

CHAPTER 7

BUSINESS CODE

ARTICLE I – ADMINISTRATION

7-1-1 APPLICATIONS.

(A) Applications for all licenses and permits required by this Chapter shall be made in writing to the Municipal Clerk in the absence of provision to the contrary.

- (B) Each application shall contain:
- (1) the name of the applicant;
 - (2) the permit or license desired;
 - (3) the location to be used, if any;
 - (4) the time covered;
 - (5) the fee to be paid; and
 - (6) zoning district.

(C) Each application shall also contain the number of the Certificates of Registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable. Each application shall contain such additional information as may be needed for the proper guidance of the municipal officials in the issuing of the license or permit applied for.

7-1-2 PERSONS SUBJECT TO LICENSE. Whenever a license or permit is required in this Code or in any municipal ordinance for the maintenance, operation, or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person, firm, or corporation shall be subject to the requirement if by himself or itself, or through an agent, employee or partner, he or it is held forth as being engaged in the business, activity or occupation, or if he or it solicits patronage therefor actively or passively; or if he or it performs or attempts to perform any part of such business, activity or occupation in this Municipality.

7-1-3 TERM AND FORM OF LICENSE. No license shall be granted for longer than a **one (1) year term**, and all licenses, unless otherwise provided by ordinance, shall expire on the **last day of the next April following their issue**. Every license shall be signed by the Mayor and attested by the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

7-1-4 INVESTIGATIONS.

(A) Upon the receipt of an application for a license or permit, where an investigation or inspection is required by ordinance before the issuance of such permit or license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Clerk, **within forty-eight (48) hours** shall refer the application to the appropriate official(s) for the making of such investigation or inspection.

(B) The official(s) to whom the application has been referred shall make a report thereon, favorable or otherwise, **within ten (10) days** after receiving such application or a copy thereof.

(C) The Chief of Police shall make or cause to be made an inspection regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of health. If a Zoning Code is in effect, the Zoning Administrator shall make or cause to be made any inspections which relate to compliance with the Zoning Code and other related regulations. All other investigations, except where otherwise provided, shall be made by the Chief of Police or by some other officer designated by the Mayor.

(D) Upon receipt of all related investigative reports, the Clerk shall forward such reports, together with the application, to the Mayor for evaluation and determination.

(E) If it shall appear to the corporate authorities that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the Clerk for the inclusion of such additional information as may be specified necessary and appropriate.

(F) If, after due consideration of the information contained with the application and the related investigative reports, the corporate authorities shall determine that the matters concerning the application are unsatisfactory, they may disapprove such application, indicating the reasons therefor. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is disapproved and that no license or permit will be issued.

(G) If, after due consideration of the information contained within the application and the related investigative reports, the corporate authorities shall determine that the application is satisfactory, they shall approve the application. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is approved and the license or permit may be issued.

7-1-5 FEES. In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity.

7-1-6 TERMINATION OF LICENSES. All annual licenses shall be operative and the license year for this Municipality shall commence on **May 1st of each year** and shall terminate on **April 30th** of the following year, where no provision to the contrary is made.

The Clerk shall notify all licensees of this Municipality of the time of expiration of the license held by the licensee (if an annual), **three (3) weeks** prior to the date of such expiration. Provided, however, that a failure to make such notification or the failure of the licensee to receive it shall not excuse the licensee from the obligation to obtain a new license, or a renewal thereof, nor shall it be a defense in an action based upon operation without a license.

7-1-7 BUILDING AND PREMISES. No license shall be issued for the conduct of any business, and no permit shall be issued for any purpose or activity, if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of this Municipality and the State of Illinois. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the Zoning Code and/or other applicable regulations of this Municipality.

7-1-8 CHANGE OF LOCATION. The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this Municipality shall be complied with.

7-1-9 LOCATION. No license for the operation of a business or establishment in this Municipality shall be construed to permit the operation of a licensed business or establishment in

more than **one (1) location** in this Municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

7-1-10 NUISANCES PROHIBITED.

7-1-10.1 GENERALLY. No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.

7-1-10.2 UNSAFE OR UNHEALTHFUL BUSINESS.

(A) No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.

(B) No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this Municipality.

7-1-10.3 REFUSE DISPOSAL.

(A) **Refuse Containers.** The standard refuse container required by this Code shall be a receptacle of not **less than twenty (20), nor more than thirty-two (32) gallons capacity**, constructed of impervious material and sturdy construction with a tight-fitting cover, and equipped with handles properly placed to facilitate handling.

(B) **Duty to Provide Refuse Containers.** The occupant of every building, structure or premises used or maintained in connection with any business or occupation shall provide and maintain in good condition and repair a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.

All refuse which is placed for collection service outside any building or structure must be kept in standard refuse containers.

(C) **Refuse Removal.** It shall be the duty of the occupant of every building, structure or premises used or maintained in connection with any business or occupation to cause to be removed, at his own cost and expense, at least once each week, all refuse produced therein.

(D) **Removal of Restaurant Garbage.** Every person owning or controlling any hotel, restaurant, cafe, or retail food establishment where more than **thirty-two (32) gallons** of refuse is normally produced weekly shall cause all garbage to be placed in sanitary refuse containers and shall cause all substances deposited in such containers to be removed daily from his premises and to be disposed of at his own expense.

7-1-11 WORKING CONDITIONS.

