

SECTION 300.00 GENERAL LICENSING AND PERMIT PROVISIONS.

- 300.01 Definitions
- 300.02 Licenses and Permits
- 300.03 Fees
- 300.04 Duration of License
- 300.05 Transfers
- 300.06 Inspections
- 300.07 Duties of Licensee
- 300.08 Termination, Refusal, and Revocation
- 300.09 Duplicate License
- 300.10 Penalty for Property Owners
- 300.11 Responsibility of Licensee
- 300.12 Conviction of a Crime, Denial of Licensee
- 300.13 Conditional Licenses

300.01 DEFINITIONS, GENERAL.

Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of this Chapter, shall have the following meanings:

APPLICANT - Shall mean any person making, an application for a license under this Chapter.

APPLICATION - shall mean a form to be filled in and completed by the applicant as his or her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

BOND - Shall mean a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

BUSINESS - Shall mean any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

LICENSE - Shall mean a document issued by the City to an applicant permitting the applicant to carry on and transact a business.

LICENSE FEE - Shall mean the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

LICENSEE - Shall mean an applicant who, pursuant to his or her application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

SALE - The terms "Sale", "sell" and "sold" shall mean all forms of barter and all manner or means of furnishing merchandise to persons or means of furnishing the merchandise or services to persons.

300.02 LICENSES AND PERMITS.

Subd. 1. General Rules. Except as otherwise provided in this Code, all licenses and permits, granted by the City shall be governed by the provisions of this Chapter.

Subd. 2. Acts Prohibited. No person shall conduct any activity or use any property for which a license or permit is required by law or this Chapter without a current, valid license or permit for the activity or use.

Subd. 3. Application. Every application for a license shall be made on a form provided by the City Administrator or his/her designee. It shall be accompanied by payment to the City of the prescribed fee. If, after investigation, the City Administrator, or his/her designee, is satisfied that all requirements of law and this Chapter have been met, he or she shall present the application to the Council for action or, if the license or permit does not require Council approval, the City Administrator, or his/her designee, shall issue the license or permit. If the City Administrator, or his/her designee, is not satisfied that the application is complete, he or she shall return the application to the applicant along with notice of the required missing data. If the City Administrator, or his/her designee, determines the applicant has not met all of the requirements for a license, the City Administrator, or his/her designee, shall so inform the Council who may then deny the application and provide the applicant with a reason for denial and an opportunity to appeal.

Subd. 4. Bond. Where a bond is required for any license or permit, the bond shall be a corporate surety bond executed on a form approved by the City Attorney and shall be filed with the City Administrator, or his/her designee, before the license or permit shall be issued. The amount of a bond shall be in the amount as determined by the City Administrator, or his/her designee, unless where otherwise provided, conditioned that the licensee or permittee shall comply with the applicable ordinances and laws pertaining to the licensed or permitted activity and that the licensee or permittee shall defend, indemnify and save the City harmless from all loss or damage by reason of inadequate work performed by the licensee or permittee or by reason of accident caused by the negligence of the licensee or permittee, his or her agents or employees.

Subd. 5. Insurance.

A. When a licensee or permittee is required to have in force a policy of insurance, the policy shall be approved as to substance and form by the City Attorney. The policy shall provide that it is non-cancelable without 15 days notice to the City, and the coverage shall be for the term of the license or permit. Satisfactory evidence of coverage by insurance shall be filed with the City Administrator, or his/her designee, before the license or permit is issued. Each license or permit shall terminate upon termination of the required insurance coverage.

B. Unless otherwise provided, a required policy of liability insurance shall provide for protection in at least the following amounts:

1. For injuries including death therefrom sustained by any one person, \$500,000.00.
2. For injuries including death resulting therefrom sustained by two or more persons, the result of any one occurrence, \$1,000,000.00.

3. For property damage, \$300,000.00.

4. An umbrella policy not less than \$1,000,000.00.

300.03 FEES.

Subd. 1. Fee Established. License fees shall be as set by Section 108 of this Code.

Subd. 2. Prorated Fees. License fees shall not be prorated unless otherwise specified by this Code or by law.

Subd. 3. Refunds. License fees shall not be refunded in whole or in part unless otherwise specified by this Code or by law.

300.04 DURATION OF LICENSE.

Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31 of each year.

300.05 TRANSFERS.

No license issued under this Code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Council or other licensing authority.

300.06 INSPECTIONS.

Any City official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine any licensee, the licensee's business, or premises to enforce compliance with applicable provisions of this Chapter. The City Official may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Chapter.

300.07 DUTIES OF LICENSEE.

Subd. 1. Compliance Required. Every licensee and permittee shall have the duties set forth in this Section.

Subd. 2. Inspection. Every licensee or permittee shall permit at reasonable times inspections of his or her business and examination of his or her books and records by authorized officers or employees.

Subd. 3. Compliance with Law. The licensee or permittee shall comply with laws, ordinances, and regulations applicable to the licensed business, activity or property.

Subd. 4. Display of license. The licensee or permittee shall display the license or other insignia given him or her as evidence of the license in a conspicuous place on the premises, vehicle or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever he or she is carrying on the licensed activity.

Subd. 5. Unlawful Disposition. The licensee shall not lend or give to any other person his or her license or license insignia.

300.08 TERMINATION, REFUSAL, AND REVOCATION.

Subd. 1. Termination. Licenses shall terminate only by expiration, revocation, or lapse of required insurance.

Subd. 2. Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given of the exact date of hearing shall be posted as part of the City Council agenda as required in Chapter 1 of this Code.

300.09 DUPLICATE LICENSE.

Duplicates of all original licenses may be issued by the City Administrator, or his/her designee, without action by Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee as determined by the City Administrator, or his/her designee, for issuance of the duplicate. All duplicate licenses shall be clearly marked "duplicate."

300.10 PENALTY FOR PROPERTY OWNERS.

It shall be unlawful for any person to knowingly permit any real property owned or controlled by him or her to be used, without a license, for any business for which a license is required by this Chapter.

300.11 RESPONSIBILITY OF LICENSEE.

The conduct of all agents and employees of the person to whom a license or permit shall be issued shall be deemed the conduct of the licensee themselves.

300.12 CONVICTION OF A CRIME, DENIAL, OF LICENSE.

A license may be denied to an applicant by the Council solely or in part due to a prior conviction of a crime by an applicant only upon finding that the conviction directly relates to the occupation for which the license is sought, and then only after considering, evidence of rehabilitation and such other evidence as may be presented, all in accordance with Minnesota Statutes. Provided, however, that an applicant must show his or her present fitness to perform the occupation for which the license is sought.

300.13 CONDITIONAL LICENSES.

Notwithstanding, any provision of the law to the contrary, the Council may, upon finding of necessity therefore, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

SECTION 301.00 PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS.

- 301.01 Purpose.
- 301.02 Definitions.
- 301.03 Permit Required.
- 301.04 Regulation of Transient Merchant.
- 301.05 Application for Permit, Fee.
- 301.06 Permit Issuance Procedure.
- 301.07 Suspension of Permit.
- 301.08 Registration.
- 301.09 Practices Prohibited.
- 301.10 Penalty.
- 301.11 Severability.

301.01 PURPOSE.

This Section shall not be intended to interfere with legitimate business activities of peddlers, solicitors, or transient merchants as defined in this Section, whether they be involved in local or interstate commerce. These provisions shall be intended only to, as nearly as possible, ferret out the illegitimate or confidence operators and to regulate and control all those who would use their unique presence on property within the City, either in person or by means of a telephone contact, or their unique proximity to its residents, for the purposes of harassment, nuisance, theft, or other unlawful activities.

301.02 DEFINITIONS.

The following terms, as used in the section, shall have the meanings stated:

PEDDLER - Any person who goes from house to house, place to place, or from street to street, carrying or transporting goods, wares or merchandise, and who sells and delivers merchandise at the same time he/she offers it for sale.

PERSON - shall mean any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

SOLICITOR - A person who goes from house to house, place to place, street to street, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or service, of which the person may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time.

TRANSIENT MERCHANT - A person who temporarily sets up business out of vehicle, trailer, boxcar, tent, other portable shelter, empty store front, vacant lot or parking lot for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property.

301.03 PERMIT REQUIRED.

It is unlawful for any peddler, solicitor, or transient merchant to engage in any such activity within the City without first having secured a permit. The license does not exempt compliance with all other applicable State and Federal laws.

Subd. 1. Exemptions. The provision of this subsection shall not apply to merchants or their employees delivering goods in the regular course of business; to persons who distribute printed material but who do not make personal contact with the resident thereon; to the daily delivery of newspapers, door-to-door canvas for a political candidate or question; to the sale at wholesale to a retailer; to the delivery of perishable food or dairy products to customers on an established delivery route; and to activities associated with the exercise of a person's Constitutional rights (freedom of press, speech, religion, etc.) providing that no merchandise is concurrently offered for sale.

Subd. 2. Non-Profit Organizations. Peddlers representing a religious or nonprofit charitable organization registered at the Office of the Secretary of State, State of Minnesota shall be exempt from the licensing requirement, but shall be required to register with the City according to provision of Section 301.08 of this Chapter.

301.04 REGULATION OF TRANSIENT MERCHANT.

Subd. 1. A transient merchant shall be eligible for a peddler's permit only under the following circumstances:

- A. Transient merchant operates within a building in accordance with the zoning and other applicable codes and ordinances.
- B. Transient merchant operates in any other circumstance only if in compliance with requirements of Section 300 of the Belle Plaine City Code.

Subd. 2. Exceptions. No license shall be required for the following activities: the sale of farm or garden products upon property in which such products were grown; any sale under court order; garage sales, rummage sales, estate sales conducted by the property owner; or any sale conducted by a properly licensed auctioneer. The number of such occasions per property shall be limited to three per year, and the duration of each occasion shall be limited to four days.

301.05 APPLICATION FOR PERMIT, FEE.

Subd. 1. Application for a peddler's permit to conduct business as a peddler or transient merchant shall be made on a form available from the office of the City Clerk and shall be accompanied by the permit fee, which shall be as set by Section 108 of this Code. All applications shall be signed by the applicant, and shall include the following information:

- A. Applicant's full legal name, permanent address, telephone number, driver's license number or other equivalent form of identification.

- B. Full legal name, address and telephone number of any and all business operation(s) owned, managed or operated by the applicant; or, for which the applicant is an employee or agent.
- C. The type of business for which the applicant is applying for a license.
- D. The dates during which the applicant intends to conduct business.
- E. Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the City.
- F. The names and addresses of all individuals who will participate in the licensed sales campaign.
- G. A description and license plate number for any vehicle to be used in conjunction with the licensed business.
- H. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
- I. A list of the most recent locations where the applicant has conducted business as a peddler or transient merchant.
- J. The building intended to be utilized (by a transient merchant) and written permission of the owner of the property.
- K. A general description of the item to be sold or services to be provided.
- L. All additional information deemed necessary by the Council.

301.06 PERMIT ISSUANCE PROCEDURE.

Subd. 1. All applications for the peddler's permit shall be immediately referred to the City Clerk, or other person acting on the City Clerk's behalf. Upon receipt, the Clerk shall review the application and request investigation by the Police Chief, or his/her designee, to verify the provided information. A permit application must be applied for at least five (5) days prior to the date when the activity to be carried on is to commence. The permit application must be accompanied with payment of the Peddler's License Fee as set by Section 108 of the Belle Plaine City Code.

Subd. 2. Ineligibility for a license. The Clerk shall deny this issuance of the permit if, during the course of the investigation, any of the following circumstances are discovered:

- A. The applicant has failed to truthfully provide any of the information requested by the City as part of the application.
- B. The applicant has been convicted, within the past five years from date of application, of any violation of Federal or State law, of any local ordinance which adversely affects the person's ability to conduct the licensed business in an honest and legal manner, or that

will adversely affect the health, safety and welfare of the residents of the City. Such violations shall include, but are not limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, or any form of actual or threatened physical harm against another person.

C. The revocation of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant within the past five years.

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

Subd. 4. Duration. A permit granted under this ordinance shall be valid only during the time period indicated on the permit application. In no case shall the permit be valid longer than one calendar year.

Subd. 5. Transferability. No permit issued under this ordinance shall be transferred to any other person.

Subd. 6. Identification. No person shall engage in business as a peddler, solicitor or transient merchant prior to receiving a photo identification card issued by the City. The photo identification card must be visibly displayed while conducting business.

(Ord. 12-05, Section 301.06, Adopted September 17, 2012.)

301.07 SUSPENSION OF PERMIT.

Any permit issued under and pursuant to this Article may be suspended by the Chief of Police without notice if the licensee:

- A. Uses fraud, misrepresentation or false statements during the course of licensed activity.
- B. Has been convicted of any offense for which granting of a license could have been denied under this Article.
- C. Conducts the business in an unlawful manner or such a manner as to constitute a breach of peace, or to constitute a menace to the health, safety or general welfare of the public.
- D. Violates any part of this Article.

301.08 REGISTRATION.

Registration with the City shall be required of all solicitors, and of all peddlers and solicitors representing non-profit organizations who, during the course of a door-to-door campaign, solicit money either as a donation (for a charitable cause) or for the purchase of goods or service.

Registration shall be made on the same form required for a peddler's permit application, but no fee shall be required.

301.09 PRACTICES PROHIBITED.

Subd. 1. No peddler, solicitor or transient merchant shall call attention to their business or to their merchandise by crying out, by blowing a horn, or ringing a bell or by the making of other noise of such volume that it is audible within the confines of an enclosed dwelling structure.

Subd. 2. No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited", or language similar thereto, is located.

Subd. 3. No peddler or solicitor shall refuse to leave a premise when requested to do so by the owner, lessee or person in charge of the premises, or, to otherwise conduct business in a manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Subd. 4. No business shall be conducted before nine o'clock (9:00) a.m. or after eight o'clock (8:00) p.m.

Subd. 5. No peddler, solicitor or transient merchant shall obstruct the free flow of vehicular or pedestrian traffic on any street, alley, sidewalk, required parking area (whether public or private) or other public right-of-way.

Subd. 6. No peddler, solicitor or transient merchant shall refuse/fail to provide proof of license or registration when requested by the property owner or representative of the city.

Subd. 7. No peddler, solicitor or transient merchant shall make any false or misleading statements about the product or service being sold, including untrue statements of endorsements. No peddler, solicitor or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

301.10 PENALTY.

Any person who violates any provision of this Article shall be guilty of a misdemeanor and upon conviction shall be subject to a fine as set by State Statute. Each day a violation exists shall constitute a separate violation for the purposes of this Article.

301.11 SEVERABILITY.

Should any section, clause or portion of this Article be found invalid, unenforceable or unconstitutional by a court of competent jurisdiction, such finding shall not apply to any other section, clause or portion of this ordinance, unless the court's finding specifically provides otherwise.

(Ord. 12-05, Section 301.06, Adopted September 17, 2012.)

SECTION 302.00 REGULATION AMUSEMENT CENTERS

- 302.01 Definitions.
- 302.02 License Required
- 302.03 Application
- 302.04 Fee
- 302.05 Issuance, Facilities, Expiration
- 302.06 Conditions
- 302.07 Revocation
- 302.08 Exemptions

302.01 DEFINITIONS.

For the purpose of this article, the following terms shall have the respective meanings ascribed to them:

AMUSEMENT CENTER. Any room, place or space available for public patronage, operated as a business, which utilizes in its operation equipment and games (amusement devices), including, but not limited to, pool tables, billiard tables, table tennis tables, foosball tables, pinball machines, or any mechanical or electronic amusement device, and which derives its (the) principal source of revenue (of which is derived) from the use and operation of such equipment and games (devices). An amusement center as defined in this article shall not include bowling alleys.

AMUSEMENT DEVICE. An "amusement device" is an electronic or mechanical game of skill or chance, requiring the payment of money to play or operate. An "amusement device" is not a "gambling device" as defined by Minnesota Statutes.

OPERATE. To conduct, manage, supervise, maintain or keep.

302.02 LICENSE FOR OPERATING OF AN AMUSEMENT CENTER REQUIRED.

1. No person shall operate an amusement center within the limits of the City without an amusement center license.
2. Operation of four (4) or more amusement devices in a business establishment is prohibited, unless the premises is licensed as an amusement center.

302.03 APPLICATION.

Applications for an amusement center license shall be made in writing to the City Clerk and shall be verified by the applicant and accompanied by the license fee. The application shall contain such information as may be required, including, but not limited to, the following:

1. The names and addresses of the property owner, the lessee, the management and the operator and the names and addresses of the owner lessee of the amusement device. If any of the above are acting on behalf of a corporation, the names and addresses of the shareholders, officers and board of directors shall be filed with the application.

2. The address and location of the place where the amusement center and amusement device will be operated.
3. The number and types of devices to be used.
4. The hours of operation.
5. In addition to the above, the applicant shall submit at the time of the application a site plan of the premises showing location of amusement devices sanitary facilities and parking provisions for vehicles and bicycles.
6. Such other information as the Council may require.

302.04 LICENSE FEE.

The amusement center license fee shall be as set by Section 108 of this Code.

302.05 ISSUANCE, FACILITIES, EXPIRATION.

Subd. 1. No amusement center license shall be issued by the Council unless the applicant has demonstrated that the place to be licensed is properly ventilated and equipped with necessary toilets, washrooms and similar public facilities, and that the place to be licensed will not become a public nuisance or detrimental to public safety, morals or welfare. The location of an amusement device shall not create a public nuisance or a condition detrimental to public safety, morals or welfare.

Subd. 2. All licenses shall expire on the thirty-first (31st) day of December following their issuance.

302.06 CONDITIONS.

1. No amusement center shall be located within 1,500 feet of any public or private school.
2. No amusement center shall be located within 500 feet of any residential zoning district.
3. An adult manager, at least 21 years of age, shall be on the premises of an amusement center during all hours of operation. The manager's primary duties shall be the supervision of the use and operation of amusement devices.
4. No amusement devices shall be operated between the hours of 12:00 midnight and 7:00 a.m. except on the premises licensed to serve intoxicating liquor.
5. The licensee and his employees and agents shall adhere to the provisions of the City Code relating to minors. No licensee, nor his employees or agents, shall knowingly permit a minor to be present on the premises in violation of curfew laws, nor knowingly permit a person under the age of 17 years to be present on the premises when school is in session unless on a valid excused absence.

6. The licensee of an amusement center shall not permit intoxicated persons to remain on the premises.

7. The amusement center and the premises in which amusement devices are located shall conform to all building and fire prevention codes of the City of Belle Plaine. The building inspector or fire inspector may enter said premises at any time during normal business hours, for the purpose of inspecting said premises for fire hazards. All law enforcement personnel of the City of Belle Plaine shall have the right to enter said premises at any time during normal business hours, for the purpose of enforcement of the terms of this article.

8. The Council may impose conditions upon the license pertaining to the hours of operation of the establishment and the amusement device and other conditions which will enable the licensee to control the conduct of the occupants of the amusement center and the persons operating the amusement device.

302.07 REVOCATION.

Subd. 1. The Council may, after notice and hearing, revoke any license issued under this article if the licensee is convicted of any violation of an ordinance, state law, or federal law relating to the use, sale or possession of three percent malt liquor or intoxicating liquor or use or possession of gambling devices, or of any violation of Minnesota Statutes, Chapter 617, as amended, or of any violation of this Code.

Subd. 2. The conviction of a person, while an occupant of the licensed premises, of a violation of any of the above described ordinances, state laws or federal laws shall also be grounds for revocation of the license. The violation of any condition of the license shall be grounds for revocation of the license.

