesday, December 6, 2023 1:15 PM

To: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>
Subject: [EXTERNAL] Loon seal in a flag as requested

Hello Senator,

What do think about these ideas?

See attached PDF file.

LUIS FITCH
(he/him/his)
Founder and Creative Director
AIGA MN Fellow

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From: Sen. Steve Drazkowski <sen.steve.drazkowski@senate.mn>
Date: Tuesday, December 5, 2023 at 11:59 AM
To: Luis Fitch <luis@unobranding.com>
Cc: Lindsey Dyer <lindsey.dyer@mnhs.org>, david.kelliher@mnhs.org
<David.Kelliher@mnhs.org>
Subject: Design Ask

Chair Fitch and Staff,

I am responding to your comment in the meeting today to submit suggestions.

Several commenters online suggested that we take the state seal selection S224, which we all agreed today should move forward and put on a blue background and consider it as our state flag. I want to put that forward as a suggestion.

Now I know that the idea of “the seal on a bedsheet” has been derided by designers and “vexillologists,” both amateur and professional. But I think that we are making a mistake if we use artistic criteria alone to cut us off from a solution that could work. The flag is not just a piece of artwork but something meant to symbolize our identity as Minnesotans.

As one commenter said, “Sometimes a solution is just staring you in the face.”

Steve Drazkowski







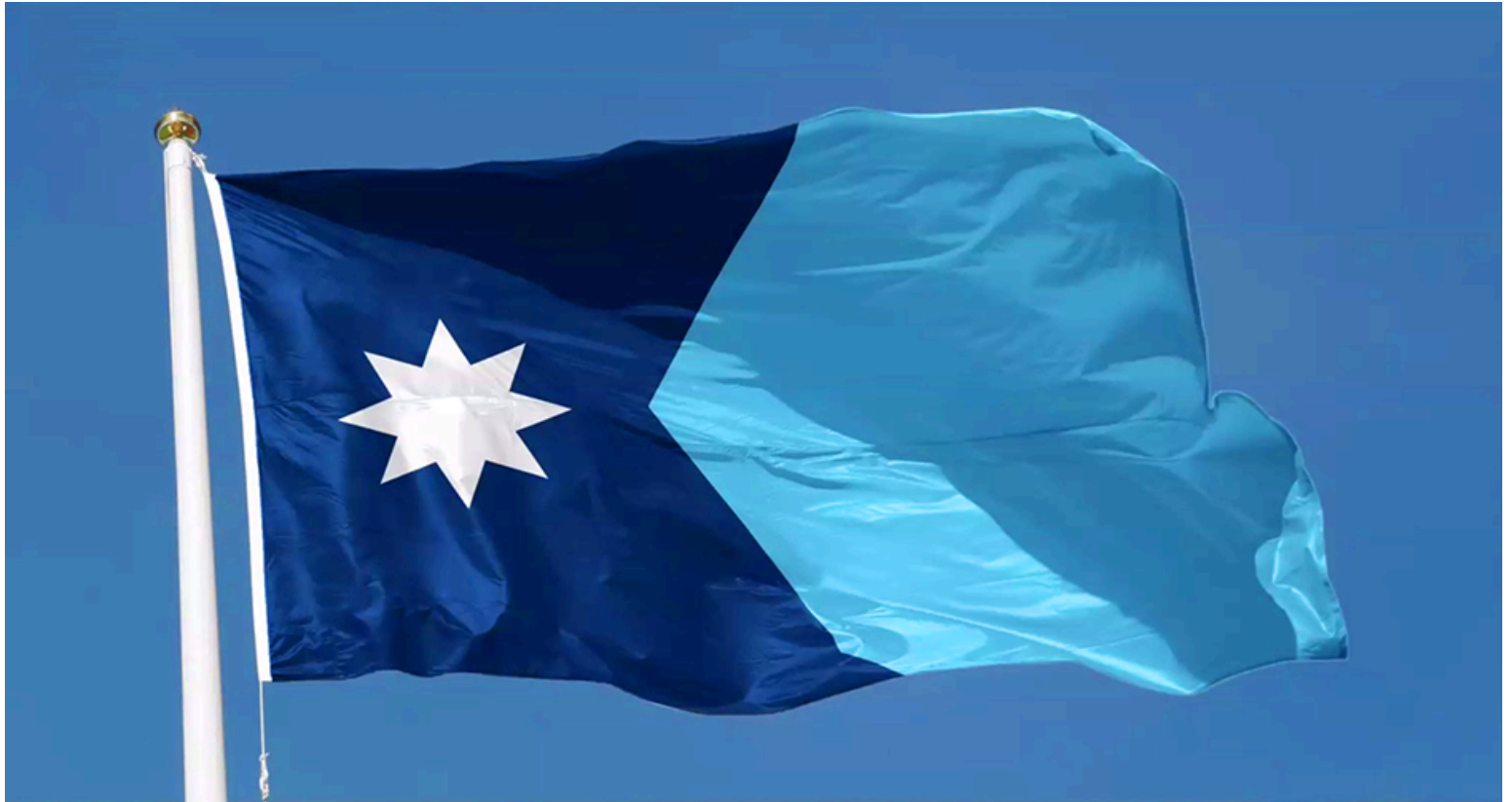


Did Minnesota change its state flag without public input?