7-1-11.1 HEALTH REQUIREMENTS. No owner, lessee, manager, or superintendent of any store, factory, workshop or other place where persons are employed shall cause or permit such place or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

7-1-11.2 **SANITATION.** All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance(s); also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

7-1-11.3 **HEAT REQUIRED.**

(A) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop to maintain a temperature within such factory or workshop of not less than **sixty-two degrees Fahrenheit (62°F.)** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or lower temperature than **sixty-two degrees Fahrenheit (62°F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-two degrees Fahrenheit (62°F.)**, without such undue restriction of ventilation as to interfere with proper sanitary conditions therein between the hours of **8:00 A.M. and 6:00 P.M. from October 1st of each year until June 1st of the succeeding year [Sundays and legal holidays excepted].**

7-1-11.4 **INSPECTION.** The Chief of Police and the Zoning Administrator, if any, shall visit or cause to be visited all places of employment in this Municipality as often as they shall deem necessary to assure compliance with the provisions of this Section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

7-1-12 **INSPECTIONS.**

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of this Municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this Municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this Municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this Municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this Municipality after having first presented a warrant authorizing such entry.

7-1-13 **SUSPENSION, REVOCATION OF LICENSE OR PERMIT.**

7-1-13.1 **NUISANCE.** When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact and a clear and present danger to the public

health, safety or general welfare, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days**.

7-1-13.2 HEARING. Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

7-1-13.3 REVOCATION. Licenses and permits issued in this Municipality, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **Subsections 7-1-13.4 and 7-1-13.5 of this Section** for any of the following causes:

- (A) Any fraud, misrepresentation or false statement contained in the application for the license or permit;
- (B) Any violation by the licensee or permittee of Code provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied;
- (C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;
- (D) Failure of the licensee or permittee to pay any fine or penalty owed to this Municipality;
- (E) Refusal to permit an inspection or sampling, or any interference with a duly authorized officer or employee in the performance of his duties in making such inspections, as provided in **Section 7-1-12**.

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable Code regulations of this Municipality.

7-1-13.4 HEARING NOTICE. Notice of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail [return receipt requested] to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

7-1-13.5 COUNSEL. At the hearing, the Attorney for the Municipality shall present the complaint and shall represent the Municipality. The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision.

7-1-14 APPEAL. Any person aggrieved by the decision of the Mayor regarding the denial of an application for a business license as provided in **Section 7-1-4** or in connection with the revocation of a license or permit as provided in **Section 7-1-13** shall have the right to appeal to the Municipality. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal. The Municipality shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-13** hereof. The decision of the Municipality on such appeal shall be final.

7-1-15 LICENSE TO BE POSTED. It shall be the duty of every person conducting a licensed business in this Municipality to keep his license posted in a prominent place on the premises used for such business at all times.

7-1-16 BUSINESS VEHICLE STICKER. Whenever the number of vehicles used is the basis in whole or in part for a license fee, the Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license and such tag or sticker shall be posted or affixed in a conspicuous place on each business vehicle.

ARTICLE II - SOLICITORS

7-2-1 DEFINITIONS. For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

"REGISTERED SOLICITOR" shall mean and include any person who has obtained a valid **Certificate of Registration** as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

"RESIDENCE" shall mean and include every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

"SOLICITING" shall mean and include any **one (1)** or more of the following activities:

- (A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever or;
- (B) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character or;
- (C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;
- (D) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

7-2-2 CERTIFICATE OF REGISTRATION. Every person desiring to engage in soliciting as herein defined from persons within this Municipality is hereby required to make written application for a Certificate of Registration as hereinafter provided. All resident charitable, non-profit organizations in this Municipality which have been in existence for **six (6) months or longer** shall be exempt from the provisions of this Article.

7-2-3 APPLICATION FOR CERTIFICATE OF REGISTRATION.

(A) All applications will be processed no later than **ten (10) working days** after submission and are good for **one (1) year** from the date of application.

(B) Application for a Commercial Solicitation Permit shall be made to the individual designated by the Mayor or his or her designee upon a form provided by the City. The person (applicant) shall truthfully state in full on the application the following information:

- (1) The name and address of the person applying for the Permit.
- (2) The name and address of each person in charge of and supervising the solicitation in the City.
- (3) The names and addresses and phone numbers of all individuals who will engage in solicitation in the City for that person.
- (4) The nature and purpose of the solicitation.
- (5) The requested dates for solicitation.
- (6) The date, or approximate date, of the latest previous application for a Solicitation Permit under this Article.
- (7) Whether a Solicitation Permit issued to the person under this Article has ever been revoked.
- (8) Whether the person (applicant) or any individual listed in this Section has ever been convicted of a violation of any provisions of this Article, or the Ordinances of any other Illinois Municipality regulating solicitation.
- (9) Whether the person (applicant) or any individual listed in this subsection has been convicted of the commission of a felony under the laws of the State of Illinois or any state, or of a federal law of the United States within **five (5) years** of the date of application.

- (10) Any additional information that the individual designated by the Mayor, or his or her designee, may need necessary to process the application.
 - (C) No Permit shall be issued to a person:
 - (1) If the application is not truthfully completed as required by the Section above of this Article;
 - (2) If the person has been convicted of a violent felony or crime of dishonesty under the Laws of the State of Illinois, any other state, or under the federal law of the United States within **five (5) years** of the date of the Application;
 - (3) If the person has been convicted of a violation of any of the provisions of this or similar Ordinances within **two (2) years** of the date of the Application;
 - (4) If the person engages for the purpose of solicitation any individual who has been convicted by a court of competent jurisdiction of such offenses as enumerated in the separate sections above; or
 - (5) If any Solicitation Permit issued hereunder has previously been revoked as herein provided.
 - (D) The City Clerk or Police Department have the right to require and make a copy of each solicitors valid government issued photo identification card.
 - (E) The Chief of Police shall cause to be kept in his office an accurate record of every application and copy of ID received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter and of the denial of applications.
- (Ord. No. 2045; 12-11-17)**

7-2-4 **ISSUANCE AND REVOCATION OF CERTIFICATE.** The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U. S. Mail, addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

The Certificate of Registration shall state the expiration date thereof.