302.08 EXEMPTIONS.

Bowling alleys and those establishments licensed to serve intoxicating liquor as provided by this Code and those establishments licensed to serve intoxicating liquor under the Club On-Sale Retail License are not amusement centers as regulated by this ordinance. All other licensing requirements shall pertain to the amusement devices located upon the premises of said establishments.

SECTION 303.00 REGULATION OF RENTAL OF VIDEO MOVIES.

- 303.01 Purpose.
- 303.02 Code Classification of Rental Movies.
- 303.03 Violations.

303.01 PURPOSE.

The purpose of this Ordinance is to establish a rating system for the rental of video movies in the City of Belle Plaine, and through the use of this rating system to regulate the rental of video movies. The Owners and employees of video rental establishments shall be responsible for complying with the regulations of this Ordinance.

303.02 CODE CLASSIFICATION OF RENTAL MOVIES.

- A. "G" - General Audiences. Any person shall be allowed to rent video movies with this rating.
- B. "PG" - Parental Guidance. Parental guidance is suggested for persons twelve (12) years of age or under renting these movies, however, any person shall be allowed to rent movies with this rating.
- C. "PG-13" - No person twelve (12) years of age or under shall be allowed to rent movies with this rating.
- D. "R" - Restricted. No person sixteen (16) years of age or under shall be allowed to rent movies with this rating.
- E. "NC - 17" - No person sixteen (16) years of age or under shall be allowed to rent movies with this rating.
- F. "X" - Adult Only. No person of any age shall be allowed to rent movies with this rating, except as authorized in this Code of the City of Belle Plaine Adult Use Ordinance.
- G. No Code Ratings. No person seventeen (17) years of age or under shall be allowed to rent this video unless accompanied by a responsible adult.

303.03 VIOLATIONS.

Persons who are found to violate this Ordinance shall be guilty of a petty misdemeanor.

SECTION 304.00 ORDINANCE REGULATING THE SALE OF TOBACCO-RELATED PRODUCTS

- 304.01 Purpose
- 304.02 Definitions
- 304.03 License Required
- 304.04 License Fee
- 304.05 Prohibited Sales
- 304.06 Sampling Prohibited
- 304.07 Compliance Checks and Inspections.
- 304.08 Mobile Sales
- 304.09 Violations and Penalties
- 304.10 Hearing on Denial or Violation
- 304.11 Affirmative Defense
- 304.12 Severability
- 304.13 Implementation

304.01 PURPOSE.

The consensus of the Belle Plaine City Council is substantial scientific evidence exists that the use of tobacco related products may cause health problems and/or medical disorders. It is the opinion of the City Council that the present legislative scheme of prohibiting sales of tobacco related products to persons under the age of twenty-one (21) has been ineffective in preventing such persons from using tobacco related products. The City Council has concluded that minors have access to self-service merchandising, including vending machines, which sell tobacco-related products. The City Council has also concluded that the control of the sale or dispensing of tobacco-related products through vending machines and the regulation of sales through self-service merchandising will thereby promote the health, safety and welfare of the residents of the City, particularly those residents under twenty-one (21) years of age.

304.02 DEFINITIONS.

The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

ADULT - shall mean a person 21 years of age or older.

APPLICANT - shall refer to a person as defined herein, who completes or signs an application for a license to sell tobacco-related products individually or on behalf of a business.

BUSINESS - shall refer to the business selling tobacco related products.

LICENSE HOLDER - shall refer to the owner of the business licensed to sell tobacco related products.

MOVEABLE PLACE OF BUSINESS - shall mean a business whose physical location is not permanent or is capable of being moved or changed.

PERSON - one (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.

SELF SERVICE MERCHANDISING - means a method of displaying tobacco-related products so that they are accessible to the public without the intervention of an applicant, license holder or their agents or employees.

TOBACCO RELATED PRODUCT – means any substance or item containing tobacco leaf, or any substance or item intended for use with electronic cigarettes or similar devices regardless of whether containing tobacco leaf, including, but not limited to, juices or oils, cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimpl cut, ready, rubbed and other smoking tobacco; snuff, snuff flower, Cavendish, plug and twist tobacco; fine cut and other chewing tobaccos; and other kinds of forms of tobacco, prepared in such manner as to be suitable for chewing, sniffing, vaping, or smoking in a pipe; rolling paper or other tobacco-related devices.

TOBACCO RELATED DEVICE- means any device or implement intended for the smoking, inhaling, or consumption of any tobacco related product such as a pipe, rolling paper, or other device, including without limitation electronic cigarettes or similar devices, which are used, or can be used, for the chewing, sniffing, smoking or vaping of any tobacco related product. The term does not include items commonly used by drug users and drug dealers including, but not limited to, glass pipes, “dug-outs,” one-hitters, grinders, measuring scales, and small bags, which licensed businesses are prohibited from selling.

VENDING MACHINE - any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products and including vending machines equipped with manual, electric or electronic locking devices.

304.03 LICENSE REQUIRED.

No person shall keep for retail sale, sell at retail otherwise dispense any tobacco-related product at any place in the City without first obtaining a license and paying a license fee.

Subd. 1. Application. An application for a license to sell tobacco related products, or tobacco related devices shall be made on a form provided by the City. The application shall include, but is not limited to requiring the full name of the applicant, the applicant's residential and business address and telephone numbers, the name of the proposed license holder, and the business location for which the license is sought. The completed application along with the application fee shall be submitted to the City Administrator or his designee for approval. If the City Administrator determines that an application is incomplete, he or she shall return the application to the applicant with notice of the deficiencies.

Subd 2. Action. The City Administrator may either approve or deny the license, or may delay action for such reasonable period of time to permit the City to complete any investigation of the application or the applicant deemed necessary.

If the Administrator approves the license, a license shall be issued to the applicant. If the Administrator denies the application, a notice of denial shall be sent to the applicant at the business address provided on the application along with the reasons for the denial. The notice shall also inform the applicant of their right to appeal the Administrator's decision to the Council pursuant to the process set forth in Section 304.09. If a license is mistakenly issued or renewed to an applicant or license holder, it shall be revoked by the City Administrator, or his/her designee,

upon the discovery that the person, applicant or license holder was ineligible for the license under this Section.

Subd 3. Term. All licenses are issued for a period of one year. The license period is from July 1 to June 30.

Subd. 4. Revocation or Suspension. Any license issued under this Section may be revoked or suspended as provided in the Violations and Penalties section of this ordinance pursuant to the process set forth in Section 304.08.

Subd. 5. Transfers. All licenses issued under this Section shall be valid only on the business 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 Administrator, or his/her designee, .

Subd. 6. Display. Every license shall be conspicuously posted at the place of business for which the license is issued and shall be exhibited to any person upon request.

Subd. 7. Renewals. The renewal of a license under this Section shall be handled in the same manner as the original application. The request for renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license under this ordinance 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.

Subd. 8. Annual Renewal License Meeting Requirement. Upon initial and/or renewal license application, applicant(s) shall be required to attend an annual meeting with the Public Safety Committee consisting of representatives from the Belle Plaine City Council and Belle Plaine Police Department.

Subd. 9. Denials. The following shall be grounds for denying the issuance or renewal of a license under this Section. The following list is not exhaustive or exclusive:

- A. The applicant is under the age of 21 years.
- B. The applicant has been convicted within the past five years of a violation of any provisions of this ordinance or a violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or related tobacco devices.
- C. The applicant or license holder has had a license to sell tobacco, tobacco products or tobacco-related devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the City license application, or provides false or misleading information.
- E. The applicant or license holder has outstanding fines, penalties or property taxes owed to the City.

304.04 LICENSE FEE.

The application fee shall be as set in Section 108 of this Code License fees are not prorated.

304.05 PROHIBITED SALES.

Subd. 1. Prohibited Sales. No person shall sell, offer for sale, give away, furnish, or otherwise deliver any tobacco related product, or tobacco-related device:

- A. To any person under the age of twenty-one (21) years.
- B. By means of any type of vending machine.
- C. By means of self-service merchandising or any means whereby the customer may have access to such items without having to request for the item from the license holder, their agents or employees. All tobacco-related products shall be stored behind a counter or other area not freely accessible to customers.
- D. By any other means, or to any other person, prohibited by Federal, State or other local law, ordinance provision, or other regulation.

Subd. 2. Exception. A license holder who operates an establishment that sells only tobacco-related products is exempt from the self-service merchandising provision if the license holder prohibits anyone under twenty-one (21) years of age from entering the establishment, unless accompanied by a parent, and the license holder conspicuously displays a notice prohibiting persons under twenty-one (21) years of age from entering the establishment unless accompanied by a parent.

Subd. 3. Requirements for Licensed Businesses. The license holder shall ensure that the business complies fully with the following:

- A. The interior of the business shall be lighted during business hours such that every part, corner, aisle, room, and section of the establishment is fully illuminated.
- B. The sales counter, store entrance, and interior of the business shall be visually recorded with a videotape or similar device at a quality level that allows the visual identification of patrons and employees. The recordings shall be maintained and made available to the police for at least five (5) calendar days.
- C. The business shall be maintained with clean and clear front and rear entrances to the establishment.
- D. Each day of business, the license holder must inspect the parking lot and entrances for litter and properly dispose of any such litter.
- E. The business must provide and maintain front windows that are clear, un-tinted, unobstructed, or has a light transmittance of less than 50 percent plus or minus three percent in the visible light range or a luminous reflectance of more than 20 percent

plus or minus three percent except for any permissible signage. The licensee must also comply with the applicable provisions of Belle Plaine City Code.

304.06 SAMPLING PROHIBITED.

The lighting, inhaling, exhaling or combination thereof of tobacco related products or tobacco related devices in a tobacco products shop, as defined in Minnesota Statutes, Section 144.4167, Subd. 4, is prohibited.

304.07 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the Belle Plaine Police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents and guardians, minors over the age of 15 years but less than 21 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

304.08 MOBILE SALES.

No license shall be issued for the sale of tobacco-related products at a movable place of business, including but not limited to motorized vehicles, mobile sales kiosks, or trailers.

304.09 VIOLATIONS AND PENALTIES.

Subd. 1. Revocation or Suspension. Any violation of this Chapter shall be grounds to revoke or suspend a license.

Subd. 2. Criminal Penalty.

A. It shall be a gross misdemeanor for anyone to sell tobacco-related products to a person under the age of twenty-one (21) years.

B. It shall be a misdemeanor to furnish tobacco related products to a person under the age of twenty-one (21) years.

C. It shall be a petty misdemeanor for anyone under the age of twenty-one (21) years to use, purchase, attempt to purchase, or possess tobacco-related products. This Section shall not apply to an employee of the licensee under the age of twenty-one (21) years while stocking tobacco-related products.

D. It shall be a petty misdemeanor for anyone under the age of sixteen (16) years to sell, furnish, or give away any tobacco-related products. This Section shall not apply to an employee of the license holder under the age of sixteen (16) years while stocking tobacco related products.

E. Upon discovery of a suspected violation, the City Police shall investigate and if appropriate, will issue a criminal citation to the individual who made the prohibited sale and, where appropriate to the minor who purchased the tobacco as set forth in the previous paragraphs of this subsection.

Subd. 3. Civil Enforcement. The license holder shall be responsible for the conduct of its agents or employees while on the licensed premises. Any violation of this Chapter shall be considered an act of the license holder for purposes of imposing a civil penalty, license suspension, or revocation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

A. Notice of Violation. Upon the occurrence of a suspected violation, the Police Department shall inform the City Administrator of the suspected violation. The City Administrator and/or the Chief of Police shall then send to the license holder a written notice of the civil violation. The notice shall advise the license holder of the penalty and the license holder's right to request a hearing regarding the violation of this ordinance pursuant to Section 304.09.

B. Civil Penalties. Each license issued hereunder shall be subject to suspension or revocation for violation of any provisions of this Chapter or the laws of the State of Minnesota as follows:

1. First Violation. The first violation of this Chapter shall be punishable by a civil penalty of one hundred (\$100.00) dollars.

2. Second Violation. A second violation of this Chapter within any thirty-six (36) month period shall be punishable by a civil penalty fine of three hundred (\$300.00) dollars and a suspension of the license of seven days.

3. Subsequent Violation. A third or subsequent violation of this Chapter within any 36 month period shall be punishable by the revocation of the license. Any licensee whose license is revoked under this section shall not be eligible for renewal for a period of twelve (12) months after the date of the violation.

4. Any individual who sells tobacco to a person under the age of twenty-one (21) years of age shall be subject to a civil fine of one hundred (\$100.00) dollars. Any individual under the age of twenty-one (21) years who attempts to purchase or purchases or possesses tobacco shall be subject to a civil fine of one hundred (\$100.00) dollars. Any individual under the age of twenty-one (21) years who attempts to purchase or purchases tobacco with a false, forged or fake identification shall be subject to a civil fine of one hundred (\$100.00) dollars.

C. Any civil penalty, suspension-or revocation or combination thereof under this section does not preclude criminal prosecution under this ordinance or Minnesota Statute section 609.685.

304.10 HEARING ON DENIAL OR VIOLATION

Subd. 1. Hearing. Following receipt of a notice of denial issued under Section 304.03 or a notice of a violation and penalty issued under Section 304.08, an applicant or license holder may request a hearing before the City Council. A request for a hearing shall be made by the Applicant or license holder in writing and filed with the City Administrator, or his/her designee, within ten days of the mailing of the notice of denial or alleged violation. Following receipt of a written request for hearing, the applicant or license holder shall be afforded an opportunity for a hearing before the Council. If a committee of the Council conducts the hearing it shall report its findings and make a recommendation to the full Council.

Subd. 2. Findings. If after the hearing the applicant or license holder is found ineligible for a license, or in violation of this ordinance, the Council may affirm the denial, impose a fine, issue a suspension or revocation, or impose any combination thereof as set forth in Section 304.08.

Subd. 3. Default. If the applicant or license holder has been provided written notice of the denial or violation and if no request for a hearing is filed within the 10-day period, then the denial, penalty, suspension or revocation imposed in Section 304.08 shall take immediate effect by default. The City Administrator shall mail notice of the denial, fine, suspension or revocation to the applicant or license holder. The City Police shall investigate compliance with the suspension or revocation.

304.11 AFFIRMATIVE DEFENSE.

It is an affirmative defense to a charge under this Chapter if the license holder proves by a preponderance of the evidence that the license holder reasonably and in good faith relied on proof of age as described in Chapter 340A.503. Subd. 6 of the Minnesota Statutes, in making the sale.

304.12 SEVERABILITY.

If any provision of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this Chapter.

304.13 IMPLEMENTATION.

The regulations of the sale of tobacco-related products shall take effect upon approval by the Belle Plaine City Council and on the date of subsequent publication as required. Applicants required to seek a license for the sale of tobacco related products at the time this ordinance is published shall have a ninety (90) day period beginning on the date this ordinance is published and ending ninety (90) days henceforth in which to comply with any and all standards hereunder. Compliance issues may include, but are not limited to, facility remodeling or restructuring necessary to comply fully with section, the relocation of tobacco-related product displays., application for tobacco-related product sales licensure and the education of entities conducting the sale of tobacco-related products.

(Ord. 14-04, Sections 304.02, 304.03, 304.05, Adopted March 17, 2014.)

(Ord. 14-07, Section 304.06, Adopted June 16, 2014.)

(Ord. 20-03, Section 304.01, 304.02, 304.03, 304.05, 304.07, 304.09, Adopted March 16, 2020.)

(Ord. 20-07, Section 304.2, & 304.5, Adopted September 8, 2020.)

(Ord. 21-02, Section 304.05 Subd. 3, Adopted May 17, 2021.)

SECTION 305.00 LEGALIZED GAMBLING REGULATIONS

- 305.01 Purpose
- 305.02 License Required
- 305.03 Provisions of State Law Adopted
- 305.04 Application Requirements
- 305.05 Investigation Fee
- 305.06 Review of Application
- 305.07 Profits
- 305.08 Conduct of Gambling
- 305.09 Conduct of Bingo
- 305.10 Record and Reporting Requirements
- 305.11 Suspension and Revocation
- 305.12 Criminal Penalty

305.01 PURPOSE.

To regulate legalized gambling activities and expenditures within the boundaries of the City of Belle Plaine according to Minnesota Statute Chapter 349, as amended.

305.02 LICENSE REQUIRED.

No persons or organizations shall directly or indirectly operate a gambling device or conduct a raffle or conduct bingo without a license or premises permit to do so as provided in this part.

305.03 PROVISIONS OF STATE LAW ADOPTED.

The provisions of Minnesota Statutes, Chapter 349 and the Laws of Minnesota, 1990, Chapter 590 relating to the definition of terms, licensing and restrictions of gambling and bingo are adopted and made a part hereof as if set out in full.

305.04 APPLICATION REQUIREMENTS.

An applicant for a lawful gambling license or premises permit shall submit to the City a copy of the Minnesota gambling control board application form along with the following:

1. The organization's articles of incorporation and bylaws (the organization must not be in existence solely for the purpose of conducting gambling);
2. Proof that the organization is a registered Minnesota nonprofit corporation or an organization designated as exempt from the payment of income taxes by the Internal Revenue Code;
3. Proof that the organization has been in existence for at least three years immediately preceding the license application;
4. A list of all active organization members (the organization must have at least fifteen (15) active members);
5. A list of all intended expenditures of lawful gambling proceeds for the twelve (12) months following issuance of any license or permit, and

6. For any organization seeking renewal of a license or permit, a report of all expenditures of gambling proceeds during the prior twelve (12) months signed by the organization's gambling manager and chief executive officer. (Ord. 12-01, Adopted January 3, 2012).

305.05 INVESTIGATION FEE.

The annual city investigation fee for a premises permit or bingo license shall be as set in Section 108 of this Code which is due at the time of application for a new or renewed permit or license.

305.06 REVIEW OF APPLICATION.

The City Council shall act upon an application within sixty (60) days of receipt and shall adopt a resolution either approving or denying the premises permit or bingo hall license within that sixty (60) day period. The City Council may deny an application in the event it finds that such application does not comply with all requirements of this Code or that the applicant or applicant's gambling manager has violated any law, regulation or local requirement related to lawful gambling. (Ord. 12-01, Adopted January 3, 2012).

305.07 PROFITS.

Subd. 1. Trade Area. The trade area is defined to include the area within the boundaries of the City of Belle Plaine.

Subd. 2. Lawful Expenditures. Each licensed organization which conducts lawful gambling activities within the City of Belle Plaine shall expend one hundred percent (100%) of its funds derived from lawful gambling for expenses authorized by the Minnesota gambling control board or for the direct benefit of citizens living within the trade area, and at least ten percent (10%) of each organization's net profits derived from lawful gambling conducted at premises located in the City shall be contributed directly to the City. All expenditures must be in accordance with the organization's list of intended expenditures provided annually to the City. The City shall expend contributions it receives for police, fire or other emergency or public safety-related services, equipment or training, but not pension obligations. (Ord. 12-01, Adopted January 3, 2012). (Ord. 13-06, Section 305.07, Adopted April 1, 2013.)

Subd. 3. Quarterly Reports. Each licensed organization which conducts lawful gambling activities shall file with the City Council, on a quarterly basis, a report specifying the amount of the funds expended in the trade area and the benefits derived by the citizens of the trade area.

Subd. 4. Penalty. Failure to comply with this section will lead to a resolution against renewal of the premises permit or bingo hall license.