Minnesota is among a handful of states in recent years that have updated or reconsidered their state flags and seals.

by **Brian Arola**

10/03/2025



Minnesota State Flag Credit: State Emblems Redesign Commission

No.

Fact Brief 

A state commission selected Minnesota's new flag and seal in 2023 following a public input period that drew thousands of design submissions and comments. The panel, created by the Legislature in part due to criticism

of [the existing flag's depiction](#) of Indigenous peoples, was part of a broader trend of states modernizing their flags.

The State Emblems Redesign Commission was composed of 13 voting members and four legislators as non-voting members. It held 18 total meetings during the process, which drew 2,128 design submissions and 21,882 comments.

Three of the 17 members — two of them Republican state lawmakers — subsequently [criticized](#) the commission's tight timeline and public outreach strategies. [Some counties](#) have pushed back [against using](#) the new state flag.

This fact brief is responsive to conversations such as [this one](#).

MinnPost partners with [Gigafact](#) to produce fact briefs — bite-sized fact checks of trending claims. Read our [methodology](#) to learn how we check claims.

Sources

- State Emblems Redesign Committee [Redesign timeline](#)
- State Emblems Redesign Committee [The New Official Flag and Great Seal](#)
- State Emblems Redesign Committee [Minority Report](#)

during Operation Metro Surge.

Now, some Twin Cities suburbs are arguing over whether to raise the state flag on city property, amid a renewed debate over what the flag symbolizes and whether residents like the new design.

The northwest suburb of Champlin, which is still displaying the retired flag, this week refused to trade it out for the new one. The St. Francis City Council decided to take down the new flag and replace it with the one from 1957. In Nowthen, the City Council debated the issue before deciding to stick with the new flag.

The City Hall debates don't seem to be part of any coordinated flag crusade across the suburbs. The topic of which flag to fly has been raised by people on both ends of the political spectrum, including some people questioning whether continuing to fly the old one is culturally insensitive.

But it's clear the new state flag – featuring a dark blue, abstract shape of Minnesota, a white North Star and light blue symbolizing the state's water – has carried deeper symbolism for many residents across Minnesota in recent months. Sales of the new design skyrocketed this winter, as it was often carried by protesters and draped over shoulders at demonstrations against Immigration and Customs Enforcement after 3,000 federal immigration agents descended on Minnesota.

At a Nowthen City Council meeting earlier this month, Council Member Dan Breyen referenced a quote from a Rochester flag salesman, who told the Minnesota Star Tribune: “Protest and defiance is what I now see in customers buying the new flag.”

“I do not want the city of Nowthen to be represented as protest and defiance,” Breyen said. “Just because something has been tradition doesn't mean we need to continue to do it.”

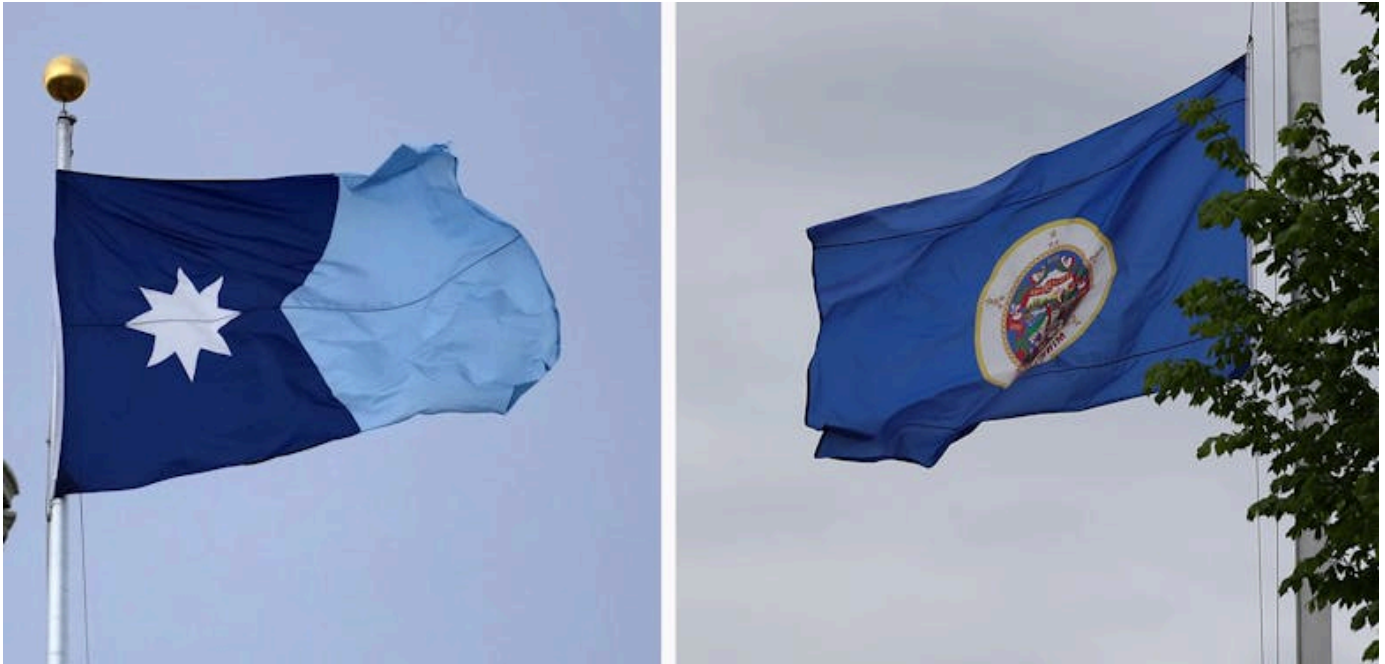
The city of about 4,500, where 72% of residents voted for Donald Trump in 2024, had already switched to the new flag. Council Member Ken Glaser asked the city to consider taking it down, arguing that many people are unhappy about the redesign, saying “this is very much a partisan issue in the state of Minnesota.”