7-2-5 **POLICY ON SOLICITING.** It is declared to be the policy of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

7-2-6 **NOTICE REGULATING SOLICITING.** Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

- (A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given in the manner provided in paragraph (B) of this Section.

(B) A weatherproof card, approximately **three inches by four inches (3" x 4")** in size shall be exhibited upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, as follows:

"ONLY REGISTERED SOLICITORS INVITED"

OR

"NO SOLICITORS INVITED"

(C) The letters shall be at least **one-third inch (1/3")** in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

(D) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

7-2-7 COMPLIANCE BY SOLICITORS. It is the duty of every solicitor upon going onto any premises in this Municipality upon which a residence as herein defined is located to first examine the notice provided for in **Section 7-2-6** if any is attached and be governed by the statement contained on the notice.

If the notice states **"ONLY REGISTERED SOLICITORS INVITED,"** then the solicitor not possessing a valid Certificate of Registration as herein provided for shall immediately and peacefully depart from the premises; and if the notice states, **"NO SOLICITORS INVITED,"** then the solicitor, whether registered or not shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

All solicitors will be provided a **DO NOT CONTACT** list when their Permit is issued. Solicitors will be prohibited from contacting these residents. **(Ord. No. 2045; 12-11-17)**

7-2-8 UNINVITED SOLICITING PROHIBITED. It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-2-6.**

7-2-9 TIME LIMIT ON SOLICITING. It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to **10:00 A.M. or after 5:00 P.M.** of any weekday or Saturday, or at any time on a Sunday or on a State or National holiday. **(Ord. No. 1527; 04-26-11)**

7-2-10 SOLICITATIONS ON PUBLIC HIGHWAYS. Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

(A) The charitable organization must be one that is registered with the Attorney General for the State of Illinois as a charitable organization as provided by **"An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes, Providing for Violations Thereof, and Making an Appropriation Therefor," approved July 26, 1963, as amended.**

- (B) Solicit only at intersections where all traffic from all directions is required to come to a full stop.
- (C) Be engaged in a state-wide fund-raising activity.
- (D) Be liable for any injury to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent.
- (E) Any person so engaged in such solicitation shall be at least **sixteen (16) years of age** and shall wear a high visibility vest.

7-2-11 FEES.

(A) Application Fee shall be **One Hundred Dollars (\$100.00)**. Applications are good for **twelve (12) months**. Upon approval of the Application, the Permit Fee shall be **Fifty Dollars (\$50.00)** per person per day. The Company requesting permission to solicit must submit an Application for each person that will be soliciting. The fees are non-refundable.

(B) Penalty for soliciting without the proper permit shall be the sum of the Application Fee, the Permit Fee and the penalty described in ADMINISTRATION APPENDIX "A" VIOLATION PENALTIES for each solicitor found without a permit.
(65 ILCS 5/1-2-1) (Ord. No. 2045; 12-11-17)

ARTICLE III - PEDDLERS

7-3-1 **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

7-3-2 **DEFINITION.** "Peddle" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall "**peddle**" be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

7-3-3 **APPLICATIONS.** A person desiring a license may obtain the same by making application with the Clerk and providing the following information:

- (A) Name and physical description of applicant.
- (B) Permanent home and address and local address if operating from such an address.
- (C) A brief description of the business and of the goods to be sold.
- (D) Name and address of the employer, if any.
- (E) The length of time for which the right to do business is desired.
- (F) Evidence that the agent is acting on behalf of the corporation he represents.
- (G) Statement of the applicant's criminal record other than a traffic record.
- (H) The last three **(3) municipalities** where the applicant carried on business immediately preceding the date of application to this Municipality and the address from which such business was conducted in those municipalities.

7-3-4 **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

7-3-5 **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M. or after 5:00 P.M.** of any weekday or Saturday, or at any time on a Sunday or on a State or National holiday.

7-3-6 **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

7-3-7 **PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken **within sixty (60) days** immediately prior to the filing of the application, which pictures shall be **two inches by two inches (2" x 2")**, showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

7-3-8 **UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-3-9 **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-3-10 **DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-3-9.**

7-3-11 **EXCLUSIONARY PROVISION.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed. The City of Nokomis may set aside and designate public areas for the express purpose of maintaining an area for use in accordance with this Article.

7-3-12 **FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

- | | | |
|-----|-------------------------------|------------------------------------|
| (A) | <u>Daily License:</u> | \$10.00 per person per day |
| (B) | <u>Annual License:</u> | \$50.00 per person per year |

ARTICLE IV - COIN-OPERATED MACHINES

7-4-1 LICENSE ESTABLISHED. There shall be taxed and collected of and from the persons engaged in carrying on the different branches of businesses, occupations, or pursuits in this Section mentioned, respectively, license fees at the rate following, to-wit:

(A) Keepers of billiard and pool tables shall pay the sum of **Twenty-Five Dollars (\$25.00)** per annum, or at that rate for a less period than **one (1) year**; provided, that if more than **one (1)** such table shall be kept or used in such place, an additional sum of **Fifteen Dollars (\$15.00)** shall be paid for each additional table used. **(Ord. No. 793; 02-22-93)**

(B) The owners of any billboards now or hereafter, located within the City, shall pay a license of **Ten Dollars (\$10.00)** per annum for each panel of a billboard used for advertising. The license shall be payable in advance for the exclusive right to control all posting of all advertising literature upon said billboards.