305.08 CONDUCT OF GAMBLING.

The following regulations shall apply to all conduct of gambling:

Subd. 1. Gambling Manager. All lawful gambling conducted by a licensed organization shall be under the supervision of a single gambling manager designated by the organization. The gambling manager shall be responsible for the gross receipts and profits from gambling devices

and raffles or their operations. The gambling manager is also responsible for conducting lawful gambling in compliance with all rules and regulations.

Subd. 2. Bond. The gambling manager shall have a fidelity bond in the sum of \$25,000.00 in favor of the organization and the state conditioned on the faithful performance of the manager's duties and payment of all taxes due on lawful expenditures from gross profits.

Subd. 3. Qualifications of Gambling Manager. The gambling manager must be licensed by the State and be an active member of the organization in good standing for at least six (6) months.

Subd. 4. Compensation. Compensation may be paid to active members of the conducting organization in accordance with applicable Minnesota gambling control board regulations. A person may not receive compensation from lawful gambling as an employee of an organization conducting lawful gambling unless the person has first registered with the Minnesota gambling control board. A copy of such registration shall be promptly submitted to the City. (*Ord. 12-01, Adopted January 3, 2012*).

Subd. 5. Eligible Premises. A premises permit approved by the City Council will be required for all sites before lawful gambling can be conducted at that site. No more than one (1) permit per site shall be issued. The City Council will act by resolution within sixty (60) days of the application to either approve or disapprove of the premises permit application. (*Ord. 12-01, Adopted January 3, 2012*).

Subd. 6. Local Permits. The following types of lawful gambling will require a local permit subject to a \$100.00 permit fee despite their exemption from Minnesota Statute 349.166, Subdivision 2:

1. The organization conducts lawful gambling on five (5) or fewer days in calendar year; and
2. The organization does not award more than \$50,000.00 in prizes for lawful gambling in a calendar year.

305.09 CONDUCT OF BINGO.

The following shall apply to the conduct of bingo.

Subd. 1. No more than seven (7) bingo occasions each week shall be conducted by any organization, except that the Council may by resolution permit additional bingo occasions to be conducted by an organization. A bingo occasion shall have at least fifteen (15) bingo games and continue for at least one and a half (1½) hours but shall not continue for more than four (4) consecutive hours.

Subd. 2. Any person or corporation, other than an organization, which leases any premises that it owns for purposes of the conduct of bingo occasions, shall not allow more than twenty-one (21) bingo occasions to be conducted on the premises in any week. The lessor shall not provide staff or other assistance to the conduct of lawful gambling or participate in lawful gambling on the premises.

Subd. 3. No organization shall conduct bingo on any leased premises without a written lease on a State Board provided form for a term at least equal to one year. Lease payments shall not provide

that rental payments be made directly or indirectly on the receipts or profits from the legalized gambling.

Subd. 4. Prize Limits. Prizes for a single bingo game may not exceed \$100.00 except prizes for a cover-all game, which may exceed \$100.00 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed \$500.00. The aggregate value of prizes for a bingo occasion shall not exceed \$2,500.00 except that in the case of a bingo occasion during which a cover-all game is played for a maximum prize of more than \$100.00 but not more than \$500.00, the aggregate value of prizes for the bingo occasion shall not exceed \$3,000.00. Merchandise prizes shall be valued at fair market retail value. In order for a cover-all prize to meet the requirements of this section, a player must cover all spaces except a single free space to win. Accumulative prizes may be valued up to \$1,000.00 for a single bingo game. The total amount awarded in accumulative prizes in any calendar year may not exceed \$12,000.00.

Subd. 5. One or more checkers shall be engaged for each bingo occasion. The checker or checkers shall record the number of cards played on each game prior to the completion of each game and record the prizes awarded to the recorded cards on a form provided by the board. Each checker shall certify all figures which are recorded as accurate and correct to the best of checker's knowledge.

Subd. 6. Local License. A local license will be required for bingo occasions otherwise excluded from the state license requirement. These \$100.00 licenses will be required for bingo occasions in connection with the county fair, civic celebration which is not conducted for more than twelve (12) consecutive days in a calendar year, or an organization that conducts four or fewer bingo occasions in a calendar year.

305.10 RECORD AND REPORTING REQUIREMENTS.

All organizations licensed to operate lawful gambling must conform with the record keeping and reporting regulations in Minnesota Statutes Chapter 349.

Subd. 1. File with City. At least thirty (30) days prior to conducting its first bingo occasion of the year and on an annual basis thereafter, an organization shall file with the City Council, copies of the following:

1. Internal Revenue Service, "Return of Organization Exempt from Income Tax" Form 990, or a comparable form if the organization is required to file a form with the Department of the Treasury;
2. Department of the Treasury, Internal Revenue Service, "Exempt Organization Business Income Tax," Form 990-T or a comparable form if the organization is required to file the form with the Department of the Treasury;
3. The annual report required of a charitable organization by Minnesota Statutes, that conducts bingo but is exempt from submitting the report to the Department of Commerce under Section 309.53, Subd. 1A, shall nevertheless submit such report under the subdivision;
4. The Minnesota Department of Commerce "Statement of Bingo Operation." All information contained in this statement shall be true, correct and complete to the best of the knowledge of any person or persons signing the statement. Any person who shall

knowingly make a false statement or knowingly conceal material facts and the statement shall be subject to penalties as provided by this part and by Minnesota law.

5. Any lease agreements required by this part executed by the organization with regard to premises leased for the conduct of bingo.

305.11 SUSPENSION AND REVOCATION.

Subd. 1. Any bingo hall license may be suspended by the state board for violation of law or board rule or revoked for failure to meet board qualifications or a willful violation of a law or board rule.

Subd. 2. A license or premises permit may be suspended or revoked by the City Council for violation of this ordinance. The license shall be temporarily suspended for not more than two weeks until the procedural requirements of 510.10 Subd. 2 have been complied with.

Subd. 3. Procedure. A license shall not be suspended for longer than two weeks or revoked under 510.10, Subd. 2, until notice and an opportunity for hearing have first been given to the licensee. The notice shall be personally served and shall state that portion of this Part reasonably believed to have been violated. The notice shall also state that the licensee may demand a hearing on the matter in which cases the license will not be suspended until after the hearing is held. If the licensee requires a hearing, one shall be held on the matter by the Council within one week after the date on which the request is made. If, as a result of the hearing, the Council finds that a violation of this Part exists, then the Council may suspend or terminate the license. The suspension or revocation contained in this subdivision shall be in addition to any criminal penalties provided by this Part.

305.12 CRIMINAL PENALTY.

Subd. 1. Criminal penalties for violation of this part shall be as follows:

- A. A person who violates any provision of this part for which another penalty is not provided is guilty of a misdemeanor.
- B. A second violation within five years of a previous conviction for violating any provisions of this part, is a gross misdemeanor.
- C. A person who in any manner violates this part to evade a tax posed by Minnesota Statute Chapter 349, or who aids and abets the evasion of a tax, is guilty of a gross misdemeanor.

Subd. 2. Sales after Revocation. A person selling pull tabs or tip boards after the person's license or permit has been revoked is guilty of a felony.

(Ord. 12-01, Section 305, Adopted January 3, 2012.)

(Ord. 13-06, Section 305, Adopted April 1, 2013.)

SECTION 306.00 VENDING MACHINES.

- 306.01 License Required.
- 306.02 Issuance of License.
- 306.03 Fees.
- 306.04 Penalty.

306.01 LICENSE REQUIRED.

No person, firm, partnership, or corporation shall install or maintain any vending machine located outside of a building or business establishment, or shall engage in dispensing food and drinks of any kind or nature from any vending machine located outside of any building or business establishment without first obtaining, a license authorizing the vending as set forth in this Section.

306.02 ISSUANCE OF LICENSE.

An application for the license shall be filed with the City Administrator, or his/her designee, on or before the first day of July each year. Upon approval by the Council and payment of the required fee, the City Administrator shall issue a license which shall be valid for a period not to exceed one year.

306.03 FEES.

License fees for outside vending machines shall be set according to Section 108 of this Code.

306.04 PENALTY.

Any person, firm, partnership or corporation violating this Section shall be guilty of a petty misdemeanor and upon conviction shall be punished by a fine as set by State Statute. Each day of violation of this Section shall constitute a separate offense.

SECTION 307.00 INTOXICATING LIQUOR, BEER, AND WINE.

- 307.01 Definitions.
- 307.02 License Required.
- 307.03 Application for License.
- 307.04 Granting of Licenses.
- 307.05 Hours of Operation.
- 307.06 Conditions of Licenses.
- 307.07 Suspension and Revocation.
- 307.08 Penalty.

307.01. DEFINITIONS.

The definition of terms provided in Minnesota Statutes, chapter 340A are adopted and made a part of this Code as if set out in full, except that following definitions shall apply:

BEER, 3.2 % - Shall mean any potable malt beverage with an alcoholic content of not more than 3.2% by weight. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

BEER, STRONG - Shall mean any potable malt beverage with an alcoholic content of more than 3.2% by weight. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

CLUB- Shall mean an incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:

- (1) has more than 30 members;
- (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
- (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

HOTEL- Shall mean an establishment where food and lodging are regularly furnished to transients and which has:

- (1) a resident proprietor or manager;
- (2) a dining room serving the general public at tables and having facilities for serving at least 30 guests at one time; and
- (3) at least 10 guest rooms.

LIQUOR LICENSE- Shall mean any license to sell liquor, beer or wine pursuant to this Section.

MANUFACTURER- Shall mean person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor, beer or wine for sale.

OFF-SALE- Shall mean the sale of liquor, beer or wine in original packages for consumption off the licensed premises only.

ON-SALE- Shall mean the sale of liquor, beer, or wine for consumption on the licensed premises only.

RESTAURANT - Shall mean an establishment, other than a hotel, under the control of a single proprietor or manager where meals are regularly served at tables to the general public, and having seating capacity for not less than 30 guests at one time. (*Ord. 07-05, Section 307.01, Adopted April 16, 2007*). (*Ord. 12-03, Section 307.01, Adopted March 19, 2012*.)

SET-UP- Shall mean the sale or serving of any liquid or ice for the purpose of mixing with intoxicating liquor.

WHOLESALE- Shall mean a person who sells alcoholic beverages to persons to whom sale is permitted under State law from a stock maintained in a warehouse in the state.

WINE- Shall mean a product made from the normal alcoholic fermentation of grapes or other agricultural products containing not less than one-half of one percent nor more than 24 percent alcohol by volume. Wine does not include distilled spirits.

307.02 LICENSE REQUIRED.

Subd. 1. General requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, barter, or keep for sale or barter in the City any intoxicating liquor, beer or wine without a license to do so as provided in this section.

Subd. 2. Types of licenses. Liquor licenses shall be of the following types: 1) on-sale intoxicating liquor, 2) on-sale strong beer, 3) on-sale wine, 4) Sunday on-sale, 5) off-sale intoxicating liquor, , 6) set-up license, 7) club license, 8) on-sale 3.2% beer, 9) off-sale 3.2.% beer and 10) temporary. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

Subd. 3, On-Sale Intoxicating Liquor Licenses. The City may issue seven (7) on-sale intoxicating liquor licenses, provided that restaurants and bowling centers shall be excluded from such limitation on the number of on-sale intoxicating liquor licenses as provided in Minnesota Statutes 340A.413, Subd. 4. Such licenses shall permit the sale of intoxicating liquor, beer and wine for consumption on the premises. (*Ord. 07-03, Section 307.02, Subd. 3, Adopted May 7, 2007*.)

Subd. 4. On-sale 3.2% beer licenses. The City may issue an unlimited number of on-sale 3.2% beer licenses. Such licenses shall permit the sale of beer only for consumption on the premises. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

Subd. 5. Temporary on-sale.

a. Strong beer licenses. The City may issue temporary on-sale strong beer licenses as outlined in State Statute, Sections 340A.403, .404 and .410. Such licenses shall be issued only to clubs, or charitable, religious, or other nonprofit organization in existence for at least three years and shall permit the on-sale of beer in connection with a social or charitable event within the City sponsored by the licensee. Temporary on-sale beer licenses shall be subject any restrictions imposed by the commissioner for public safety and City Council.

b. 3.2% beer licenses. The City may issue an unlimited number of temporary on-sale 3.2% beer licenses for periods of up to 3 months. Such licenses shall be issued only to

clubs, or charitable, religious, or other nonprofit organization in existence for at least three years and shall permit the on-sale of beer in connection with a social or charitable event within the City sponsored by the licensee. Temporary on-sale 3.2% beer licenses shall be subject any restrictions imposed by the commissioner for public safety and City Council. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

Subd. 6. On-sale wine licenses. The City may issue an unlimited number of on-sale wine licenses. Such licenses shall be issued only to restaurants and shall permit the sale of wine only for consumption on the premises and in conjunction with the sale of food.

Subd. 7. Sunday on-sale licenses. The City may issue an unlimited number of Sunday on-sale licenses. Such licenses shall be issued only to a restaurants, clubs, or hotels with on-sale intoxicating liquor licenses and which are in conformance with the Minnesota Clean Air Act, Minnesota Statutes, section 144.411 et seq., and shall permit the sale of intoxicating liquor, beer and wine (if otherwise allowed) for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays to 12:45 a.m. on Mondays. (*Ord. 13-09, Section 307.02, Adopted October 7, 2013.*)

Subd. 8. Off-sale intoxicating liquor licenses. The City may issue an unlimited number of off-sale intoxicating liquor licenses. Such licenses shall be issued only to exclusive liquor stores and shall permit the sale of intoxicating liquor, beer and wine for consumption off the premises.

Subd. 9. Off-sale 3.2% beer licenses. The City may issue an unlimited number of 3.2% off-sale beer licenses. Such licenses shall be issued only to bona fide grocery stores, convenience stores, exclusive liquor stores, or establishments licensed for on-sale liquor or beer, and shall permit the sale of beer only for consumption off the premises. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

Subd. 10. Set-up licenses. The City may issue 4 set-up licenses. Such licenses shall permit the sale or service of liquid or ice for mixing with intoxicating liquor carried onto the premises by patrons.

Subd. 11. Club licenses. The City may issue an unlimited number of club licenses. Such licenses shall be issued only to clubs and shall permit the sale of intoxicating liquor and beer only to club members and bona fide guests. A bona fide guest is a member, relative of a member, or friend of a member, who is specifically invited to the club by a member for the specific day on which the guest visits the club. A license will not be issued to a club that discriminates against members, applicants for membership or guests on the basis of race.

Subd. 12. Additional licenses. Any person may petition for issuance of an additional intoxicating liquor licenses in accordance Minnesota Statutes, section 340A.413, subd. 3.

307.03 APPLICATION FOR LICENSE.

Subd. 1. Application/Application Fee. Every application for a license shall be submitted to the City Administrator at least 60 days before City Council action on such application is requested. Applications shall be accompanied by the fee established by the City Council in accordance with Sections 108 and 300.03 of this Code.

Subd. 2. Application information required. Applicants shall file a completed license application of the form required by the state commissioner of public safety and the state bureau of criminal

apprehension, along with such additional information as may be requested by the City Administrator or Police Chief.

Subd. 3. Additional information required of natural persons. Natural persons applying for any intoxicating liquor, beer or wine license shall provide the following additional information:

- (a) true name, place and date of birth and street residence address of applicant;
- (b) whether applicant has ever used or been known by a name other than applicant's true name and, if so, what was such name or names and information concerning dates and places where used;
- (c) the name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant. In such case, a copy of the certification, as required by Minnesota Statutes, chapter 333 certified by the district court administrator's office shall be attached to the application;
- (d) whether applicant is married or single;
- (e) street addresses at which the applicant lived during the preceding five years;
- (f) kind, name and location of every business or occupation applicant has been engaged in during the preceding five years;
- (g) names and addresses of applicant's employers and business partners, if any, for the preceding five years;
- (h) whether applicant has ever been convicted of any felony, crime or violation on any law involving liquor, and the time, place and nature of the offense;
- (i) whether applicant has ever been engaged as an employee or operator of an establishment licensed to sell intoxicating liquor, beer or wine.

Subd 4. Additional information required of partnerships. Partnerships applying for any intoxicating liquor, beer or wine license shall provide the following additional information:

- (a) the names and addresses of all partners;
- (b) the interest of each partner in the business;
- (c) a true copy of the partnership agreement;
- (d) all information concerning each partner as is required of a natural person in Subdivision 3 above;

Subd. 5. Additional information required of corporations, limited liability companies, or other business organization. Business organizations applying for any intoxicating liquor, beer or wine license shall provide the following additional information:

- a) the business name;
- b) a true copy of certificate of incorporation, articles of incorporation or association agreement and by-laws;
- c) a list of all persons who own or control an interest in said business organization in excess of 5%, and all officers and directors of such business;
- d) the name of the manager or agent in charge of the premises to the licensed, giving all information about said person as is required of a natural person in Subdivision 3 above.

Subd. 6. Additional information required of clubs. Clubs applying for any intoxicating liquor, beer or wine license shall provide the following information:

- (a) the name of the club;
- (b) a true copy of the articles of incorporation or association agreement and by-laws;
- (c) a list of all officers and directors of such club;

- (d) the number of members;
- (e) the name of the manager or agent in charge of the premises to be licensed, giving all information about said person as is required of a natural person in Subdivision 3 above.

Subd. 7. Additional information required for on-sale licenses. All applications for on-sale licenses shall include a floor plan of the premises proposed to be licensed, including accurate dimensions and seating capacity for each room.

307.04 GRANTING OF LICENSES.

Subdivision 1. Investigation. The City may conduct a preliminary background and financial investigation of applicants seeking a license. If the City or the commissioner of public safety determines that a comprehensive background investigation of the applicant is necessary, the City may conduct the investigation itself or contract with the commissioner of public safety for such investigation. The applicant shall be pay any investigation costs or fees incurred prior to City Council consideration of the application.

Subd. 2. Financial responsibility. No license shall be issued or renewed unless the applicant demonstrates proof of financial responsibility under Minnesota Statutes, section 340A.409, including proof of:

- (1) a certificate of insurance naming the City as an additional insured and providing coverage in the amounts required by State law, and;
- (2) a bond, surety or certificate of the state treasurer evidencing minimum coverages as required by State law.

(Ord. 17-10, Section 307.04, Adopted September 18, 2017).

Subd. 3. Hearing and issuance. The City Council shall consider and grant or deny applications after a public hearing allowing persons to be heard for or against the granting of the license. The hearing shall be noticed by publication at least 10 days prior to such hearing.

Subd. 4. License Period. Licenses shall be issued for a 1 year period on a fiscal year basis, from July 1 to June 30. Licenses shall expire on June 30 at 12:00 midnight. In the event a license is revoked or otherwise ceases to be effective, the City may issue a replacement license for the then-remaining period of such license.

Subd. 5. Premises licensed; transfer. Each license shall be issued to the applicant and may not be transferred to another person, partnership or business organization. Any transfer of ownership or control in a partnership, corporate or business organization licensee constitutes a license transfer and is prohibited. Licenses shall for the premises described in the application. No license may be transferred for operation at another location without prior City Council approval.

Subd. 6. Persons ineligible for license. No license shall be granted to or held by any person:

- (a) under 21 years of age;
- (b) who is not of good moral character and repute;
- (c) who, if an individual, is an alien;
- (d) who has been convicted within five years prior to the application for such license, of any willful violation of a federal or state law or local ordinance governing the

- manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage;
- (e) who has a direct or indirect interest in a manufacturer, brewer, or wholesaler;
 - (f) who has had an intoxicating liquor or nonintoxicating liquor license revoked within five years of the license application;
 - (g) who is the spouse of a person ineligible for a license and who, in the reasonable judgment of the Council, is not the real party in interest or beneficial owner of the operation proposed to be licensed;
 - (h) who does not reside within 50 miles of the City of Belle Plaine.
 - (i) who, if a business organization, does not have a manager who is not eligible for a license pursuant to this Section.