But other council members disagreed on what it means to be nonpartisan, and the council decided on a 3-2 vote that Nowthen will continue waving the new state flag.

State buildings are required to display the flag, but local governments have discretion over whether to do so.

Last year, some cities in greater Minnesota, including deeper red, rural communities, decided against putting up the new flag. And some counties adopted resolutions rejecting the new look.

While some local governments are sticking with the retired design, others have opted not to fly a state flag at all.



The new Minnesota state flag, left, and the old flag it replaced. (The Minnesota Star Tribune)

Rejecting flag sends a ‘statement’

Despite the state flag’s increased prevalence in recent weeks, most of the council debates have recycled initial criticisms of the redesign.

City officials in all three suburbs voiced distaste for the process when the DFL-controlled Legislature in 2023 formed a 13-member commission to replace the old design. The decision came after the state received thousands of public submissions and months of debate.

Some council members opposing the new flag argued that Republicans did not get enough of a say in the process, and that residents statewide should vote on the design.

“It upsets many that this new flag was thrust upon us,” Champlin Council Member Tim Huttner said.

RESOLUTION NO. 2026-19

**A RESOLUTION DIRECTING THE DISPLAY OF THE FORMER MINNESOTA
STATE FLAG IN THE CITY COUNCIL CHAMBERS AND
AUTHORIZING ITS USE AT CITY FACILITIES**

WHEREAS, the State of Minnesota established a State Emblems Redesign Commission in 2023 to develop a new state flag, which became effective May 11, 2024; and

WHEREAS, the prior Minnesota state flag, with origins dating to 1893 and subsequent modifications in 1957 and 1983, served as the official flag of the State for many decades and remains widely recognized by residents; and

WHEREAS, municipalities are not required by law to display a state flag at city facilities, and the display of flags is a matter of local policy and discretion; and

WHEREAS, the City Council recognizes that public opinion regarding the redesign of the state flag varies, and finds that continued use of the former flag reflects continuity and historical recognition for many residents.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPRING LAKE PARK, MINNESOTA:

1. The Minnesota state flag displayed in the City Council Chambers shall be the version in use prior to the 2024 redesign (commonly referred to as the 1983 version of the Minnesota state flag).
2. The City may display the former Minnesota state flag at other City facilities or properties where the City determines it is appropriate to display a state flag.

The foregoing resolution was moved for adoption by

Upon roll call, the following voted aye:

And the following voted nay:

Whereupon the Mayor declared said resolution duly passed and adopted this ____th day of _____ 2026.

Robert Nelson, Mayor

ATTEST:

Daniel R. Buchholtz, Administrator, Clerk/Treasurer

But the issue there wasn't raised by an opponent of the new flag. Instead, a resident requested the council fly the new flag, arguing that it would signal a push for greater inclusivity.

Champlin Mayor Ryan Sabas, a Republican who this winter has criticized the ICE surge in Minnesota, said his northern suburb is politically purple, with 53% voting for Kamala Harris for president in 2024. He said he disagrees with "erasing history" by removing the old flag and did not support the process for choosing a new design.

"Minnesota residents didn't have any control over it," Sabas said at a meeting this week, where the majority of residents in attendance spoke in favor of keeping the old flag.

Champlin will continue flying the 1983 flag, which features the former state seal, depicting a white settler plowing a field while a Native American man on horseback rides westward. Council Member Jessica Tesdall, who pushed for flying the new flag, said she has heard from residents who find the old imagery offensive, perpetuating the idea that white settlers were meant to take over the land.

"I just feel like it's a very unfortunate situation," she said. "And one that we're bringing on ourselves."

Meanwhile, in St. Francis, Mayor Mark Vogel said the city's decision to revert to flying the 1957 flag is sending a "statement" to Minnesota leadership. Seventy percent of the city's residents voted for Trump in 2024.

"I'm sickened, absolutely sickened, by what's going on in this state," Vogel said at a January meeting.

He argued that changing the state flag's design is "paramount to changing the name of Minnesota."