(C) Owners or operators of music boxes commonly known as "juke boxes" shall pay **Twenty-Five Dollars (\$25.00)** per annum for each music box operated and said license shall be payable in advance. **(Ord. No. 793; 02-22-93)**

(D) The term Mechanical Amusement Device, (hereafter also referred to as a device or machine), is hereby defined to be any machine which upon the insertion of a coin or slug, operates or may be operated as a game or contest of skill or amusement of any description, and which contains no automatic pay-off device for the return of money or which provides for no pay-off by any other means. The term Mechanical Amusement Device also shall include any machine or apparatus which is used or may be used as a game of skill or amusement and in which the player uses or directs any force generated by the device itself.

(E) **Operator.** The term operator is hereby defined to be any person, firm, corporation, partnership or association who sets up for operation by another, or leases or distributes or sells for the purpose of operation by another, any machine as herein defined whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income derived from such machine or otherwise.

(F) **Proprietor.** A proprietor is hereby defined to be any person, firm, corporation, partnership, association or club who is the owner, leaser, or proprietor of any establishment in or at which such mechanical amusement device is placed for use or play, or on exhibition for the purpose of use or play.

7-4-2 LICENSE REQUIRED. No person, firm or corporation shall engage in the business of an operator as herein defined without first having obtained license therefore. The license shall begin on **May 1st** each year and expire on the last day of April of each year. **(Ord. No. 845; 04-13-98)**

7-4-3 OPERATOR'S LICENSE FEE. The license fee for each operator shall be **Thirty-Five Dollars (\$35.00)** per year for each machine, except pool tables and juke boxes, payable in advance. **(Ord. No. 845; 04-13-98)**

7-4-4 APPLICATION. Application for license herewith shall be filed in writing with the City Clerk and shall specify:

(A) The name and address of the applicant and if a firm, corporation, partnership or association, the principal officers thereof and their address.

(B) Whether applicant is a citizen of the United States.

(C) Age of applicant.

(D) Place of business of applicant and if the applicant is a proprietor, the place where the machine is to be displayed or operated and the business conducted at the place.

(E) The name of the manufacturer of the machine, the type and serial number of the machine and if the applicant is the proprietor, the number of machines to be used.

(F) Name and address of the operator of the machine.

Said application shall then be referred to the Chief of Police of the City for investigation of the character of the applicant, the premises in which it is proposed to carry on the business of the applicant and the type of machine to be used; said Chief to report to the City Council by whose authority the license shall be issued. **(See Sec. 7-1-1)**

7-4-5 **AGE OF APPLICANT.** No license shall be issued to any applicant unless he is at least **twenty-one (21) years** of age and a person of good moral character.

7-4-6 **POSTING OF LICENSE.** The license shall be posted in a conspicuous place in the establishment of the licenser. Such license shall be non-assignable and non-transferable, and in case of the proprietor, shall apply only to the premises for which such license is issued. **(See Sec. 7-1-15)**

7-4-7 **CERTIFICATE ISSUED.** The City Clerk shall issue to each proprietor licensed hereunder, a certificate for each machine, the same to be affixed to each machine in a conspicuous place. Such license may be transferred from one machine or device upon application to the City Clerk to such effect and giving a description and serial number of such new machine or device, whereupon the City Clerk shall issue a new license and certificate upon payment of a transfer fee of **Two Dollars (\$2.00)**, provided such machine or device remains at the same location as the prior machine. However, upon such transfer the prior machine shall become an unlicensed machine.

7-4-8 **TRANSFER OF LOCATION.** If the licensee shall move his place of business to another location within the City the licenses may be transferred to such new location upon application to the City Clerk, giving street and number of the new location and the approval thereof by the Chief of Police.

7-4-9 **IN VIEW OF PATRONS.** All such machines shall at all times be kept and placed in plain view of all persons who may be in or frequent any place of business or other place where such machines are kept or used.

7-4-10 **GAMBLING PROHIBITED.** Nothing in this Code shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been or may be judicially determined to be a gambling device. If any such gambling device is inadvertently licensed hereunder such license shall not be construed as legalizing such gambling device. The term Gambling excludes video gaming terminal games at a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment when conducted in accordance with **230 ILCS 40/1 et seq. (Ord. No. 978; 05-14-12)**

7-4-11 **REVOCAION.** The Mayor or the City Council shall have the right to revoke any license issued hereunder for the violation of any of the provisions of the ordinance or whenever in the judgment of either, the public welfare requires such revocation. The acceptance of any license, even though the license does not state such facts, that the same may be revoked. **(See Sec. 7-1-13)**

[Unless Otherwise Noted; Ord. No. 793; 11-10-86]

(See Section 1-1-20 for Penalty.)

ARTICLE V - JUNK DEALERS

7-5-1 DEFINITIONS.

"JUNK" as used in this Chapter shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds or sizes when the number of each kind or size is less than **one (1) gross**, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than **ninety (90) days**, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any one or more of the materials or articles herein mentioned.

"JUNK DEALER" as used in this Chapter shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this Section defined as "junk".

"JUNK YARD" as used in this Chapter shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter, or exchange, any of the things in any by this Section defined as "junk".

(Also see Chapters 24 and 25)

7-5-2 PHYSICAL REQUIREMENTS. The minimum physical requirements at all times for each junk yard shall be as follows:

(A) The premises where the junk yard is located shall not have more than **two (2) entrances** thereto and **two (2) exits** therefrom, each of which shall not exceed **fifteen (15) feet** in width at the perimeter of the premises.

(B) The premises where the junk yard is located shall be enclosed on its perimeter with a solid, non-transparent, vertical wall or fence of a minimum height of **seven (7) feet** measured from ground level, excepting for the entrances and exits permitted by paragraph (A) above.

(C) The aforesaid solid, non-transparent wall or fence and the gates or doors, if any, at the aforesaid entrances and exits shall not contain any sign, poster or advertising matter of any kind whatsoever, excepting **one (1) sign** of the licensee there on not exceeding **one hundred (100) square feet** in size.