Subd. 7. Places ineligible for license. No license shall be granted for any place or business ineligible for such a license under State law. No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

307.05 HOURS OF OPERATION.

Subd. 1. On-sales. No on-sale of intoxicating liquor, 3.2.% and strong beer or wine shall be made on any day of the week between the hours of 12:45 am and 8:00 am. The on-sale of intoxicating liquor, beer or wine shall be permitted until 1:45 in the event a licensee obtains an "Optional 2 A.M. Closing Permit" and pays any associated fee established by the City Council in accordance with Sections 108 and 300.03 of this Code. (*Ord. 11-04, Section 307.01, Adopted August 15, 2011*).

Subd. 2. Off-sales. No off-sale of intoxicating liquor, strong beer or wine shall be made before 8:00 am or after 10:00 pm Monday through Saturday, or before 11:00 am or after 6:00 pm Sunday. No off-sale shall be made on Thanksgiving day or Christmas day. (*Ord. 17-08, Section 307.05, Subd. 2, Adopted May 15, 2017*.)

307.06 CONDITIONS OF LICENSES.

Subd. 1. In general. Every license is subject to the conditions in this Section, and any other applicable ordinance, state law or regulation.

Subd. 2. Licensee's responsibility. Every licensee is responsible for conduct on the premises and in the licensed establishment. Any sale or provision of alcoholic beverages by any employee authorized to serve such beverages shall be deemed to be an act of the licensee.

Subd. 3. Inspections. Every licensee shall allow any peace officer, health officer or properly designed officer or employee of the City to enter, inspect and search the premises of the licensee during business hours without a warrant.

Subd. 4. Fundraisers and contributions. No fundraiser or other political rally for the candidate of any political office which is sponsored by the licensee or vendor of a licensee shall be conducted on the licensed premises. Licensees shall not contribute to the election campaign of any person running for Mayor or City Council.

Subd. 5. License must be posted. A license shall be posted in a conspicuous place at all times in a licensed premises.

Subd. 6. Limits on sales. No alcohol shall be sold or furnished or delivered to any intoxicated person, to any person under 21 years of age or to any person to whom sale is prohibited by state law.

Subd. 7. Consumption limited to premises. It shall be unlawful for any person to consume or a licensee to permit consumption of alcohol on the grounds outside the licensed premises. Any consumption of alcohol shall be confined to the interior of the establishments licensed for the sale and distribution thereof. No alcohol shall be consumed in public places or private property without the owner's consent.

Subd. 8. After-hours consumption. It shall be unlawful for any person to consume or a licensee to permit consumption of alcohol on the licensed premises more than 30 minutes after the time for making legal sales.

Subd. 9. Sales to minors. It shall be unlawful for any person under 21 years of age to enter or remain in any licensed premises, except that a person over 18 years of age may enter a licensed premises to perform work, consume meals, or engage in social functions in areas of the premises where alcohol is not made available. It shall be unlawful for any licensee to sell, provide or deliver intoxicating liquor, beer, or wine to a person under 21 years of age, whether in the licensed premises or any other place. It shall be unlawful for a person under 21 years of age to misrepresent their age to enter a licensed premises or obtain liquor, beer, or wine.

Subd. 10. Employment of minors. No person under 18 years of age shall be employed in any licensed establishment except to "bus" tables or wash dishes in a restaurant licensed for on-sales.

Subd. 11. Gambling prohibited. No licensee shall keep, possess, or operate any gambling device or apparatus on the licensed premises nor permit any unlawful gambling therein.

Subd. 12. Nudity prohibited. The purpose of this subdivision is to protect the general public and assist the owners, operators, employees and patrons of licensed liquor, beer and wine establishments; to prevent harm stemming from the combination of alcohol and nudity; to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, such as prostitution, sexual assault, or disorderly conduct; and to protect and reflect the prevailing community standards within the City. Nudity is prohibited in licensed premises. No licensee shall permit or to allow any person to be upon the licensed premises without his or her buttocks, breasts, and genitals covered with a nontransparent material.

Subd. 13. Prostitution prohibited. No licensee shall knowingly permit the licensed premises to be used for or in furtherance of prostitution.

307.07. SUSPENSION AND REVOCATION.

Subd. 1. General. Upon a finding that a licensee has failed to comply with any applicable statute, regulation or ordinance relating to alcoholic beverages, the City Council may reprimand the licensee, suspend the license for up to 60 days and impose a civil fine not to exceed \$2,000 for each violation, or revoke the license.

Subd. 2. Hearing. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded written notice of the violation(s) and the opportunity for a public hearing. The notice shall give at least 10 days notice of the time and place for

the hearing. The City may elect to conduct such hearing pursuant to the Administrative Procedures Act, Minnesota Statutes, sections 14.57 to 14.69.

Subd. 3. Lapse of required insurance/bond. Evidence that a licensee's financial insurance or bond has lapsed shall effect an immediate suspension of the license without further action of the City Council. Notice of cancellation or lapse of an insurance policy or bond, or withdrawal of deposited cash or securities shall constitute notice to the licensee of suspension of the license. Such a licensee may request a hearing concerning such cancellation or lapse by supplying a written request to the City Administrator. The suspension shall continue until the City Council determines that the financial responsibility requirements of this Section have been met.

307.08 PENALTY.

Any person violating any provision of this Section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700 or imprisonment for not more than 90 days, or both, plus the cost of prosecution to any case.

(Ord. 04-10, Section 307, Adopted September 7, 2004.)
(Ord. 11-04, Section 307.01, Adopted August 15, 2011.)
(Ord. 12-03, Section 307.01, Adopted March 19, 2012.)
(Ord. 13-09, Section 307.02, Adopted October 7, 2013.)
(Ord. 17-08, Section 307.05, Subd. 2, Adopted May 15, 2017.)

SECTION 308.00 ADULT USES.

- 308.01 Purpose.
- 308.02 Definitions.
- 308.03 General Provisions.
- 308.04 License Required.
- 308.05 Applications.
- 308.06 License Fees.
- 308.07 Granting of License.
- 308.08 Persons Ineligible for License.
- 308.09 Places Ineligible for License.
- 308.10 Conditions of License.
- 308.11 Penalty.

308.01 PURPOSE.

To regulate adult uses accessory within the B-1, Neighborhood Low Intensity Business District; to regulate adult use principal and accessory to the B-2, Highway Commercial District; and to regulate adult uses principal and accessory to the B-3, Central Business District.

308.02. DEFINITIONS.

Subd. 1. Adult Uses. Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes 617.241 are not included.

1. Specified Anatomical Areas:

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

2. Specified Sexual Activities:

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
- e. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation.

Subd. 2. Adult Uses - Accessory. The offering of goods and/or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

Subd. 3. Adult Uses - Principal. The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include but are not limited to the following:

1. Adult Use - Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".
2. Adult Use - Bookstore. A building or portion of a building uses for the barter, rental or sale of items consisting of. printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

3. Adult Use - Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

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

5. Adult Use Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

6. Adult Use - Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

7. Adult Use - Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexually activities" or "specified anatomical areas".

8. Adult Use - Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

9. Adult Use - Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

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

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

12. Adult Use - Motion Picture Theater. A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

13. Adult Use - Novelty Business. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

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

15. Adult Use - 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, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or 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".

308.03 GENERAL PROVISIONS.

Subd. 1. Adult uses as defined in this Ordinance shall be subject to the following general provisions:

1. Activities classified as obscene as defined by Minnesota Statute 617.241 are not permitted and are prohibited.
2. Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

Subd. 2. Adult Uses - Principal:

1. Adult use-principal shall be located at least three hundred fifty (350) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located to the property line of:

- a. Residentially zoned property
- b. A licensed day care center
- c. A public or private educational facility classified as an elementary, junior high or senior high
- d. A public library
- e. A public park
- f. A cemetery
- g. A church

2. Adult use-principal shall be located at least three hundred (300) radial feet as measured from one another.

3. Adult use-principal activities, as defined by this Ordinance, shall be classified as one use. No two adult uses-principal shall be located in the same building or upon the same property and each use shall be subject to Subd. 2 of this Section.

4. Adult use-principal shall adhere to the following signing regulations.

- a. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted; and
- b. Shall not contain material classified as advertising; and
- c. Shall comply with the requirements of size and number for the district in which they are located.

5. Adult use-principal activities shall be prohibited in establishments where liquor is served.

6. Adult use-principal activities shall be prohibited at any public show, movie, caravan circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are permitted.

Subd. 3. Adult Uses - Accessory:

1. Adult use-accessory shall comprise no more than ten (10) percent of the floor area of the establishment in which it is located.

2. Adult use-accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:

- a. Movie Rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation.

b. Magazines. Publications classified or qualifying as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

c. Other Use. Adult uses-accessory not specifically cited shall comply with the intent of this section subject to the approval of the Zoning Administrator.

3. Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

4. Adult use-accessory activities shall be prohibited in establishments where liquor is served.

5. Adult use-accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.

308.04 LICENSE REQUIRED.

No person, firm, or corporation shall operate an adult use, either principal or accessory without having first secured a license hereinafter provided. Licenses shall be one of two (2) types:

- A. Adult Use Accessory.
- B. Adult Use - Principal.

308.05 APPLICATIONS.

In addition to such information as the City Administrator, or his/her designee, may required pursuant to Section 300.02, the application shall also include:

- A. The name, residence, phone number and birthdate of the applicant, if an individual; and if a corporation, the names, residences, phone number and birthdates of those owners holding more than five percent (5%) of the outstanding stock of the corporation;
- B. The name, address, phone number and birthdate of the manager of such operation, if different than the owners;
- C. The premises where in the adult use is to be located;
- D. A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, in the case of a corporation, the owners of more than five percent (5%) of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities.
- E. The activities and types of business to be conducted;

- F. The hours of operation;
- G. The provisions made to restrict access by minors;
- H. A building plant of the premises detailing all internal operations and activities.

308.06 LICENSE FEES.

Subd. 1 Each applicant for a license shall be accompanied by a receipt from the City for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any applications for a license, the City shall refund the amount paid.

Subd. 2. All licenses shall expire on the last day of June in each year. Each license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rate fee. In computing such fee, any unexpired fraction of a month shall be counted as one (1) month.

Subd. 3. The annual fee for an adult-use accessory license and adult use principal license shall be as set by Section 108 of this Code.

Subd 4. No part of the fee paid by any license issued under this Ordinance shall be refunded except in the following instances upon application to the City Administrator, or his/her designee, within thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one (1) month before expiration of the license because of:

- A. Destruction or damage of the licensed premises by fire or other catastrophe;
- B. The licensee's disabling illness;
- C. The licensee's death;
- D. A change in the legal status making unlawful for the licensed business to continue.

308.07 GRANTING OF LICENSE.

Subd. 1. The City Administrator shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and administrative hearing, the City Administrator shall grant or refuse the application.

Subd. 2. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Administrator.

308.08 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person:

- A. Under twenty-one (21) years of age;
- B. Who has been convicted of a felony or of violating any law of this state or local ordinance relating to sex offenses and/or adult uses.
- C. Who is not the proprietor of the establishment for which the license is issued.

308.09 PLACES INELIGIBLE FOR LICENSE.

Subd. 1. No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this Chapter or where any license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.

Subd. 2. Except for uses lawfully existing at the time of this Ordinance adoption, no license shall be granted for any adult use which is not in compliance with the City's zoning regulations.

308.10 CONDITIONS OF LICENSE.

Subd. 1. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Chapter, and of any applicable sections of the Code of the City or state law.

Subd. 2. All licensed premises shall have the license posted in a conspicuous place at all times.

Subd. 3. In the case of an adult-use principal, no minor shall be permitted on the licensed premises unless accompanied by his parent or legal guardian.

Subd. 4. Any designated inspection officer of the City shall have the unqualified right to enter, inspect, and search the premises of a licensee and shall maintain conditions of order.

Subd. 5. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of order.

308.11 PENALTY.

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

SECTION 309.00 MASSAGE THERAPY AND ESTABLISHMENTS AND MASSAGE
THERAPISTS.

- 309.01 Purpose.
- 309.02 Definitions.
- 309.03 Prohibited Establishments or Operations.
- 309.04 License Required.
- 309.05 Licensing Requirements.
- 309.06 Denial of License.
- 309.07 Restrictions and Regulations.
- 309.08 Manager or Agent.
- 309.09 Submission of Plans and Specifications.
- 309.10 Construction and Maintenance Requirements.
- 309.11 Insurance Required.
- 309.12 Unlawful Acts.

309.01 PURPOSE.

The City of Belle Plaine recognizes and accepts both relaxation and therapeutic massage as distinguished from other forms of massage as providing beneficial health and relaxation techniques or procedures for the human muscles, tendons, tissues and the like. The City, however, equally recognizes the potential for illicit massage operations or establishments in the wake of legitimate, professional therapeutic massage establishments. Accordingly, in order to prevent or protect against the existence of illicit massage establishments or operations in the City of Belle Plaine and to protect the public's health, safety and welfare, the City deems it necessary to regulate therapeutic massage establishments and massage therapists through the licensing process.

309.02 DEFINITIONS.

For the purposes of the Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

Subd. 1. Definitions.

CERTIFICATE: Means a certificate issued by the City authorizing the holder thereof to practice or administer a massage therapy in the City.

ESCORT SERVICE: An escort service or modeling service or dancing service or hostess service are defined as any person, establishment or business advertising, offering, selling, trading or bartering the services of itself, its employees or agents as hostesses, models, dancers, escorts, dates or companions whether or not good or services are simultaneously advertised, offered, sold, traded or bartered and regardless of whether said goods or services are also required to be licensed.

INCIDENTAL MASSAGE SERVICES: Massage activities conducted by trained massage therapists in conjunction with another lawful business such as a beauty salon,

physical fitness center, or similar business, and which are incidental to the primary business.

MASSAGE THERAPIST: A person, other than a person licensed as a medical doctor, chiropractor, osteopath, podiatrist, licensed nurse, physical therapist, athletic director or trainer, or beautician or barber who confine his/her treatment to the scalp, face and neck, who for compensation, practices and provides therapeutic and relaxation massage.

MASSAGE THERAPY: Means a scientific health care or health maintenance technique or procedure carried out by a massage therapist involving the massaging and kneading of human skin, muscles and tissues for the purpose of easing mental and physical tension, the breaking up of fatty tissues and muscle spasms, and the improvement of circulation through the body.

MASSAGE THERAPY ESTABLISHMENT: Means any room or rooms wherein persons may, for a fee or other consideration paid directly or indirectly, receive a therapeutic massage.

MASSEUR: A male person who, for compensation, practices massage.

MASSEUSE: A female person who, for compensation, practices massage.

PATRON: Means any person who receives a massage under such circumstances that is reasonably expected that he or she will pay money or give any consideration thereof.

RAP PARLOR: Any person, establishment or business advertising, offering, selling, trading or bartering the services of itself, its employees or agents as non-professional counselors, teachers or therapists who may talk to, discuss or have conversation with patrons or who deal in any way with patron's physical senses whether or not other goods or services are simultaneously advertised, offered, sold, traded or bartered and regardless of whether said goods or services are also required to be licensed.

RECOGNIZED SCHOOL: Any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage therapists. Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a recognized school.

SIMILAR ADULT-ORIENTED SERVICES: Includes all other services which fall within the definitions of this Section, but are operated under different names.

Subd. 2. **Massage Distinguished.** The practice of massage is hereby declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry and persons duly licensed in this State to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry and nurses who work solely under the direction of any such persons, athletic directors, and trainers are hereby expressly excluded from the provisions of this Chapter. Barbers and beauticians licensed under the laws of the State of Minnesota, provided that such massage is limited to the head, neck, and scalp, shall be exempt from the provisions of this Chapter.

309.03 PROHIBITED ESTABLISHMENTS OR OPERATIONS.

Any use, establishment, operation or business whose massage therapy services include sessions offered to adults, conducted in private by members of the same or the opposite sex, and employing personnel with no specialized training, and susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, are prohibited, including, but not limited to those establishments listed below in Subd. 1.

Subd. 1. Prohibited Establishments or Operations.

1. Rap Parlor as defined in 309.02, Subdivision 1.
2. Escort Service as defined in 309.02, Subdivision 1.
3. Similar Adult-Oriented Services as defined in 309.02, Subdivision 1.

309.04 LICENSE REQUIRED.

The City of Belle Plaine deems it necessary to regulate the business or commercial enterprises which operate as massage therapy establishments and saunas, and to regulate those who practice massage therapy, for the health, safety and welfare of the citizens of the City.

Subd. 1. License Required.

- A. It is unlawful for any person to engage in the business of keeping, conducting, or operating any massage center which is open to the public or for which any charge or fee is made or any money or thing of value is solicited or received without a license therefore from the City. It is unlawful for any person to practice therapeutic massage therapy in any place except upon licensed premises. Licenses are not transferable.
- B. A person commits a misdemeanor offense if the person operates an enterprise described in 309.02 without a valid license issued by the City.

Subd. 2. General Rule, Number of Licenses.

No person shall engage in the business of operating a massage therapy establishment either exclusively or in connection with any other business enterprise without being licensed as provided in this Section. The number of massage therapy establishment licenses which may be in force at any one time shall be five.

Subd. 3. Exceptions.

This section shall not apply to the following establishments or people:

1. A health care facility owned by a municipal corporation organized under the laws of the State of Minnesota.
2. A health care facility owned by the State of Minnesota or any of its agencies.
3. A health care facility licensed by the State of Minnesota.
4. A medical clinic or hospital, so long as the massage is performed by a physician, chiropractor, osteopath, podiatrist, or nurse working under the direction of such person.
5. A physical therapy clinic or athletic facility, so long as the massage is performed by a physical therapist, athletic director, or trainer.
6. A beauty parlor or barbershop, so long as the massage is performed by a beautician or barber, and treatment is limited to the scalp, face, and neck.

309.05 LICENSING REQUIREMENTS.

Subd. 1. Massage Therapy Establishment License.

Application by an individual or corporation for the establishment of massage therapy establishment.

All initial applications shall be accompanied by a non-returnable investigation fee as set in Section 108 of this Code. This fee shall also cover the investigation fee for one massage therapist. At a minimum, the application form for a license shall require the following:

1. The legal name of the applicant.
2. The applicant's date of birth and social security number.
3. The home address and phone number of the applicant.
4. Any name the applicant has ever used or has been known by other than his/her true name.
5. The name of the business, and if incorporated, the state of incorporation.
6. The kind, name, and location of every business or occupation the applicant has been engaged in during the preceding five (5) years.
7. The names and addresses of applicant's employer(s) and partner(s), if any, for the preceding five (5) years.
8. Whether the applicant has ever been convicted of any crime. If so, the applicant shall furnish information as to the time, place, and offense for all applicants.
9. A copy of the graduation certificate of a school as listed in Subdivision 2.2.
10. The names and addresses of all partners and all information concerning each partner as is required of an individual applicant above.
11. The name of managing partner(s) and the interest of each partner in the

business.

12. Whether the applicant is licensed in other communities to operate similar businesses; and if so, where.
13. The names of applicant's employees to be licensed and working for the applicant in the City.
14. Whether the applicant has previously been denied a massage license, or has had a license revoked. If so, give details.
15. A description and location of the premises to be licensed. If the premises are not constructed and furnished at the time the application is filed, the detailed plans of the premises and furnishings shall be filed with the application.
16. A description of the services to be provided.
17. A list of the types of equipment to be used by the business.
18. Such other information as the Council may require.