(D) The public streets and alleys adjacent to the junk yards shall not have junk thereon.

(See Ch. 40; Zoning Code)

7-5-3 LICENSE REQUIRED. It shall be unlawful for any person to keep, maintain, conduct or operate a junk yard within the corporate limits of the City without first obtaining a license to do so as herein provided. A separate license shall be secured for each junk yard located on non-contiguous lots, blocks, tracts or parcels of land.

7-5-4 APPLICATION. Before any license under the provisions of this Section is issued, any person desiring to operate a junk yard in this City shall first make a verified application in writing to the Clerk in the absence of provision to the contrary, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, non transparent wall or fence of a minimum height of **seven (7) feet**, measured from ground level, excepting the entrances and exits, and whether or not the public streets and alleys adjacent to the premises where the junk yard is to be located have junk thereon.

If the applicant is a firm of partnership, the names and residence addresses of all the partners and in the case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

7-5-5 **DISQUALIFICATION.** Any applicant for a license to keep, maintain, conduct or operate a junk yard shall be disqualified for any of the following reasons:

- (A) Not a person of good character.
- (B) Falsification of an application for a license hereunder.
- (C) License for a junk yard theretofore issued to the applicant has been revoked during the preceding **twenty-four (24) months.**
- (D) Failure to meet any one of the minimum physical requirements for a junk yard as specified in **Section 7-5-2** hereof.

7-5-6 **LICENSE.** Any and all licenses issued hereunder shall state that such license is issued in the name of the junk dealer solely for the purpose of keeping, maintaining, conducting and operating a junk yard, the expiration date thereof, the legal description of the premises where the junk yard is to be located, that the license shall be used and the privileges thereof exercised only at the described premises, and that such license is non-assignable and non-transferable.

Such license shall further provide that it is issued subject to all the provisions of this Chapter; that upon the first conviction for a violation of any of the provisions of this Chapter, in addition to the fine, such junk yard shall remain closed for a period of **thirty (30) days**; that upon the second conviction for a violation of any of the provisions of this Chapter, such license shall become null and void, and the licensee shall forfeit all sums paid for such license, and that the licensee, by the acceptance of such license expressly agrees to all the terms and conditions thereof, and to the terms and provisions of this Section and all amendments thereto.

7-5-7 **LICENSE FEE.** The annual license fee for each junk yard shall be **Five Hundred Dollars (\$500.00)** payable in advance with the filing of the application for license, and shall not be subject to pro rata reduction for a portion of the year, either because of the application for or because of revocation of a license; provided, however, that only **one (1)** annual license fee shall be payable for licenses which may be issued whenever the applicant desires to keep, maintain, conduct or operate junk yards on lots, blocks, tracts, or parcels of land which are situated on directly opposite sides of and abut upon each side of a public street or alley. Where such place, of business is not located in the City, but the operator carries on the business of buying or collecting or bartering for the items heretofore enumerated within the City, the annual fee shall be **Five Hundred Dollars (\$500.00)** for each junk dealer. The fee is payable as provided in this Code.

7-5-8 **MINORS.** No licensee hereunder shall purchase or receive any article whatsoever from any minor, without the written consent of their parents or guardians.

(Ord. No. 384; 01-26-42)

ARTICLE VI - POOL TABLES

7-6-1 **LICENSE REQUIRED.** No person shall operate, maintain or conduct a billiard, pool or bagatelle or pigeonhole table open to the public, including members of any organized social or fraternal club or organization without having first obtained a license therefor as is herein required. Application for license shall be verified by oath or affidavit, and contain the following information:

- (A) The name, age, and address of the applicant in the case of an individual and in the case of a co-partnership, of the persons entitled to share in the profits thereof, and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).
- (B) The citizenship of the applicant, his place of birth or, if a naturalized citizen, the time and place of his naturalization.
- (C) The address of the place where the applicant proposes to operate.
- (D) A statement whether the applicant has made a similar application for similar license on premises other than those described in the application, and the disposition of such application.
- (E) A statement that the applicant has never been convicted of a felony, and is not disqualified to receive the license under this Section.

7-6-2 **PROHIBITED LICENSEES.** No license under this Section shall be issued to the following:

- (A) Any person who is not a citizen of the United States.
- (B) Any person who is not of good character and reputation in the community.
- (C) Any person who has been convicted of a felony under the laws of the State of Illinois; or of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency or morality.
- (D) Any person whose license issued under this Chapter has been revoked for cause.
- (E) Any partnership, unless all of the members of the partnership are qualified to obtain such license.
- (F) Any corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation would not be eligible to receive a license for any reason other than citizenship or residence within the City.
- (G) Any person whose place of business is conducted by a manager or agent, unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.
- (H) Any person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is to be issued.

7-6-3 **LICENSE FEE.** The annual fee for any such license shall be as provided in **Schedule "A"** at the end of the Chapter.

- (A) All license fees shall be payable in advance and in no case shall any portion of the license fee be refunded to the licensee.
- (B) The license period shall be the fiscal year of the City and all applications for renewal shall be made to the City Clerk not more than **thirty (30) days**, but not less than **fifteen (15) days** prior to the expiration of such license.

7-6-4 **RIGHT OF ENTRY.** Any conservator of the peace has the power to and shall inspect any licensed premises at such times and intervals as he may deem necessary, to determine whether any provision of this Code is being violated.

7-6-5 **NON-ASSIGNABILITY OF LICENSE.** The location of the license may be changed only upon the written permission of the Mayor. Any license hereunder shall be non-assignable and non-transferable.

7-6-6 **GAMBLING PROHIBITED.** No licensee shall permit any gambling on the premises for which such license is issued.

7-6-7 **DISPLAY OF LICENSE.** Every licensee shall frame and hang his license in a conspicuous place at the licensed premises.