An investigation by the Building Inspector shall be conducted of all premises proposed to be licensed before consideration by the Council. The Police Department shall conduct an investigation of all persons proposed to be licensed before consideration by the Council. All applications for a massage therapy establishment shall thereafter be considered by the Council.

Subd. 2. Massage Therapist License.

Applications for masseur and masseuse license provide for in this Chapter shall be made to the City Administrator on such forms as the Administrator may from time to time provide. In addition to such information as the Administrator may require, the application should also include:

1. All of the information required above with the exception of numbers: 10-11, 13, and 15-17.
2. A diploma or certificate of graduation of a complete program to become a certified massage therapist from a school listed below:
 - a. Sister Rosalind Gefre's School of Professional Massage
 - b. Northwestern Health Sciences University
 - c. Minneapolis School of Massage and Bodyworks
 - d. Centerpoint
 - e. Other schools that have been verified by City Staff to be qualified schools.
3. The applicant must provide current contact information for the school of graduation in order for the City Administrator to verify successful completion of the program.
5. Existing massage therapy licenses, as of the date of this amendment, shall have until April 1, 2005 for his or her license to meet the requirements of this amendment.
6. The Police Department shall conduct an investigation of all persons proposed to be licensed before consideration.

Subd. 2. Renewals.

A license, unless revoked or surrendered, is for the calendar year or part thereof, for which it has been issued. Licenses must be renewed annually. The renewal application shall be accompanied by an annual fee as set forth in the Fee Schedule. The annual license fee shall not be pro-rated. In the event that the application is denied or in the event that the license once issued is revoked, canceled, suspended or surrendered, no part of the annual fee shall be returned to the applicant unless by Council action. For renewal, the applicant must provide full information as required for initial licenses for any new owners, lessees, or operators proposed to be involved in the massage center and also provide any changes in the name, address, criminal record, or other relevant information of any other owner, lessee, or operator. The Building Official and/or the Police Department may conduct an investigation prior to any renewal.

309.06 DENIAL OF LICENSE.

Subd. 1. Denial of License. The application for a license may be denied for any of the following reasons:

1. The application contains false, fraudulent or deceptive statements.
2. The applicant has been convicted within the previous five (5) years of a violation of this part or any law prohibiting prostitution, pandering, including, but not limited to Minnesota Statutes, Section 609.32 and any applicable City Ordinances.
3. The applicant has not complied with any provision of this part.
4. The applicant is less than 18 years of age.
5. The proposed use of a site location is outside of the B-2 Highway Commercial District or the B-3 Central Business District or the applicant was denied a Conditional Use Permit for a Home Occupation following Public Hearings at Planning and Zoning Commission and City Council meetings.
6. The proposed use is in conflict with any health, building, maintenance, or other provisions of the City Ordinances or state law.
7. For any good and sufficient reason determined by the Council.

309.07 RESTRICTIONS AND REGULATIONS.

Subd. 1. Restrictions and Regulations. A license may be revoked, suspended, or not renewed by the City upon a showing that the licensee, its owners, managers, employees, or agents have violated any of the following restrictions and regulations:

1. Licenses may be granted only for operation upon fixed premises which must be located in the B-2 Highway Commercial District or the B-3 Central Business District of the City. The City Council may grant a Conditional Use Permit for a Home Occupation following Public Hearings at the Planning and Zoning Commission and City Council meetings. The total number of licenses issued shall be limited to five.
2. Licenses shall be granted only upon a showing of compliance with all laws of

sanitation.

3. No beer, liquor, narcotic drug or controlled substances, as such terms are defined by State Statutes or by the City Code, shall be permitted on licensed premises.
4. No licensee, owner, manager, employee, or agent may engage in habitual drunkenness or intemperate use of a controlled substance as defined in Minnesota Statutes.
5. Only masseurs and masseuses licensed by the City may perform massage, except as provided in 309.04 Subdivision 3.
6. Any person acting as a masseur or masseuse in a massage center shall display his or her license in a prominent place in the massage center.
7. No applicant or any employee or proposed employee may be under eighteen (18) years of age.
8. Upon demand by any police officer at the place of employment, any person licensed hereunder shall produce correct identification.
9. The licensee shall permit and allow the inspection of the premises during business hours by the Building Official, Police Department, and Health Officers, without a warrant for searches and seizures.
10. The application must not contain any false, fraudulent or deceptive statements.
11. No applicant or any employee or proposed employee shall have been convicted or pled guilty within the previous five (5) years of a violation of this Section, or any law prohibiting prostitution, pandering, criminal sexual conduct, any sex crime under Minnesota Statutes Chapter 609, or a crime involving moral turpitude.
12. The operation or maintenance of the massage center shall not be in conflict with the provisions of this Part or any other Ordinance or law.
13. Health, building, building maintenance, or other provisions of the City Ordinances or State Law must be met.
14. No doors of massage rooms, when occupied by one (1) or more persons shall be locked.
15. No massage center may discriminate between persons on the basis of race, color, creed, sex, national origin, or ancestry.
16. All massage therapists shall require that the person who is receiving the massage shall have his/her buttocks, anus and genitals covered with an appropriate non-transparent covering.
17. All massage therapists shall at all times have their anus, buttocks, breasts and genitals covered with a non-transparent material.
18. It shall be unlawful for a massage therapist to touch or massage with his/her hands or body a sexual or genital part of a patron or to allow a patron to touch or massage with his/her hands or body a sexual or genital part of the therapist.
19. Massages shall not be given to patrons who have open sores or other visible signs of communicable disease.
20. Only licensed massage therapists are allowed to practice chair massage in the commercial and industrial districts on a temporary basis.

309.08 MANAGER OR AGENT.

Subd. 1. Manager or Agent. Before a license is issued under this Section to an individual who is a non-resident of the city, to more than one (1) individuals whether or not they are

residents of the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person as its on-premises manager or agent. Such on-premises manager or agent shall, by the terms of his/her written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be located at the licensed premises or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

309.09. SUBMISSION OF PLANS AND SPECIFICATIONS.

Subd. 1. Submission of Plans and Specifications. All persons who hereafter construct, extensively remodel, or convert buildings or facilities for use as a massage center which are open to the public shall comply with the requirements of the Building Code and the Plumbing Code. To the extent of the Building Code or Plumbing Code does not impose stricter requirements, the provisions of Part shall govern.

309.10 CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

Subd. 1. Construction and Maintenance Requirements.

1. Floors, walls, and equipment in massage rooms, rest room, bathrooms, janitor's closets, hallways, and reception area used in connection therewith must be kept in a state of good repair and clean at all times. Linens and other material shall be stored at least twelve (12) inches off of the floor. Clean towels and washcloths must be made available for each customer.
2. Individual lockers shall be made available for use by patrons. Such lockers shall have separate keys for locking.
3. The doors to individual massage rooms shall not be equipped with any locking device and shall not be blocked or obstructed from either side.

309.11. INSURANCE REQUIRED.

Subd. 1. Insurance Required. Each applicant filing for a massage therapy establishment license under this Part shall file with the City a public liability insurance policy or certificate of insurance from a company authorized to do business in Minnesota, insuring the applicant against any and all loss arising out of the use, operation or maintenance of the massage center. The policy of insurance shall be in limits of not less than \$300,000 per person and \$600,000 aggregate. Failure to keep in full force and effect the insurance required herein is grounds for revocation.

309.12. UNLAWFUL ACTS.

Subd. 1. Unlawful Acts.

1. It is unlawful for any person to commit, attempt to commit, conspire to commit, or aid or abet in the commission of, any act constituting a violation of this Part, whether individually or in connection with one or more person or as a

principal agent or accessory.

2. It is unlawful for any licensee to fail to, at all times, observe all restrictions, regulations, and maintenance requirements contained in this Part.
3. It is unlawful for any person to falsely, fraudulently, forcibly or willfully induce, cause, coerce, require, permit or direct another to violation of any of the provisions of this Part.
4. It is unlawful for any licensee to allow the licensed premises to be open for business or allow patrons to be on the premises between the hours of 10:00 p.m. and 6:00 a.m.
5. It is unlawful for any licensee, agent, or employee of a licensee to hinder or prevent a police, building, or health officer from making any inspection at any time.

(Ord. 02-10, Section 309, Adopted April 1, 2002.)

SECTION 310.00 BODY ART ESTABLISHMENTS.

- 310.01 Purpose.
- 310.02 Definitions.
- 310.03 License Required.
- 310.04 License Application.
- 310.05 License Fee.
- 310.06 License Application Execution.
- 310.07 License Application Verification and Consideration.
- 310.08 Person Ineligible for License.
- 310.09 Locations Ineligible for a License.
- 310.10 License Requirements.
- 310.11 Health and Safety Standards.
- 310.12 Sanctions for License Violations.
- 310.13 Penalty.

310.01 PURPOSE.

The purpose of this Section is to regulate the business of body art in accordance with applicable state law, in order to protect the health and welfare of the general public.

310.02 DEFINITIONS.

The following definitions apply in this Section of this Code. Defined terms remain defined terms whether or not capitalized.

AFTERCARE: means written instructions given to a client, specific to the procedure rendered, on caring for the body art and surrounding area. These instructions must include information on when to seek medical treatment.

ANTISEPTIC: means an agent that destroys disease-causing microorganisms on human skin or mucosa

BODY ART: means physical body adornment using, but not limited to, tattooing and body piercing. Body art does not include practices and procedures that are performed by a licensed medical or dental professional if the procedure is within the professional's scope of practice.

BODY ART ESTABLISHMENT: means any structure or venue, whether permanent, temporary, where body art is performed.

BODY PIERCING: means the penetration or puncturing of the skin by any method for the purpose of inserting jewelry or other objects in or through the body. Body piercing also includes branding, scarification, suspension, subdermal implantation, microdermal and tongue bifurcation. Body piercing does not include the piercing of the outer perimeter or the lobe of the ear using a presterilized single-use stud-and-clasp ear-piercing system.

COMMISSIONER: means the commissioner of the Minnesota Department of Health.

CONTAMINATED WASTE: means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semiliquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; and sharps and any wastes containing blood and other potentially infectious materials, as defined in Code of Federal Regulations, title 29, section 1910.1030, known as “Occupational Exposure to Bloodborne Pathogens.”

EQUIPMENT: means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in the operation of a body art establishment.

HAND SINK: means a sink equipped with potable hot and cold water held under pressure, used for washing hands, wrists, arms, or other portions of the body.

HOT WATER: means water at a temperature of at least 110 degrees Fahrenheit.

ISSUING AUTHORITY: means the City of Belle Plaine.

LIQUID CHEMICAL GERMICIDE: means a tuberculocidal disinfectant or sanitizer registered with the Environmental Protection Agency.

OPERATOR: means any person who controls, operates, or manages body art activities at a body art establishment and who is responsible for the establishment's compliance with these regulations, whether or not the person actually performs body art activities.

PROCEDURE AREA: means the physical space or room used for conducting body art procedures.

PROCEDURE SURFACE: means the surface area of furniture or accessories that may come into contact with the client's clothed or unclothed body during a body art procedure and the area of the client's skin where the body art procedure is to be performed and the surrounding area, or any other associated work area requiring sanitizing.

SHARPS: means any object, sterile or contaminated, that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, presterilized single-use needles, scalpel blades, and razor blades.

SHARPS CONTAINER: means a closed, puncture-resistant, leak-proof container, labeled with the international biohazard symbol, that is used for handling, storage, transportation, and disposal.

SINGLE USE: means products or items intended for onetime use which are disposed of after use on a client including, but is not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, piercing needles, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves.

STERILIZATION: means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

SUPERVISION: means the physical presence of a technician licensed under this chapter while a body art procedure is being performed.

TECHNICIAN: means any individual who is licensed under this chapter as a tattoo technician or as a body piercing technician or as both.

TATTOOING: means any method of placing indelible ink or other pigments into or under the skin or mucosa with needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. Tattooing also includes micropigmentation and cosmetic tattooing.

310.03 LICENSE REQUIRED.

Subd. 1. Body Art Establishment License: No person acting individually or jointly with any other person shall maintain, own, or operate a body art establishment in the City without obtaining a body art establishment license from the issuing authority.

Subd. 2. Body Art Technician License; Issued by State: No individual shall perform tattooing or body piercing in the City unless the individual holds the appropriate and valid body art technician license issued by the commissioner, or demonstrates that no license is required under applicable state law.

310.04 LICENSE APPLICATION.

Every application for a license under this Division shall be made on a form supplied by the Issuing Authority and shall request the following information:

Subd. 1. Individual Applicants.

If the applicant is a natural person:

1. The name, place and date of birth, street residence address, and phone number of the applicant.
2. Whether the applicant is a citizen of the United States, a resident alien, or is able to legally be employed 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 where 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 Minnesota Statutes, Section 333.01.
5. The street addresses at which the applicant has lived during the preceding five (5) years.
6. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years, and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.

7. Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

Subd. 2. Partnership Applicants.

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 subdivision (1) above.
2. The name(s) of the managing partner(s) and the interest of each partner in the tattooing establishment.
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 Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.

Subd. 3. Corporations and Other Associations.

If the applicant is a corporation or other type of business association:

1. The name of the corporation or business formed, and if incorporated, the state of incorporation.
2. A true copy of the certificate of incorporation. If the applicant is a foreign corporation, a certificate of authority as required by Minnesota Statutes, Section 303.06 shall be attached to the application.
3. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subdivision (1) of this Section.

Subd. 4. All Applicants.

For all applicants:

1. Whether the applicant holds a current tattooing or body art license from any other governmental unit.
2. Whether the applicant has previously been denied a tattooing or body art license from any other governmental unit.
3. The location of the business premises and the legal description thereof.
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 alterations, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans of design are on file with the City of Belle Plaine Building and Inspection Division, no plans need be submitted to the Issuing Authority.
6. Such other information the City Council or the Issuing Authority may require.

310.05 LICENSE FEE.

The fee for a license under this Part shall be as set in Section 108 of this Code. The fee shall be submitted at the time the application is filed.

310.06 LICENSE APPLICATION EXECUTION.

All applications for a license under this Part 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 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.

310.07 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.

Subd. 1. Verification.

Applications for licenses under this Part shall be submitted to the Issuing Authority. The Issuing Authority shall verify any of the information requested of the applicant in the application and conduct any necessary investigations to assure compliance with this Part.

Subd. 2. Consideration.

Within a reasonable period of time after the completion of the license verification process by the Issuing Authority, the Issuing Authority shall accept or deny the license application in accordance with this Part. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty days after receipt of the notice by the applicant to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the Issuing Authority.

310.08 PERSONS INELIGIBLE FOR LICENSE.

Subd. 1. Natural Persons.

No license under this Division shall be issued to an applicant who is a natural person if such applicant:

1. Is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority.
2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed by Minnesota Statutes, Section 364.03, subd. 3.

3. Is not a citizen of the United States, a resident alien, or does not have the legal authority to be employed in the United States.
4. Is not of good moral character or repute.
5. Knowingly falsifies or misrepresents information on the license application.
6. Owes taxes and assessments to the State, County, School District, or City that are due and delinquent.
7. Is not the real party in interest in the business to be licensed.

Subd. 2. Partnerships.

No license under this Division shall be issued to a partnership if such partnership has any general partner or managing partner:

1. Who is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority.
2. Who has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed by Minnesota Statutes, Section 364.03, subd. 3.
3. Who is not a citizen of the United States, a resident alien, or does not have the legal authority to be employed in the United States.
4. Who is not of good moral character or repute.
5. Who knowingly falsifies or misrepresents information on the license application.
6. Who owes taxes and assessments to the State, County, School District, or City that are due and delinquent.
7. Who is not the real part in interest in the business to be licensed.

Subd. 3. Corporate or Other Organization.

No license under this Division shall be issued to a corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business to be licensed:

1. Who is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority.
2. Who has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation as prescribed by Minnesota Statutes, Section 364.03, subdivision 3.
3. Who is not a citizen of the United States, a resident alien, or does not have the legal authority to be employed in the United States.
4. Who is not of good moral character or repute.
5. Who knowingly falsifies or misrepresents information on the license application.
6. Who owes taxes and assessments to the State, County, School District, or City that are due and delinquent.
7. Who is not the real part in interest in the business to be licensed.

310.09 LOCATIONS INELIGIBLE FOR A LICENSE.

Subd. 1. Locations Ineligible for a License.

The following locations shall be ineligible for a license under this Part.

1. Taxes Due on Property. No license shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the State, County, School District, or City are due, delinquent, or unpaid. In the event a suite has been commenced under Minnesota Statutes, Section 278.01 - 278.13, questioning the amount of validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes on any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.
2. Improper Zoning. No license shall be granted if the property is not properly zoned for tattooing establishments under the City Code or Zoning Ordinance.
3. Premises Licensed for Alcoholic Beverages. No license shall be granted or renewed if the if the premises is licensed for the furnishing of alcoholic beverages.

310.10 LICENSE REQUIREMENTS.

Subd. 1. License Requirements.

1. Tattoos Minors. No person shall tattoo any person under the age of eighteen (18).
2. Prohibition on License Transfer. The license granted under this Part is for the person and 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 first complying with the requirements of an original application, except in the case in which an existing non-corporate licensee is incorporated and incorporation does not affect the ownership, control, and interest of the existing licensed establishment.
3. Hours of Operation. A licensee under this Part shall not be open for business for tattooing before 7:00 a.m. nor after 10:00 p.m.
4. Licensed Premises. The Body art establishment is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the Issuing Authority. No person shall engage in the practice of tattooing at any place other than the place or location named or described in the application and license. (*Ord. 15-01, Section 310.10, Adopted February 17, 2015.*)

5. Effect of License Suspension or Revocation. No person shall solicit business or offer to perform tattooing services while under license suspension or revocation by the City.

6. Maintenance of Order. This licensee shall be responsible for the conduct of business being operated and shall at all times maintain conditions of order.

7. Employee Lists. The licensee shall provide to the Issuing Authority a list of employees who perform tattooing at the licensed establishment and shall verify that each employee has received a copy of this Part of the City Code.

8. Liability Insurance. All licensees shall have at all times a valid certificate of insurance issued by an insurance company licensed to do business in the State of Minnesota indicating that the licensee is currently covered in the tattoo business by a liability insurance policy. The minimum limits of coverage for such insurance shall be:

- a. each claim, at least \$300,000
- b. each group of claims, at least \$600,000.

Such insurance shall be kept in force during the term of the license and shall provide for notification to the City prior to termination or cancellation. A certificate of insurance shall be filed with the City. Any license issued hereunder shall automatically be revoked upon notice of termination or cancellation of such insurance and shall remain revoked until or unless other insurance is provided as required herein.

310.11 HEALTH AND SAFETY STANDARDS

Subd. 1. Establishment standards.

The body art establishment must meet the following health and safety standards before body art procedures may be conducted at the establishment:

- (a) The procedure area must be separated from any other area that may cause potential contamination of work surfaces.
- (b) For clients requesting privacy, at a minimum, a divider, curtain, or partition must be provided to separate multiple procedure areas.
- (c) All procedure surfaces must be smooth, nonabsorbent, and easily cleanable.
- (d) The establishment must have an accessible hand sink equipped with:
 - (1) liquid hand soap;
 - (2) single-use paper towels or a mechanical hand drier or blower; and
 - (3) a nonporous washable garbage receptacle with a foot-operated lid or with no lid and a removable liner.
- (e) All ceilings in the body art establishment must be in good condition.
- (f) All walls and floors must be free of open holes or cracks and be washable and no carpeting may be in areas used for body art procedures unless the carpeting is entirely covered with a rigid, nonporous, easily cleanable material.

- (g) All facilities within the establishment must be maintained in a clean and sanitary condition and in good working order.
- (h) No animals may be present during a body art procedure, unless the animal is a service animal.

Subd. 2. Standards for equipment.

Equipment must comply with the following health and safety standards before body art procedures may be conducted at the establishment:

- (a) Jewelry used as part of a body art procedure must be made of surgical implant-grade stainless steel, solid 14-karat or 18-karat white or yellow gold, niobium, titanium, or platinum, or a dense low-porosity plastic. Use of jewelry that is constructed of wood, bone, or other porous material is prohibited.
- (b) Jewelry used as part of a body art procedure must be free of nicks, scratches, or irregular surfaces and must be properly sterilized before use.
- (c) Reusable instruments must be thoroughly washed to remove all organic matter, rinsed, and sterilized before and after use.
- (d) Needles must be single-use needles and sterilized before use.
- (e) Sterilization must be conducted using steam heat or chemical vapor.
- (f) All sterilization units must be operated according to the manufacturer's specifications.
- (g) At least once a month, but not to exceed 30 days between tests, a spore test must be conducted on each sterilizer used to ensure proper functioning. If a positive spore test result is received, the sterilizer at issue may not be used until a negative result is obtained.
- (h) All inks and other pigments used in a body art procedure must be specifically manufactured for tattoo procedures.
- (i) Immediately before applying a tattoo, the ink needed must be transferred from the ink bottle and placed into single-use paper or plastic cups. Upon completion of the tattoo, the single-use cups and their contents must be discarded.
- (j) All tables, chairs, furniture, or other procedure surfaces that may be exposed to blood or body fluids during the body art procedure must be cleanable and must be sanitized after each client with a liquid chemical germicide.
- (k) Single-use towels or wipes must be provided to the client. These towels must be dispensed in a manner that precludes contamination and disposed of in a nonporous washable garbage receptacle with a foot-operated lid or with no lid and a removal liner.
- (l) All bandages and surgical dressings used must be sterile or bulk-packaged clean and stored in a clean, closed nonporous container.
- (m) All equipment and instruments must be maintained in good working order and in a clean and sanitary condition.
- (n) All instruments and supplies must be stored clean and dry in covered containers.
- (o) Single-use disposable barriers or a chemical germicide must be used on all equipment that cannot be sterilized as part of the procedure as required under this section including, but not limited to, spray bottles, procedure light fixture handles, and tattoo machines.

Subd. 3. Standards for technicians.

Technicians must comply with the health and safety laws, regulations, and standards established by the state or county, including regulations promulgated by the commissioner and any standards or conditions imposed by the technician's license.

Subd.4. Contamination standards.

Infectious waste and sharps must be managed according to applicable health and safety laws, regulations, and standards established by the state or county, including regulations promulgated by the commissioner and any standards or conditions imposed by the technician's license. Additionally:

- (a) Sharps ready for disposal must be disposed of in an approved sharps container.
- (b) Contaminated waste that may release liquid blood or body fluids when compressed or that may release dried blood or body fluids when handled must be placed in an approved red bag that is marked with the international biohazard symbol.
- (c) Contaminated waste that does not release liquid blood or body fluids when compressed or handled may be placed in a covered receptacle and disposed of through normal approved disposal methods.
- (d) Storage of contaminated waste onsite must not exceed the period specified by Code of Federal Regulations, title 29, section 1910.1030.

Subd. 5. Client record maintenance.

For each client, the body art establishment operator shall maintain proper records of each procedure. The records of the procedure must be kept for three years and must be available for inspection by the issuing authority or commissioner upon request. The records must include the following:

- (a) the date of the procedure;
- (b) the information on the required picture identification showing the name, age, and current address of the client;
- (c) a copy of the authorization form signed and dated by the client;
- (d) a description of the body art procedure performed;
- (e) the name and license number of the technician performing the procedure;
- (f) a copy of any required consent form.

Subd. 6. Aftercare.

Each client shall receive verbal and written instructions for the care of the tattooed or pierced site upon the completion of the procedure. The written instructions must advise the client to consult a health care professional at the first sign of infection.

Subd. 7. Notification.

The operator of the body art establishment shall immediately notify the commissioner, county health authority, and issuing authority of any reports received of a potential bloodborne pathogen transmission.

310.12 SANCTIONS FOR LICENSE VIOLATIONS.

Subd. 1. Sanctions for License Violations.

1. Suspension or Revocation. The City Council may suspend or revoke a license issued pursuant to this Part for a violation of:

- a. Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- b. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
- c. Any violation of this Part or state law.
- d. A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364.03, subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.
- e. Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

2. Notice and Hearing. A revocation or suspension by the City Council shall be written notice to the licensee and a hearing. The notice shall give at least eight (8) 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 and certified mail to the licensee at the most recent address listed on the license application.

3. The City staff may suspend a license and require immediate termination of all body art activities and services until a hearing pursuant to paragraph 2 is conducted if any of the following conditions exist:

- (a) evidence of a sewage backup in an area of the body art establishment where body art activities are conducted;
- (b) lack of potable, plumbed, or hot or cold water to the extent that handwashing or toilet facilities are not operational;
- (c) lack of electricity or gas service to the extent that handwashing, lighting, or toilet facilities are not operational;
- (d) significant damage to the body art establishment due to tornado, fire, flood, or another disaster;
- (e) evidence of an infestation of rodents or other vermin;
- (f) evidence of any individual performing a body art procedure without the appropriate technician's license;
- (g) evidence of existence of a public health nuisance;
- (h) use of instruments or jewelry that are not sterile;
- (i) failure to maintain required records;
- (j) failure to use gloves as required;
- (k) failure to properly dispose of sharps, blood or body fluids, or items contaminated by blood or body fluids;
- (l) failure to properly report complaints of potential bloodborne pathogen

transmission to the commissioner; or
(m) evidence of a positive spore test on the sterilizer if there is no other working sterilizer with a negative spore test in the establishment.

4. At least once every three years, the issuing authority shall conduct an inspection of the body art establishment and a review of any records necessary to ensure that the standards required under this chapter are met.

5. The issuing authority shall be permitted to enter a licensed premises to make inspection. Refusal to permit entry and inspection upon request will result in immediate license revocation with no right to appeal pursuant to paragraph 2.

310.13 PENALTY.

A violation of this Division shall be a misdemeanor under Minnesota law.

(Ord. 11-01, Section 310, Body Art Establishments, Amendments Adopted February 7, 2011.)

SECTION 311.00 PAWNBROKERS ORDINANCE

- 311.01 Purpose.
- 311.02 Definitions.
- 311.03 License Required.
- 311.04 License Fees.
- 311.05 Investigation Fee.
- 311.06 Expiration of License.
- 311.07 Application Required.
- 311.08 Bond Required.
- 311.09 Records Required.
- 311.10 Daily Reports to Police.
- 311.11 Receipt Required.
- 311.12 Redemption Period.
- 311.13 Holding Period.
- 311.14 Police Order to Hold Property.
- 311.15 Inspection of Items.
- 311.16 Label Required.
- 311.17 Prohibited Actions.
- 311.18 Denial, Suspension, or Revocation.
- 311.19 Business at Only One Place.
- 311.20 Separability.

311.01 PURPOSE.

The City Council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because 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 purpose of this chapter is to prevent pawn businesses from being used as facilities for the commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the City.

311.02 DEFINITIONS.

Subd. 1. Definitions. For the purposes of the Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. Appropriate Law Enforcement Agency. “Appropriate law enforcement agency” means the attorney general of the state of Minnesota, the Sheriff of each county in which a pawnbroker maintains an office, or the police chief of the municipality or law enforcement officers of the municipality in which a pawnbroker maintains an office.

B. Billable Transaction. “Billable transaction” means 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.

C. Issuing Authority. “Issuing authority” means the City of Belle Plaine.

D. Minor. “Minor” means any natural person under the age of eighteen (18) years.

E. Municipality. “Municipality” means any town, home rule charter or statutory city, or county that elects to regulate and license pawnbrokers within its jurisdiction pursuant to local ordinance.

F. Pawnbroker.

(1) Except as provided in paragraph (2), “pawnbroker” means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. 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 part shall be applicable.

(2) The following are exempt from the definition of “pawnbroker”: any bank regulated by the state of Minnesota, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System, or any other federal or state authority and their affiliates; any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings association; any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the department of commerce.

G. Pawnshop. “Pawnshop” means the location at which or premises in which a pawnbroker regularly conducts business.

H. Pawn Transaction. “Pawn Transaction” means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

I. Person. “Person” means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

J. Pledged Goods. “Pledged goods” means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

K. Reportable Transaction. “Reportable transaction” means every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, is reportable 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 said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
2. Retail and wholesales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

311.03 LICENSE REQUIRED.

No person shall engage in the business of pawnbroker at any location without a pawnbroker license for that location. No pawnbroker license may be transferred to a different location or a different person. Issuance of a license under this part shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other locations.

311.04 LICENSE FEES.

The annual license fees for licenses issued under this part shall be as set in Section 108 of this Code. The fee shall be submitted at the time the application is filed. Fees will not be prorated, however, if the application is denied, the license fee shall be refunded.

311.05 INVESTIGATION FEE.

An applicant for a new license under this part, or for the renewal of an existing license that is more than six (6) months past due shall reimburse the City for any extraordinary costs or investigative expenses involved in verifying the license application or assuring compliance with this ordinance. When chief of police or the chief's designee determine an application may require extraordinary investigative expenses, the applicant will be notified and given the opportunity to withdraw the application. If the investigation process is conducted solely within the State of Minnesota, the fee shall be five hundred dollars (\$500.00). If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding ten thousand dollars (\$10,000.00).

311.06. EXPIRATION OF LICENSE.

All licenses shall expire on January 1st.

311.07 APPLICATION REQUIRED.

An application form provided by the City must be completed by every applicant for a new license or renewal of an existing license.

Subd. 1. Contents.

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 applicant.
2. Whether the applicant is a citizen of the United States or resident alien.
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 Minnesota Statutes, Section 333.01.
5. The street address at which the applicant has lived during the preceding five (5) years.
6. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.
7. 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.
8. The physical description of the applicant.
9. Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two (2) years prior to application.
10. 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 1. Through 8. of this section.

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 311.7 Subdivision 1, (A) of this ordinance.
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 Minnesota Statutes, Section 33.01, a certified copy of such certificate must be attached to the application.
4. A true copy of the federal and state tax returns for partnership for the two (2) years prior to the application.

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 1. through 8. of 311.7 Subdivision 1, (A).

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 the incorporation.
2. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, 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 311.7 Subdivision 1, (A) 1. through 8.
4. A list of all persons who control or own an interest in excess of five (5) percent in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in 311.7 Subdivision 1, (A) above. This requirement, 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.
8. The location at which the applicant's business records are maintained.
9. The applicant's hours of operation, on-site management and parking facilities.
10. An executed data privacy advisory and consent form authorizing the release of criminal history information.
11. Such other information as the City Council or issuing authority may require.

Subd. 2. 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, on forms provided by the City, within fourteen (14) days. The application must include all appropriate information required in Subdivision 1 above.

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 part. If the investigation process is conducted solely within the State of Minnesota, the fee shall be five hundred dollars (\$500.00). If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding ten thousand dollars (\$10,000).

Subd. 3. Application Execution.

All applications for a license under this part 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 such person; that 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.

Subd. 4. Investigation.

The chief of police or his/her designees 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 chief of police such evidence as the chief may reasonably require in support of the statements set forth in the application.

Subd. 5. Public Hearing. The City Council may request a public hearing on the proposed pawnshop.

Subd. 6. Persons Ineligible for a License.

No licenses under this part will be issued to an applicant who is a natural person, a partnership if such application has any general partner or managing partner, a corporation or other organization if such applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

- A. Is a minor at the time that the application is filed;
- B. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, Subd. 2, 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 Minnesota Statutes, Section 364.03, Subd. 3; or
- C. Is not of good moral character or repute.

311.08 BOND REQUIRED.

Before a license will be issued, every applicant must submit a five thousand dollar (\$5,000.00) bond on the forms provided by the City. 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 canceled except upon thirty (30) days written notice to the City, which shall be served upon the administrative department of the City.

311.09 RECORDS REQUIRED.

Subd. 1. 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 approved by the chief of police:

- 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 therefore.
- C. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- D. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguished it from all other transactions in the licensee's records.
- E. Full name, residence address, residence telephone number, date of birth and accurate description of the person from whom the item of the 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 Minnesota drivers license.
 - 2. Current valid Minnesota identification card.
 - 3. Current valid photo identification card issued by another state.
- G. The signature of the person identified in the transaction.
- H. The licensee must also take a color photograph or color video recording of:
 - 1. Each customer involved in a billable transaction.
 - 2. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

If a photograph is taken, it must be at least two (2) inches in length by two (2) 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. Such photographs must be available to the chief of police, or the chief's designee, upon request. The major portion of the photography 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 (3) months.

I. For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

J. The records must at all reasonable times be open to inspection by the police department. Data entries shall be retained for at least three (3) years from the date of transaction.

311.10 DAILY REPORTS TO POLICE.

Subd. 1. Licensees must provide to the police department the information required in 311.09 Records Required, Subdivision 1, A-F., in writing, on forms approved by the chief of police on the business day following the date of the transaction. The licensee must display a sign of sufficient size, and in a conspicuous place in the premises, so as to inform all patrons that all transactions are reported to the police department daily.

311.11. RECEIPT REQUIRED.

Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. 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 such an item.
- E. The signature or unique identifier of the licensee or employee that conducted 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, residence address, 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 Minnesota driver's license.
 - 2. Current valid Minnesota identification card.
 - 3. Current valid photo driver's license or identification card issued by another state.
- K. Description of the pledger or seller including sex, approximate height, approximate weight, race, color of eyes and color of hair.
- L. The signature of the pledger or seller.
- M. All printed statements as required by State Statute 325J.04 subdivision 2, or any other applicable statutes.

311.12 REDEMPTION PERIOD.

Any person pledging, pawning or depositing an item for security must have a minimum of ninety (90) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the ninety (90) day holding period, items may not be removed from the licensed location except as provided in section 311.19. 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 Chief of Police. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with section 311.09.

311.13 HOLDING PERIOD.

Subd. 1. Any item purchased by a licensee must not be sold or otherwise transferred for thirty (30) days from the date of the transaction. An individual may redeem an item seventy-two (72) hours after the item was received on deposit, excluding Sundays and legal holidays.

311.14 POLICE ORDER TO HOLD PROPERTY.

Subd. 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 seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to section 311.14, Subdivision 2, whichever comes first.

Subd. 2. Order to Hold.

Whenever the chief of police, 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 ninety (90) days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.

Subd. 3. Order to Confiscate.

If an item is identified as stolen or evidence in a criminal case, the chief of police or 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 Subdivision 2 above, and leave it in the shop.

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.

When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee shall notify the licensee.

311.15 INSPECTION OF ITEMS.

At all times during the terms of the license, the licensee must allow the chief of police or his/her designee(s) to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in Section 311.19, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares and merchandise and records therein to verify compliance with this part or other applicable laws.

311.16 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, wherever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

311.17 PROHIBITED ACTIONS.

Subd. 1.

- A. No person under the age of eighteen (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 eighteen (18) years.
- B. No licensee may receive any goods from a person of unsound mind or an intoxicated person.
- C. No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of Minnesota identification card, 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.
- D. No licensee may receive any item of property that posses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
- E. No licensee may keep the pawnshop open for the transaction of business on any day of the week before 8:00 a.m. or after 10:00 p.m.
- F. No licensee may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under Minnesota Statutes, Section 349.11 - 349.60, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes, Section 349.01 - 349.15.

311.18 DENIAL, SUSPENSION, OR REVOCATION.

Any license under this part may be denied, suspended or revoked for one or more of the following reasons:

- A. The proposed use is not located in the B-2 Highway Commercial Zoning District.
- B. The proposed use does not comply with any health, building, building maintenance or other provisions of the City Code or state law.
- C. The applicant or licensee has failed to comply with one or more provisions of this part.
- D. The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.
- E. Fraud, misrepresentation or bribery in securing or renewing a license.
- F. Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.
- G. Violation within the preceding five (5) years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.
- H. The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this part.

311.19 BUSINESS AT ONLY ONE PLACE.

A license under this part authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the chief of police and City Council may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with Section 311.15. All provisions of this part regarding recordkeeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the 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 which extends for more than six (6) months.

311.20 SEPARABILITY.

Should any section, subsection, clause or other provision of this part be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the ordinance as a whole or any part other than the part so declared invalid.

SECTION 312.00 PRECIOUS METALS DEALERS

- 312.01 Purpose.
- 312.02 Definitions.
- 312.03. License Required.
- 312.04 Application Required.
- 312.05 Bond Required.
- 312.06 License Fees.
- 312.07 Investigation Fee.
- 312.08 Expiration of License.
- 312.09 Business at Only One Place.
- 312.10 Records Required.
- 312.11 Receipt to Seller.
- 312.12 Payment by Check Only.
- 312.13 Reports to Police.
- 312.14 Holding Period.
- 312.15 Police Order to Hold Property.
- 312.16 Prohibited Acts.
- 312.17 Denial, Suspension, or Revocation.
- 312.18 Separability.

312.01 PURPOSE.

The City Council finds that precious metal dealers potentially provide an opportunity of the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving precious metal dealers. The purpose of this division is therefore to prevent these businesses from being used as facilities for commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the City of Belle Plaine.

312.02 DEFINITIONS.

For the purposes of the Ordinance, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. Appropriate Law Enforcement Agency. “Appropriate law enforcement agency” means the attorney general of the state of Minnesota, the sheriff of each county in which a precious metal dealer maintains an office, or the police chief of the municipality or law enforcement officers of the municipality in which a precious metal dealer maintains an office.

B. Item Containing Precious Metal. “Item containing precious metal” means an item made in whole or in part of metal and containing more than one (1) percent by weight of silver, gold, sterling silver, or platinum.

C. Minor. “Minor” means any natural person under the age of eighteen (18).

D. Municipality. "Municipality" means any town, home rule charter or statutory city, or county that elects to regulate and license precious metal dealers within jurisdiction pursuant to local ordinance.

E. Person. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

F. Precious Metals. "Precious Metals" shall mean gold, silver, platinum and sterling silver, whether as a separate item or in combination as a piece of jewelry or other crafted item, except items plated with precious metal(s) and the plating equals less than one (1) percent of the items total weight.

G. Precious Metal Dealer. "Precious metal dealer" means any person, copartnership or corporation, either as principal or agent, who engages in the business of buying or selling secondhand items containing precious metals, including but not limited to jewelry, watches, coins, eating utensils, candlesticks, decorative objects and ingots.

312.03 LICENSE REQUIRED.

Subd. 1. License Required.

A. No person or organization except a bona fide nonprofit coin club, shall engage in the business of precious metal dealer without a license as required by this part.

B. This part shall not relieve any person or organization dealing in items other than precious metals at the same or different location from the requirement of obtaining other licenses required by the City Code.

C. This part shall not apply to the purchase of secondhand items containing precious metal for resale in unaltered form to the general public at retail, as an incidental part of a regular business.

312.04 APPLICATION REQUIRED.

An application form provided by the City must be completed by every applicant for a new license or renewal of an existing license.

Subd. 1. Contents.

Every application shall contain 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 applicant.
2. Whether the applicant is a citizen of the United States or resident alien.