7-6-8 **REVOCATION.** In addition to any penalty or fine imposed for violation of this Article, the Mayor and City Council may revoke such license for any violation of this Article or of any ordinance pertaining to the conduct of such business, after affording such licensee due notice and opportunity to be heard in his own defense.

7-6-9 **MINORS.** Minors under the age of **sixteen (16) years** shall not, under any circumstances, frequent, loiter, go or remain in any hall licensed hereunder at any time, unless it be under the direction and consent of and knowledge of the parent, guardian or other person having the lawful custody of such minor; and it shall be unlawful for the proprietor of any hall so licensed to allow or permit any such minor to frequent, loiter, or remain within the hall in violation of this Article.

ARTICLE VII – RAFFLES AND POKER RUNS

7-7-1 DEFINITIONS. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **"Business":** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) **"Charitable Organization":** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) **"Educational Organization":** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) **"Fraternal Organization":** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) **"Hardship":** A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) **"Key Location":** The location where the poker run concludes and the prize or prizes are awarded.

(G) **"Labor Organization":** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) **"Licensee":** An organization which has been issued a license to operate a raffle.

(I) **"Net Proceeds":** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) **"Non-Profit":** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) **"Poker Run":** An event organized by an organization licensed under this Chapter in which participants travel to multiple predetermined locations, including a key location, drawing a playing card or equivalent item at each location, in order to assemble a facsimile of a poker hand or other numeric score. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item at each location.

(L) **"Raffle":** A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by as number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) **"Religious Organization":** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

7-7-2 REQUIREMENT OF LICENSE.

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

7-7-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The time period during which raffle chances will be sold or issued;
- (10) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (11) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (12) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable filing fee. Such fee shall be paid by cash, credit card or cashier's check. The City Clerk shall refer the application to the Mayor.

7-7-4 APPLICATION FOR A LICENSE FOR A POKER RUN.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
- (5) The name, address, and telephone number of all locations at which the poker run will be conducted;
- (6) The time period during which the poker run will be conducted;
- (7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;
- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The City Clerk shall refer the application to the Mayor.

7-7-5 **LICENSEE QUALIFICATIONS.**

(A) Raffle licenses and poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and
- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

7-7-6 **LICENSE ISSUANCE.**

(A) The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B) A raffle license or poker run license shall specify:

- (1) The time period during which raffle chances will be sold or issued or a poker run will be conducted; and
- (2) The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C) Any license issued under this Article shall be non-transferable.

(D) A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(E) A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(F) **Prominent Display of License.**

- (1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.
- (2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(G) **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

7-7-7 **CONDUCT OF RAFFLES AND POKER RUNS.**

(A) The operation and conduct of raffles and poker runs are subject to the following restrictions:

- (1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.
- (5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.
- (6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission

of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the City.

7-7-8 MANAGER - BOND.

(A) All operations of and conduct of raffles and poker runs shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle or poker run must be a bona fide member of the organization holding the license for such a raffle or poker run and may not receive any remuneration or profit for participating in the management or operation of the raffle or poker run.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the City not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

7-7-9 RECORDS.

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report monthly to its membership, and to the City Clerk, its gross receipts, expenses and net proceeds from raffles or poker runs, and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(E) The City shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

7-7-10 LIMITED CONSTRUCTION. Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

7-7-11 PRIZE LIMITATIONS; TERM.

- (A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **One Million Dollars (\$1,000,000.00)**;
- (B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **One Million Dollars (\$1,000,000.00)**;
- (C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **One Hundred Dollars (\$100.00)**;
- (D) The maximum number of days during which chances may be issued or sold or poker hands issued or sold shall not exceed **one (1) year**;
- (E) Licenses issued pursuant to this Code shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Code;
- (F) Licenses shall be issued to bona fide religious, charitable, labor, fraternal, educational, or veterans' organizations that operate without profit to their members, and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objectives;
- (G) The above-mentioned types of organizations shall be defined pursuant to **230 ILCS 15/.01 et seq.**, being the Raffles and Poker Run Act;
- (H) No person, or organization shall be issued more than **one (1) license** in a period of **one (1) week**;
- (I) The manager of a raffle game or poker run shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The Mayor or his designated representative is authorized to waive requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

ARTICLE VIII – GARAGE SALES

7-8-1 **DEFINITION.** “Yard Sale or Garage Sale” shall be defined as any sale held on the premises of a residence or place of business which sells personal property for sale to the public.

7-8-2 **PERMIT.** Prior to conducting a Yard Sale or Garage Sale a permit must be obtained from the City Clerk. There shall be no cost for obtaining the permit.

7-8-3 **TIME LIMIT.** Yard Sales and Garage Sales may only be conducted **one (1) time** every **ninety (90) days** at a given premises and may be conducted for a maximum of **three (3) days** duration.

7-8-4 **PENALTY.** See Section 1-1-20.

(Ord. No. 892; 11-26-01)

ARTICLE IX – ADULT USE LICENSING AND REGULATION

7-9-1 **PURPOSE.** The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The City recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

7-9-2 **DEFINITIONS.**

(A) **Adult Bookstore.** An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such materials, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(B) **Adult Entertainment Cabaret.** A public or private establishment which:

- (1) features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;
- (2) not infrequently features entertainers who display "specified anatomical areas"; or
- (3) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of "specified sexual activities".

(C) **Adult Motion Picture Theater.** A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(D) **Adult Novelty Store.** An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(E) **Nudity.** Nudity means the showing of the human male or female genitals, pubic area, female breasts with less than a full opaque covering below a point immediately above the top of the areola, human male genitals in a discernibly turgid state even if completely and opaquely covered or, that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

(F) **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and

customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

(G) **Adult Use.** Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult clubs allowing nudity at regular or frequent times, adult novelty stores and other similar uses.