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 Minnesota Statutes, Section 333.01.
5. The street address at which the applicant has lived during the preceding five (5) years.
6. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.
7. 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.
8. The physical description of the applicant.
9. Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two (2) years prior to application.
10. 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 1 through 8 of this section.

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 312..4 Subdivision 1, (A) of this ordinance.
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 Minnesota Statutes, Section 333.01, a certified copy of such certificate must be attached to the application.
4. A true copy of the federal and state tax returns for partnership for the two (2) years prior to the application.
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 1 through 8 of 312..4 Subdivision 1, (A).

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 the incorporation.
2. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, 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 312..4 Subdivision 1, (A) 1 through 8.

4. A list of all persons who control or own an interest in excess of five (5) percent in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in 312.4 Subdivision 1, (A) above. This requirement, 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.
8. The location at which the applicant's business records are maintained.
9. The applicant's hours of operation, on-site management and parking facilities.
10. An executed data privacy advisory and consent form authorizing the release of criminal history information.
11. Such other information as the City Council or issuing authority may require.

Subd. 2. 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, on forms provided by the City, within fourteen (14) days. The application must include all appropriate information required in Subdivision 1 above.

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 part. If the investigation process is conducted solely within the state of Minnesota, the fee shall be five hundred dollars (\$500.00). If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding ten thousand dollars (\$10,000.00).

Subd. 3. Application Execution.

All applications for a license under this part 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 such person; that 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.

Subd. 4. Investigation.

The Chief of Police or his/her designees 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 Chief of Police such evidence as he or she may reasonably require in support of the statement set forth in the application.

Subd. 5. Public Hearing.

The City Council may request a public hearing on the proposed precious metal dealer's application.

Subd. 6. Persons Ineligible for a License. No licenses under this part will be issued to an applicant who is a natural person, a partnership if such application has any general partner or managing partner, a corporation or other organization if such applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

- A. Is a minor at the time that the application is filed;
- B. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this part as prescribed by Minnesota Statutes; or
- C. Is not of good moral character or repute.

312.05 BOND REQUIRED.

Subd. 1. Before a license will be issued, every applicant must submit a five thousand dollar (\$5,000.00) bond on the forms provided by the City. All bonds must be conditioned that the principal will observe all laws in relation to dealers in precious metals, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which may have come into the principal's hand through the principal's business as a dealer in precious metal items, 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 canceled except upon thirty (30) days written notice to the City, which shall be served upon the administrative department of the City.

312.06 LICENSE FEES.

Subd. 1. The annual license fees for licenses issued under this part shall be as set in Section 108 of this Code. The fee shall be submitted at the time the application is filed. Fees will not be prorated, however, if the application is denied, the license fee shall be refunded.

312.07 INVESTIGATION FEE.

Subd. 1. An applicant for a new license under this part, or for the renewal of an existing license that is more than six (6) months past due shall reimburse the City for any extraordinary costs or investigative expenses involved in verifying the license application or assuring compliance with this ordinance. When chief of police or the chief's designee determine an application may require extraordinary investigative expenses, the applicant will be notified and given the opportunity to withdraw the application. If the investigation process is conducted solely within the State of Minnesota, the fee shall be five hundred dollars (\$500.00). If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding ten thousand dollars (\$10,000.00).

312.08 EXPIRATION OF LICENSE.

Subd. 1. All licenses shall expire on January 1st.

312.09 BUSINESS AT ONLY ONE PLACE.

Subd. 1. A license under this part shall authorize the licensee to carry on its business only at the permanent place of business designated in the license. The licensee shall either own the building in which the business is conducted or have a lease on the business premises which extends for more than six (6) months. No license may be transferred to a different location or a different person. No licensee or agent thereof shall store any items containing precious metal at any location other than the address listed on the license.

312.10 RECORDS REQUIRED

Subd. 1. 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 approved by the Chief of Police:

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 or consignment price.

C. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguished it from all other transactions in the licensee's records.

- D. Full name, residence address, residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.
- E. The identification number and state of issue from any of the following forms of identification of the seller:
1. Current valid Minnesota drivers license.
 2. Current valid Minnesota identification card.
 3. Current valid photo identification card issued by another state.
- F. The signature of the person identified in the transaction.
- G. The licensee must also take a color photograph or color video recording of:
1. Each customer involved in a transaction when a licensee, or agent or employee thereof, receives any precious metal item except coins.
 2. Every item received.

If a photograph is taken, it must be at least two (2) inches in length by two (2) 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. Such photographs must be available to the Chief of Police, or the Chief's designee, upon request. The major portion of the photography must include an identifiable front facial close-up of the person who sold or consigned 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 selling or consigning 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 (3) months.

- H. The records must at all reasonable times be open to inspection by the police department. Data entries shall be retained for at least three (3) years from the date of transaction.

312.11 RECEIPT TO SELLER.

Each precious metal dealer shall provide a receipt to the seller or consignor of any item which shall include:

- A. The name, address and phone number of the business.
- B. The date.
- C. A description of the item purchased.
- D. The purchase price.
- E. The signature of the person purchasing or receiving the item.

A copy of each receipt shall be kept on file at the place of business designated in the dealer's license. Each receipt shall be open to inspection in the same manner as the records required in Section 312.10.

312.12 PAYMENT BY CHECK ONLY.

Payment to the seller or consignor shall be by check only, made payable to a named payee who is the actual intended seller.

312.13 REPORTS TO POLICE.

Licenses must provide to the police department the information required in 312.10 A-E, in writing, on forms approved by the Chief of Police on the business day following the date of the transaction. Additionally, the description of the goods shall include the following:

- A. The type and size of the item.
- B. The kind and quality of metal.
- C. Any engravings or distinguishing characteristics.
- D. Any gems attached.
- E. The type, denomination and quantity of each denomination of all coins.

No person shall be required to furnish reports of bulk sales from merchants, manufacturers or wholesale dealers of precious metal or of goods purchased at open sale from bankrupt stock. Bulk sales must be accompanied by a bill of sale or other evidence of purchase which must be shown to any member of the sheriff or police department upon demand.

312.14 HOLDING PERIOD.

It shall be unlawful for any precious metal dealer, or any agent or employee thereof, to alter, sell, divest of possession, or otherwise dispose of any secondhand item containing precious metal, except coins, purchased or received by such dealer within the period of thirty (30) days after the day when the report required by Section 312.13 is filed with the police department.

312.15 POLICE ORDER TO HOLD PROPERTY.

Subd. 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 seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to Section 312.15, Subdivision 2, whichever comes first.

Subd. 2. Order to Hold.

Whenever the chief of police 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 ninety (90) days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.

Subd. 3. Order to Confiscate.

If an item is identified as stolen or evidence in a criminal case, the chief of police or 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 Subdivision 2 above, and leave it in the shop.

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.

When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee shall notify the licensee.

312.16 PROHIBITED ACTS.

- A. No person under eighteen (18) years of age shall sell or consign or attempt to sell or consign any item to any dealer in precious metals. No dealer in precious metals, nor any agent or employee thereof, shall purchase or receive on deposit an item from any person under eighteen (18) years of age.
- B. No dealer in precious metals, nor any agent or employee thereof, shall purchase or receive on deposit any item from a person of unsound mind or an intoxicated person.

C. No dealer in precious metals, nor any agent or employee thereof, shall purchase or receive on deposit any items unless the seller presents identification in the form of a driver's license, a valid State of Minnesota Identification card, 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.

D. No licensee may keep the precious metal shop open for the transaction of business on any day of the week before 8:00 a.m. or after 10:00 p.m.

312.17 DENIAL, SUSPENSION, OR REVOCATION.

Any license under this part may be denied, suspended or revoked for one or more of the following reasons:

A. The proposed use is not located in the B-2 Highway Commercial Zoning District.

B. The proposed use does not comply with any health, building, building maintenance or other provisions of the City Code or state law.

C. The applicant or licensee has failed to comply one or more provisions of this part.

D. The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

E. Fraud, misrepresentation or bribery in securing or renewing a license.

F. Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

G. Violation within the preceding five (5) years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

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

312.18 SEPARABILITY.

Should any section, subsection, clause or other provision of this part be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the ordinance as a whole or any part other than the part so declared invalid.

313.000 REFUSE HAULERS

- 313.01 License Required.
- 313.02 Refuse Hauling Schedule.
- 313.03 Compost Collection.
- 313.04 Exemptions.
- 313.05 Collection Vehicles.

313.01 LICENSE REQUIRED. Residential refuse haulers are required to obtain a Refuse Hauling license from the City offices. The license shall be issued each January 1 at a fee as set by Section 108 of this Code. The City shall issue no more than three (3) Refuse Hauling licenses.

313.02 REFUSE HAULING SCHEDULE. Residential refuse hauling shall be limited to hauling two days per week as designated by the Public Works Superintendent.

313.03 COMPOST COLLECTION. Licensed refuse haulers shall provide collection of compost items at a fair and equitable cost to residential customers.

313.04 EXEMPTIONS. Refuse haulers for commercial and industrial customers shall be exempt from Section 313.01 and 313.02.

313.05 COLLECTION VEHICLES. Every refuse collection vehicle operating within the City of Belle Plaine shall be lettered on the outside so as to identify the owner thereof. Every vehicle used for hauling garbage shall be covered, leak-proof, durable and of easily cleanable construction. Every vehicle used for hauling refuse shall be sufficiently air-tight, and so used as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(Ord. 14-02, Section 313.05, Adopted March 17, 2014.)

(Ord. 17-11, Section 313.01, Adopted September 18, 2017.)

SECTION 314.00 REGULATIONS PERTAINING TO LARGE ASSEMBLIES

- 314.01 Preface.
- 314.02 Purpose.
- 314.03 Definitions.
- 314.04 License Required.
- 314.05 Prohibited in certain areas.
- 314.06 Maximum Area, Size and Duration
- 314.07 Downtown Events.
- 314.08 Requirements for Licensure.
- 314.09 Application Procedures, Fees.
- 314.10 Administration.
- 314.11 Revocation of License.
- 314.12 Violations.
- 314.13 Validity.
- 314.14 Construction.

314.01 PREFACE.

For the purpose of protection of the health, general welfare and safety of Belle Plaine City residents, pursuant to the authority vested in it by Minnesota Statute Section 375.40, the City Council of Belle Plaine shall hereby license and regulate the assembly of 250 or more individuals gathering for the purpose of conducting group activities. Headings for the various sections herein are to be considered for reference purposes only and shall not be construed so as to add or delete from the overall intent of the section.

314.02 PURPOSE.

This Ordinance is determined necessary, and is intended to ensure that large gatherings or assemblies of individuals held for musical, racing, entertainment, or other communal activities are conducted in accordance with proper and acceptable sanitary, police, fire, and other health and safety considerations and procedures to ensure the protection of the health, safety and general welfare of the public and of the people attending or taking part in the assembly.

314.03 DEFINITIONS. For the purpose of this Ordinance, except where the context otherwise requires, the terms defined in this section shall have the meanings given them.

"Applicant" means any individual, partnership, corporation, association, society or group seeking and/or receiving a Large Assembly License from the City of Belle Plaine.

"Assembly" means any public gathering of 250 or more individuals at any location at any single time for the purpose of musical, racing, political, promotional, or social entertainment or other similar type of activity, but shall not apply to:

- a. any permanent place of worship, stadium, athletic field, arena, auditorium;
- b. gatherings or activities permitted or licensed by other State laws or regulations of the City of Belle Plaine;
- c. activities by persons operating under other permit or license issued by other State agency of the City. Other permit or license for purposes of this subdivision does not include a permit or license issued by the Minnesota Department of Health;

d. family celebratory gathering taking place entirely upon the premises of a family member.

"Assembly Area" means the area within which the assembly activities are to take place.

"City" means City of Belle Plaine in the State of Minnesota.

"City Administrator" means the Belle Plaine City Administrator or a designee thereof.

"City Council" means Belle Plaine City Council.

"Individual" means any person or persons, partnership, corporation, association, society or group.

"License" means a license permitting a large assembly in Belle Plaine.

"Licensed premises" means the entire area to be used by the applicant to conduct an assembly, including, but not limited to, the assembly area, vehicle parking areas, camping areas and visitor waiting areas.

"Permanent place of worship" means a consistently and regularly scheduled permanent gathering location for any type of generally recognized and organized religious service.

"State" means the appropriate office of the State of Minnesota charged with enforcement authority relating to the particular activity of the applicant or assembled individuals referenced within this Ordinance.

314.04 LICENSE REQUIRED.

No individual, except those specifically exempted in accordance with Section 314.03 herein, shall permit, maintain, conduct, promote, advertise, organize, manage or sell or give away tickets to an actual or reasonably anticipated assembly of 250 or more individuals, whether upon public or private property, without a license duly approved by the Belle Plaine City Council and issued by the City Administrator in accordance with this Ordinance. In addition to the license required in this section, the applicant must possess and submit to the City any other necessary State licenses and/or permits necessary to carry on the assembly.

Subd.1. Licenses. A license shall be required for each event or series of events, and for each location individuals assemble, or can reasonably be anticipated to assemble.

Subd.2. Nontransferability. Each license granted to an applicant under this Ordinance shall be Nontransferable.

314.05 PROHIBITED IN CERTAIN AREAS.

Large assemblies may be prohibited and a license denied upon finding by the City that the proposed assembly is incompatible with existing residential uses. Factors considered in determining incompatibility include, without limitation, noise, lighting, traffic, sanitation, congestion of persons, communications, water supply, waste disposal, enforcement of laws against contraband of all types, physical damage to adjoining properties, parking areas, fire hazard, containment on site, obedience to other sections of this Code or other city ordinances and

state and federal statutes, and other factors affecting the public health, safety and welfare of the public.

314.06 MAXIMUM AREA, SIZE AND DURATION

The City may limit the area, size and duration of the large assembly after considering, without limitation, those matters set forth in this Section.

314.07 DOWNTOWN EVENTS (LARGE ASSEMBLY).

The downtown area is described as follows:

The 100 block of South Meridian Street, from Main Street proceeding south and terminating at the north property lines of 127 and 130 South Meridian Street.

The 100 and 200 blocks of North Meridian Street.

The 100 block of East Main Street.

The 100 and 200 blocks of West Main Street.

The 100 block of East Church Street.

The 100 block of West Church Street.

The 100 and 200 blocks of North Willow Street.

The 100 block of South Willow Street from Main Street proceeding south to the East/West alley.

Any license granted for a large assembly in the downtown area shall include, or be deemed to include, the following conditions:

1. For noise limitation purposes, events including music and/or bands held within the downtown area shall cease no later than midnight.
2. To eliminate traffic congestion and allow other business applicable parking, barricades will not be allowed on the street for road closure for a large assembly within the downtown area prior to 8 a.m. and after midnight each night of the permitted assembly.
3. Upon completion of the event, the barricades shall be removed by the license holder and/or his/her designee(s) no later than midnight each night of the permitted assembly.
4. Consumption of alcoholic beverages shall be maintained within a barricaded area for the specified time limit as defined in the permit application.
5. All glass containers are prohibited within the barricaded area and the permit holder agrees to notify all liquor establishments that only plastic or aluminum containers will be allowed.

In addition, any license application for a large assembly in the downtown area shall be subject to the following additional requirements:

1. Outside of a parade as a part of the large assembly permit process, road closure requests that specifically seek to close the downtown intersections of the 100 blocks of North and South Meridian Street and the 100 blocks of East and West Main Street simultaneously may be denied due to traffic issues and potential business traffic affected
2. State/County road closure permit applications must be completed and submitted to the appropriate County or State entity.
3. Road closures must comply with the Special Event Road Closure Policy available within the large assembly permit application.

314.08 REQUIREMENTS FOR LICENSURE.

Before any license under this Ordinance may be issued, the applicant shall demonstrate that the proposed assembly shall satisfy the following requirements:

A. **Maximum Numbers of Individuals.** A license shall only permit the assembly of individuals of up to the maximum number of persons stated in the license. The City Council may impose restrictions on the maximum number of individuals which shall be assembled as deemed necessary to protect the health, safety and welfare of those persons who shall be in attendance, the residents of the community in which the assembly shall be held, and other residence of the City. The licensee shall not sell tickets to, nor permit to assemble at the licensed premises, more than the maximum permissible number of individuals stated in the License, provided that where the assembly is to continue overnight, the maximum number shall not be more than that number allowed to remain within the boundaries of the assemble area by an applicable zoning and/or health ordinance of Belle Plaine or regulations of the Minnesota Department of Health.

B. **Fenced Grounds/Barriers.** The City may require a fence or barrier shall enclose the assembly area, being not less than four feet in height and of sufficient strength to prevent individuals from gaining unauthorized access to the assembly area, and having sufficient entrances and exits to allow safe and easy movement into and out of the assembly area. Parking areas are intended to accommodate vehicles shall be exempted from inclusion within the fencing requirement, but shall be considered to be a part of the licensed premises.

C. **Noise Limitations.** All necessary precautions shall be taken to ensure that the sound of the assembly shall not carry unreasonably beyond the licensed premises.

D. **Restroom Facilities and Portable Sanitation.** The applicant shall provide restroom facilities and/or portable sanitation allowing for separate use by males and females, sufficient to accommodate the maximum number of individuals to be assembled and shall be conveniently located throughout the licensed premises. Such facilities shall be provided in accordance with the Minnesota State Board of Health Regulations and Standards.

E. **Solid Waste Disposal.** The applicant shall maintain the licensed premises in a neat and orderly manner and shall provide a sanitary method of disposing of solid waste which shall comply with all applicable State and local laws and regulations. This method of disposal shall be designed to be of sufficient size to contain the solid waste production of the maximum number of individuals to be assembled at the rate of at least 2.5 pounds of solid waste per person, per day. The City shall retain the right to increase the licensed premises solid waste disposal capacity requirement as deemed appropriate through the licensing process identified in Section 314.10 herein. Applicant shall also provide a plan for collecting and removal of all such solid waste at least once each day of the assembly.

F. **Parking.** The City may require the applicant to provide a parking area of sufficient size to provide parking space for the maximum number of individuals authorized to be assembled, based upon a calculated rate of at least one parking space for every three individuals. At a minimum, adequate handicapped designated parking spaces shall be provided in accordance with applicable Minnesota Rules governing the provision of such.

G. **Administrative Control Center.** The City may require an administrative control center shall be provided by the applicant which shall be equipped with telecommunications by which local

authorities shall be able to contact the applicant and/or any law enforcement personnel inside the assembly area.

H. Bond.

1. Prior to the issuance of a license, the City may require the applicant to file with the City Administrator a bond, either in cash or underwritten by a surety company licensed to do business in the State of Minnesota, or an irrevocable letter of credit in an amount to be determined by the City Council, which shall indemnify and hold harmless the City of Belle Plaine or any of its agents, officials, servants, employees, or volunteer workers from any liability, claims, or causes of action which might arise; for payment of employees or services provided by the City of Belle Plaine, and for any cost incurred in cleaning up, removal and disposal of any solid waste or other material produced or left by the assembly.

2. In the event an applicant is found to have violated any term or condition upon which the applicant was granted a license, the City may call the bond posted in accordance with Section 314.05 of this Ordinance. No portion of the bond shall be released to the applicant until all provisions of the license have been resolved to the satisfaction of the City Council.

I. Insurance. Prior to the issuance of a license, the applicant shall file with the City Administrator, a Certificate of Insurance demonstrating/identifying that the applicant has obtained a policy of insurance in amount not less than \$1,000,000 for bodily injury or death of one person, and not less than \$1,000,000 for bodily injury or death of two or more persons in any one incident, and not less than \$1,000,000 for damage to property, insuring the applicant against liability for injury, death or property damage arising out of the assembly. The applicant shall also provide the City with proof of insurance of the vendors providing entertainment or activities.

J. Medical Facilities. The applicant shall ensure the availability of medical emergency services and inform the City's ambulance service provider with details of the event. The City may require the applicant to have licensed emergency personnel and equipment on the licenses premises. The City may also require an enclosed, temperature-controlled facility on the licensed premises wherein medical treatment may be rendered, containing at least two beds for the first 1,000 persons or an incremental portion thereof, and an emergency ambulance on the site of the assembly staffed by at least two state-licensed emergency attendants. For assemblies in excess of 1,000 persons, the necessity of additional medical facilities and personnel shall be determined by the emergency medical providers for the assembly.

K. Security. The applicant shall prepare and implement a security, traffic, emergency communications, weather emergency and narcotics control plan which shall meet the requirements of local authorities and the Minnesota Department of Public Safety. The plan shall provide for security guards who may be regularly employed law enforcement officers. At least one(1) security guard for the first 250 individuals to assemble shall be provided. Additional security personnel shall be provided as deemed necessary by the City Council. Law enforcement personnel shall be provided as determined and deemed appropriate by the Belle Plaine Police Department.

L. Fire Protection. The City may require the applicant to submit for approval to the Belle Plaine Fire Marshall or Fire Chief, a plan providing for fire protection equipment, alarms and trained personnel. A copy of the fire protection plan shall be a part of the application.

M. Camping. No person holding a large assembly permit shall permit and no participant in a large assembly shall remain overnight at the location of a large assembly, except for a reasonable number of persons required for security purposes unless otherwise permitted by the City as part of the application process.

N. Lighting. Assemblies continuing during hours of darkness shall provide sufficient illumination to safely light the entire area of the licensed premises accessible to the public, but in no case less than at the rate of at least five foot candles. Such illumination shall not unreasonably extend beyond the boundaries of the license premises.

O. Duration of Assembly. If the assembly is reasonably expected to continue for four or more consecutive hours, the City may require the applicant to provide the following:

1. Portable Water. Meeting all Federal and State requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day. When the assembly or any related activities are to continue for more than 24 consecutive hours, water for bathing at the rate of at least 10 gallons per person per day, or incremental portion in excess thereof.

2. Telecommunications. Telecommunications providing sufficient services to the maximum number of people to be assembled as determined by the Emergency Management Director.

P. Cleanup Plan. A plan for the removal and disposition of litter, staging, fixtures and other paraphernalia located within or upon the licensed premises shall be provided by the applicant.

Q. Food and Product Supply and Sales. Any person who supplies or sells products, including food, shall be required to obtain a Peddler's Permit as per Chapter 3, Section 301, of the Belle Plaine City Code.

R. Animals, Activities and Entertainment. The applicant is required to provide detailed information as to the activities included within the licensed premises, including, but not limited to, animals, games, music, parades, motorized and non-motorized vehicles. Submitted plan shall include procedure for the care of the animals and method of waste disposal.

S. Waiver. The City Council may consider requests for variances from any of the requirements of this Ordinance when an applicant can show that strict compliance with this Ordinance would cause exceptional and undue hardship by reason of the special nature of the proposed assembly or by reason of the fact that the circumstances make the requirements of this Ordinance unnecessary; provided that such variances may be granted without detriment to the public health, safety, or welfare and without impairing the intent and purpose of these regulations.

314.09 APPLICATION PROCEDURES; FEES.

Subd.1. Application. A completed application for a license permitting a large assembly in the City of Belle Plaine shall be made in writing on a form provided by the City to the City Council

through the office of the City Administrator at least sixty (60) days in advance of such assembly. The City Council shall make a determination on the application no later than forty-five (45) days after receipt of the completed application.

Subd.2. Verification. The application shall be signed and verified by the applicant. In the case of an incorporated entity, the application shall be signed by the Chair of the Board of Directors of the corporation. In the case of an unincorporated association, society, or group, the application shall be signed by the designated representative(s) of the organization. In the event the assembly is to occur on property belonging to other than the applicant, the application shall be signed by the applicant, as well as include a notarized signature of the landlord. Alternatively, the applicant may produce a written lease, whose term encompasses the date(s) of the assembly, signed by the landlord granting the applicant use of the licensed premises and which does not covenant against the use of the licensed premises for an assembly.

Subd.3. Fee. The application, license fees and escrow/deposit amount for each license issued under this Ordinance shall be in accordance with the City fee schedule as adopted by the Belle Plaine City Council. The non-refundable application fee shall be paid at the time of application. Any and all fees may be waived by the Belle Plaine City Council with Section 314.05 (Q) herein.

Subd.4. Contents. The applicant shall supply all information requested on the application form, including the following:

- a. The name, date of birth, residence, and mailing address of the applicant, and of each individual required by Section 314.06(Subd.2) above to sign the application. For corporate applicants, a certified copy of the Articles of Incorporation must be submitted with the application, together with the names and addresses of each officer and any stockholder holding 10 percent or more of the capital stock of the corporation;
- b. The address and legal description of the licensed premises, together with the name, residence, and mailing address of the record owner(s) of all such property. Where the owner(s) of the property is not the applicant, either a landlord's written and notarized statement that the applicant has permission to use the licensed premises for an assembly shall be provided except when the licensed premises are subject to a written lease as provided in Section 314.06(Subd.2);
- c. The nature or purpose of the assembly;
- d. The dates and times during which the assembly is to be conducted;
- e. Detailed information as to how the applicant will ensure that the assembly will comply with all the requirements of Section 314.05 of this Ordinance.

Subd.5. Insurance/Bond. The Bond/Letter of Credit and Certificate of Insurance as required by Sections 314.05 (H) and (I) of this Ordinance shall accompany the application.

314.10 ADMINISTRATION.

The City Administrator shall be responsible for the administration of this Ordinance. The City Administrator is hereby empowered to:

- a. Receive, review and recommend action on license applications pursuant to this Ordinance.
- b. Inspect sites to determine compliance with this Ordinance and investigate complaints of violations of this Ordinance.
- c. Immediately revoke the license upon the recommendation of the Police Chief, Sheriff, or any other State agency to reasonably protect the health, welfare and safety of the public. The authority of the City Administrator under this section shall not be interpreted so as to limit or expand the powers of revocation as outlined in Section 314.08, herein.
- d. Recommend that civil proceedings be initiated by the City to compel compliance with the provisions of this Ordinance.
- e. Advise, consult and cooperate with other local governmental units in the furtherance of this Ordinance.
- f. Receive and collect fees, which are to be credited to the City's General Revenue Fund.

314.11 REVOCATION OF LICENSE.

Subd.1. Revocation. Any License issued pursuant this Ordinance may be revoked by the City Council for violation of any of the provisions of this Ordinance.

Subd.2 Notice; Hearing. Written notice of such revocation shall be sent to the applicant registered or certified mail at the address designated on the application. The notice shall state the effective date of the revocation, the reasons therefore, and a statement that if the applicant desires a hearing, the applicant must, within five days of the date upon which the notice was mailed, file a written request for a hearing with the City Administrator.

Subd.3. Reinstatement. Upon written notification from the applicant that all the violations for which the license was revoked have been corrected, the City Administrator shall review the matter, making whatever inquiries, investigations, or inspections necessary to determine compliance or non-compliance with the Ordinance. If the City Administrator finds upon such review that the applicant is in full compliance, the license shall be reinstated by written notice to the applicant and the City Council.

314.12 VIOLATIONS.

The provisions of this Ordinance may be enforced by injunction in any court of competent jurisdiction, as well as any of the remedies available.

The City Council may declare the holding of an assembly in violation of this Ordinance to be a public nuisance, and may order the abatement thereof upon such a finding. Any individual violating any provision of this Ordinance may be charged with a misdemeanor and upon conviction thereof, shall be punished thereof as provided by law. The City Council empowered to enforce this Ordinance, and any person who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this Ordinance shall be guilty of a misdemeanor.

314.13 VALIDITY. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid, and to this end, the provisions of this Ordinance are severable.

314.14 CONSTRUCTION. This Ordinance shall be liberally constructed to give full effect to its purposes.

SECTION 315.00 COMMERCIAL TREE CUTTING, TRIMMING, PRUNING,
REMOVAL, OR SPRAYING.

- 315.01 License Required
- 315.02 Application
- 315.03 Fee
- 315.04 Proof of Insurance
- 315.05 Chemical Treatment Requirements
- 315.06 License Revocation
- 315.07 Penalty

315.01 LICENSE REQUIRED.

It shall be unlawful for any individual, partnership or corporation to conduct as a business the cutting, trimming, pruning, removal, spraying or otherwise treating of trees in the city without having first secured a license from the city to conduct such a business. Licenses issued under this section shall expire on December 31 of each year.

315.02 APPLICATION.

An application for a license shall be made with the City Administrator's Office on a form which has been approved by the city, which shows, among other things, the name and address of the applicant, the number of vehicles, together with a description and license number of each vehicle and type of equipment that will be used in providing this service.

315.03 FEE.

The annual fee for the license shall be set by City Council resolution.

315.04 PROOF OF INSURANCE.

All applicants for a license must file with the city proof of a public liability insurance policy covering all operations of the applicant under this article, during the full term of the license for the sum of \$300,000 combined single limit coverage. The city shall be named as an additional insured. Such policy shall provide that it may not be cancelled by the insurer except after 30 days written notice to the city, and if such insurance is cancelled and the licensee fails to replace it within another policy that conforms to the provisions of this article, the license shall be automatically suspended until the liability insurance is replaced. All applicants for a license must file with the city a certificate of workers' compensation insurance if such insurance is required by state law.

315.05 CHEMICAL TREATMENT REQUIREMENTS.

Applicants who propose to use chemical substances in any activity related to treatment or disease control of trees shall file with the city proof that the applicant or the employee of the applicant administering such treatment has been licensed by the Minnesota Department of Agriculture as a Commercial Pesticide Applicator for the current year of operation.

315.06 LICENSE REVOCATION.

Failure to comply with any provision of this article may result in the revocation of the license by the City Council, following a public hearing. Written notice of the public hearing shall be mailed at least 10 days prior to the hearing to the current holder of the license. Such notice should outline the violation(s) considered by the city to be grounds for revocation and inform the license holder of the opportunity to be heard at the public hearing.

315.07 PENALTY.

In addition to the revocation or suspension of the license, any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

(Ord. 17-04, Section 315.00, Adopted March 20, 2017.)
(Ord. 00-15, Section 314.00, Adopted September 5, 2000.)
(Ord. 12-01, Section 305.00, Adopted January 3, 2012.)
(Ord. 12-05, Section 301.06, Adopted September 17, 2012.)
(Ord. 13-06, Section 305.07, Adopted April 1, 2013.)
(Ord. 13-09, Section 307.02, Adopted October 7, 2013.)
(Ord. 14-02, Section 313.05, Adopted March 17, 2014.)
(Ord. 14-04, Sections 304.02, 304.03, 305.05, Adopted March 17, 2014.)
(Ord. 14-07, Section 304.06, Adopted June 16, 2014.)
(Ord. 15-01, Section 310.10, Adopted February 17, 2015.)
(Ord. 16-02, Section 314.00, Adopted March 21, 2016.)
(Ord. 17-04, Section 315.00, Adopted March 20, 2017.)
(Ord. 17-08, Section 307.05, Subd. 2, Adopted May 15, 2017.)
(Ord. 17-11, Section 313.01, Adopted September 18, 2017.)
(Ord. 17-10, Section 307.04, Adopted September 18, 2017.)

SECTION 316.00 OUTDOOR SIDEWALK CAFES.

- 316.01 Findings
- 316.02 License Required
- 316.03 Exemption
- 316.04 Application
- 316.05 Fee
- 316.06 Conditions of Approval
- 316.07 License Revocation
- 316.08 Penalty

316.01 FINDINGS.

The City Council finds outdoor sidewalk café seating for businesses provides multiple benefits to the City.

- A. Outdoor seating can attract the attention of pedestrians and increases their stay thereby promoting the adjacent business and increasing other businesses' visibility when customers choose to be seated outside.
- B. Outdoor seating can foster a creative and innovative spirit that furthers the identity of the Downtown as a destination.
- C. Aesthetically pleasing and nontraditional settings of Sidewalk Cafes provide additional options where pedestrians can relax, enjoy, and interact with others.
- D. By repurposing city on-street parking spaces into outdoor seating the urban landscape is renewed in an innovation fashion and viewshed are enhanced.
- E. Outdoor seating encourages more pedestrian activity by livening up the street, creating more things to look at, and increasing activity in the Central Business District.

316.02 LICENSE REQUIRED.

An outdoor sidewalk café permit is required to operate an outdoor sidewalk café in the public right-of-way. Licenses issued under this section shall expire on December 31 of each year.

316.03 EXEMPTION. Placement of tables/chairs on a public sidewalk which meet all of the following requirements are exempt from this standard.

- A. Placement of tables and chairs maintains a clear pedestrian passageway of not less than five (5) feet in width as indicated in a site plan submitted with a request for administrative review.
- B. Tables and chairs must be capable of being moved indoors each evening.
- C. Proof of insurance coverage as specified in 316.04(B) of this Section, as may be amended, shall be provided to the City.

- D. Placement/arrangement of tables and chairs has been authorized by the Public Works Superintendent, and/or his/her designee.

316.04 APPLICATION.

- A. Application Form. An application for a sidewalk café license and a companion application for a right of way permit, including applicable fees and escrow, shall be made with the City Administrator's Office on forms which have been approved by the City. The Application shall be signed by the owner of the property with which the sidewalk café is associated. If the property is leased, the Property Owner of record and the lessee shall sign the application.
- B. Insurance Requirement. The Applicant shall submit proof of commercial general liability insurance or equivalent special event coverage protecting Applicant and City from claims for damages or bodily injury and property damage which may arise out of or in connection with the operation and use of the City's property or right-of-way. This general liability insurance policy shall be in an amount not less than \$1,000,000.00 per occurrence. If alcohol will be served or included in applicant's event, Applicant must obtain liquor liability insurance in an amount not less than \$1,000,000.00 per occurrence. The City shall be named as an additional insured. Such policy shall provide that it may not be cancelled by the insurer except after 30 days written notice to the city, and if such insurance is cancelled and the licensee fails to replace it with another policy that conforms to the provisions of this article, the license shall be automatically suspended until the liability insurance is replaced. All applicants for a license must file with the city a certificate of workers' compensation insurance if such insurance is required by state law.
- C. Site Plan Required. A plan, drawn to scale, which illustrates the locations and dimensions of the proposed sidewalk café, adjoining buildings, sidewalk, proposed landscaping, and all obstructions within the vicinity shall be submitted with the application form.
- D. Notification of Adjacent Property Owners Required. The Applicant shall notify businesses immediately adjacent to the proposed Outdoor Sidewalk Café area. Notifications shall include a site plan for the café and the anticipated duration of the outdoor sidewalk café.
- E. The License application shall be reviewed administratively subject to the conditions of this Chapter. Any significant changes to the conditions will require review and approval by the City Council. The License is subject to any required inspections and final approval shall be by the Public Works Superintendent.

316.05 FEE.

The annual fee for the sidewalk café license shall be set by City Council resolution.

316.06 CONDITIONS OF APPROVAL.

- A. Site Specific Requirements.

1. Sidewalk Cafes may be considered within the Central Business District adjacent to Main and Meridian Streets.
 2. Sidewalk Café area shall be limited to the public right of way abutting the frontage of the business to which it is attached.
 3. Sidewalk Café must be located at least 20 feet from any fire hydrants.
 4. Sidewalk Café must not block sight lines at intersections as determined by the City Engineer and/or Public Works Superintendent.
 5. The City maintains the right to review and make final determination as to the location of each Sidewalk Café based on the unique circumstances related to each business.
- B. Design Specifications.
1. If the operating business serves alcoholic beverages, a decorative barrier or railing between 32 and 42 inches in height is required around the sidewalk café area. The barrier shall be comprised of high quality, durable materials suitable for outdoor use such as powder coated decorative aluminum fencing/railing, be sturdy and weather resistant, and be consistent with the quality of design and color palette of structures in the vicinity of the café.
 2. Lighting, if proposed, must be illustrated on the site plan, be directed downward, and be compatible with the surrounding area.
 3. Annual/perennial flowers/landscaping attached to a barrier or railing shall be used to enhance the streetscape aesthetics.
 4. Canopies/umbrellas may be used for weather protection.
 5. Sidewalk Café area must meet ADA (American Disability Act) requirements.
 6. Design consideration must include architect and characteristic of area.
 7. No commercial signage may be placed on the sidewalk café area, except for on table tops. Sandwich board signs may be allowed provided they are removed from the café each evening.
 8. There shall be a minimum clear passage zone for pedestrians of at least five feet shall be maintained at all times.
 9. Umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum head clearance of seven feet.
 10. If a temporary walkway structure that bumps out into the roadway is used:
 - a. The structure shall be constructed of metal or composite material or other weather resistant, long lasting, high quality material.

- b. Maximum width shall not exceed eight feet
- c. Maximum length shall not exceed 40 feet, or the length of the frontage of the business to which it is attached, whichever is smaller.
- d. Decorative barriers between 36 inches and 42 inches in height are required separating the pedestrian walkway from the roadway.
- e. Reflective bollards or strips must be located at either end of any portion of the structure located within the roadway.
- f. Directional signage shall be used to assist pedestrians in utilizing the walkway.
- g. Surface of structure must be leveled with sidewalk surface up to one fourth (1/4) of an inch clearance.
- h. No more than a half (1/2) inch gap between the structure and the curb is permitted.
- i. Structure may not impede water flow and drainage.

C. Management Specifications.

1. The furniture associated with the Sidewalk Café shall be moveable, washable, constructed of metal or composite or other high quality material, and maintained in a safe and sanitary condition.
2. The Sidewalk Café area shall be controlled and monitored continuously during the hours of operation and unruly patrons shall be removed immediately.
3. Patrons shall not leave the premises with a drink nor can drinks be taken onto a public sidewalk that is outside of the Sidewalk Café area.
4. The Sidewalk Café area must be included in the required liquor liability insurance for the premises.
5. Hours of operation of the Sidewalk Café shall be limited to between 10:00 a.m. and 11 p.m. from April 15 thru October 15.
6. Permittee shall not allow smoking within the Sidewalk Café area.
7. Alcoholic beverages may only be brought into the Sidewalk Café area by a server.
8. Permittee shall pick up litter within 50 feet of the Sidewalk Café area on a daily basis. Appropriate receptacles for rubbish, garbage, etc. must be provided.
9. The Sidewalk Café area must be free of debris, litter, and soil surrounding and underneath any structure or platform.

10. No electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices shall be allowed in the Sidewalk Café area.

316.07 LICENSE REVOCATION.

Failure to comply with any provision of this article may result in the revocation of the license by the City Council, following a public hearing. Written notice of the public hearing shall be mailed at least 10 days prior to the hearing to the current holder of the license. Such notice should outline the violation(s) considered by the city to be grounds for revocation and inform the license holder of the opportunity to be heard at the public hearing.

316.08 RESTORATION OF RIGHT OF WAY.

The Property Owner and sidewalk café licensees shall restore the public right-of-way to the satisfaction of the Public Works Superintendent and assume all costs therefore

316.09 PENALTY.

In addition to the revocation or suspension of the license, any person violating any of the provisions of this Section shall be guilty of a misdemeanor.

(Ord. 19-02, Section 316.00, Adopted March 18, 2019).