(H) **Employee.** Employees, independent contractors or any other person who is retained by the licensee or subject to dismissal from working at the licensed premises.

(I) **Specified Sexual Activities.** For the purpose of this Article, "specified sexual activities" means:

- (1) human genitals in the state of sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy; and
- (3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(J) **Specified Criminal Activity.** For the purpose of this Article, "specified anatomical areas" means:

- (1) less than completely and opaquely covered:
 - (a) human genitals;
 - (b) pubic region;
 - (c) buttocks;
 - (d) female breasts below a point immediately above the top of the areola; and
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(K) **Specified Criminal Activity.** Specified criminal activity means any of the following offenses:

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- (2) For which:
 - (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
 - (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
 - (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
- (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

7-9-3 LICENSE REQUIRED.

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the City pursuant to this Article.

(B) An application for a license shall be made on a form provided by the City.

(C) All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as is needed to enable the City to determine whether the applicant meets the qualifications established in this Article.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If the applicant is a club, consisting of private or public membership, then such entity shall also be licensed under this Article. If a person who wishes to operate an adult use is other than an individual or club, each individual who has a **twenty percent (20%)** or greater interest in the business, including corporations, must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

- (1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;
- (2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.
- (3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and
- (4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.

(F) If the applicant intends to operate the adult use business under a name other than that of the application, he/she must state:

- (1) the business' fictitious name and
- (2) submit any required registration documents.

(G) Whether the applicant has been convicted of any specified criminal activity as defined in this Article, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(H) Whether the applicant has had a previous license under this Article or similar ordinances from another jurisdiction denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under this Article or similar ordinance in another jurisdiction and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(I) Whether the applicant holds any other licenses under this Article or other similar ordinance from another jurisdiction and if so, the names and locations of such other licensed businesses.

(J) A sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

7-9-4 **ISSUANCE OF LICENSE.**

(A) Within **thirty (30) days** after receipt of a completed adult use business license application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license unless it determines, by a preponderance of the evidence, any one or more of the following:

- (1) The applicant is under **eighteen (18) years** of age;
- (2) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
- (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;
- (4) The applicant has been denied a license by the City to operate an adult use business within the preceding **twelve (12) months** or whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;
- (5) The applicant has been convicted of a specified criminal activity defined in this Article.
- (6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this Article has not been paid.
- (8) The applicant of the proposed establishment is in violation or not in compliance with all of the provisions of this Article.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) The Fire Department and Code Enforcement Officers shall complete their inspection certification that the premises is in compliance or not in compliance with City codes within **twenty (20) days** of receipt of the application by the City.

(D) No adult use business license shall be issued unless it meets all criteria set forth in the Zoning Code. However, an adult use business license may be issued for a premises which is a legal nonconforming use which has not yet been amortized or for a premises where such amortization is being challenged by litigation.

(E) No signs, advertising or other notice to the public may be given for any premises where adult use is conducted, pursuant to this Article.

7-9-5 **LIQUOR.** No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

7-9-6 **FEES.** Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **Seven Hundred Fifty Dollar (\$750.00)** non-refundable application and investigation fee.

7-9-7 **INSPECTION.**

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department or other City or City designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the provisions of this Article at any time it is occupied or open for business.

(B) A person who operates an adult use or his agent or employee violates this Article is he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

7-9-8 EXPIRATION OF LICENSE.

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-9-4**. Application for renewal shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

(B) If the City denies renewal of a license, the applicant shall not be issued a license for **one (1) year** from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

7-9-9 SUSPENSION. The City may suspend a license for a period not to exceed **thirty (30) days** if, after a hearing, it determines that a licensee or an employee of a licensee:

(A) violated or is not in compliance with any section of this Article;

(B) refused to allow an inspection of the adult use business premises as authorized by this Article, or

(C) knowingly permitted gambling by any person on the adult use business premises.

If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

7-9-10 REVOCAION.

(A) The City shall revoke a license if a cause of suspension in **Section 7-9-8** above occurs and the license has been suspended within the preceding **twelve (12) months** or if the licensee is convicted of any specified criminal activity.

(B) The City may revoke a license if it determines, after a hearing, that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee or management personnel has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;

(3) A licensee or management personnel has knowingly allowed prostitution on the premises;

(4) A licensee or management personnel knowingly operated the adult use business during a period of time when the licensee's license was suspended;

(5) A licensee or management personnel has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises;

(6) A licensee is delinquent in payment to the City, County or State for any taxes or fees past due;

(7) A licensee or management personnel has knowingly facilitated another's commission of the offense of public indecency; or

(8) The adult use is a public nuisance as defined by statute, ordinance or case law.

(C) If the City revokes a license, the revocation shall continue for **one (1) year** and the licensee shall not be issued an adult use business license for **one (1) year** from the date the revocation became effective. If subsequent to revocation, the City finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

7-9-11 **TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another nor shall a licensee operate an adult use business under the authority of a license at any place other than the address on the license.

7-9-12 **BUSINESS RECORDS.** All adult uses shall file a verified report with the City showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

7-9-13 **LIQUOR LICENSE.** No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

7-9-14 **ADULT ENTERTAINMENT CABARETS – RESTRICTIONS.** All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

7-9-15 **VIDEO VIEWING BOOTHS – RESTRICTIONS.** No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions or a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

7-9-16 **HOURS OF OPERATION.** No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

7-9-17 **INVESTIGATION.** Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

ARTICLE X – FIREWORKS CODE

7-10-1 DEFINITIONS. As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Common Fireworks: Any fireworks designed primarily to produce visual or audible effects by combustion.

(A) The term includes:

(1) Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;

(2) Smoke devices;

(3) Fireworks commonly known as helicopters, aerials, spinners, roman candles, mines and shells;

(4) Class C explosives classified as common fireworks by the United States Department of Transportation, by regulations found in the Code of Federal Regulations.

(B) The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets.

Dangerous Fireworks: Any fireworks not defined as a “common firework”.

Fireworks: Any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.

Special Fireworks: Any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

(A) Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and

(B) Fireworks not classified as common fireworks.

7-10-2 SALE OF FIREWORKS UNLAWFUL. It is unlawful for any person to sell any fireworks within the City other than those fireworks designated in **Section 7-10-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

7-10-3 POSSESSION, USE AND DISCHARGE OF DANGEROUS FIREWORKS UNLAWFUL. It is unlawful for any person to sell, possess, use, transfer, discharge or explode any dangerous firework within the City; provided that this prohibition shall not apply to duly authorized public displays.

7-10-4 PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS. It is unlawful for any person to engage in the retail sale of or to sell fireworks or to hold, conduct, or engage in a public display of fireworks within the City without first having obtained a valid permit issued pursuant to the provisions of this Article.

7-10-5 TIME LIMIT SET ON SALE AND USE. No permit holder shall offer for retail sale or sell any fireworks within the City except from **12:00 Noon** on the **28th of June** to **12:00 Noon** on the **6th of July** of each year. No fireworks may be sold or discharged between the hours of **11:00 P.M.** and **9:00 A.M.** Provided, the sale and use of fireworks as provided in this Section shall be limited to the following:

Dipped stick, sparklers and smoke devices.

7-10-6 PERMIT FEES. The annual fee for a “seller’s permit” for the sale of fireworks as may be authorized under this Article, shall be **One Hundred Dollars (\$100.00)** per year for each seller’s permit, payable in advance. The fee for a “public display permit” for the public display of fireworks shall be **One Hundred Dollars (\$100.00)**, payable in advance, unless waived by the City Council.

7-10-7 ISSUANCE – NONTRANSFERABLE VOIDING.
(A) Sellers. Each seller’s permit issued under this Article shall be for only one retail outlet. The number of seller’s permits shall not be limited as long as all conditions are met as stated in **Section 7-10-11** of this Article. Each seller’s permit issued pursuant to this Article shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable.

(B) Public Display Permit. Each public display permit issued pursuant to this Article shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article.

7-10-8 APPLICATION FOR PUBLIC DISPLAY PERMIT. Applications for a permit to conduct a public display of fireworks shall be made to the Fire Chief at least **fourteen (14) days** prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display, and as set forth in **Section 7-10-12** of this Article.

7-10-9 APPLICATION FOR SELLER’S PERMIT—CONDITIONS FOR ISSUANCE. Applications for seller’s permits shall be made to the City Clerk annually on or after **April 1st** of the year for which the permit is issued and the filing period shall close on **April 15th** of such year unless extended by action of the City Council. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller’s permits for the sale of those fireworks allowed pursuant to **Section 7-10-4** of this Article shall be issued only to applicants meeting the following conditions:

(A) The retailer or person in charge and responsible for the retail operation shall be **twenty-one (21) years** of age or older, of good moral character and of demonstrated responsibility.

(B) The applicant shall have a valid and current license issued by the State of Illinois authorizing the holder to engage in the retail sale of fireworks. **(See 425 ILCS 35)**

(C) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Article.

(D) The applicant shall procure and maintain a policy or policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Illinois in the following minimum amounts: **Five Hundred Thousand Dollars (\$500,000.00)** for injuries to any one person in one accident or occurrence; **One Million Dollars (\$1,000,000.00)** for injuries to two or more persons in any one accident or occurrence; **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property in any one accident or occurrence; **One Million Dollars (\$1,000,000.00)** combined single limit for any one accident or occurrence. In addition, the City is to be an additional named insured and the policy shall provide for the immediate notification of the City by the insurer of any cancellation of any policy.

(E) The permit holder’s location or place of business shall be only in those areas or zones within the City where commercial activities are authorized under applicable zoning law; provided, that the sale of those fireworks authorized by **Section 7-10-5** of this Article shall not be deemed an enlargement of an existing nonconforming use.

(F) The applicant shall post with the City a performance bond or a cash deposit in an amount not less than **Two Hundred Dollars (\$200.00)** conditioned upon the prompt removal of the

temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that the applicant removes the temporary stand and cleans up all debris to the satisfaction of the City. In the event the applicant fails to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he or she has failed to remove the stand and clean up all debris by the **tenth (10th) of July** following the sales period.

(G) No seller's permit shall be issued for a location which fails to meet the criteria set forth in **Section 7-10-11** of this Article, including the minimum stand separation requirement. When necessary, in order to determine priority as to a proposed location, the earliest date and time of filing of an application for a seller's permit with the City Clerk shall be controlling.

7-10-10 SALE FROM STANDS – EXCEPTIONS. All approved fireworks as set forth in **Section 7-10-5** of this Article except toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick or novelty device not classified as common fireworks, shall be sold and distributed only from temporary stands.

7-10-11 STANDARDS FOR TEMPORARY STANDS. The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(A) Temporary fireworks stands need not comply with all provisions of the Building Code; provided, however, that all such stands be erected under the supervision of the City Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to the electrical code.

(B) No temporary fireworks stand shall be located within **fifty (50) feet** of any other building or structure, nor within **two hundred fifty (250) feet** of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(C) Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

(D) Each temporary fireworks stand shall have, in a readily accessible place, at least two, **two and one-half (2½) gallon** pressurized water fire extinguishers which are in good working order.

(E) All weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than **twenty-five (25) feet**, measured from the exterior walls of the temporary fireworks stand.

(F) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than **fifty (50) feet** measured from the exterior walls of the temporary fireworks stand. Signs stating: **"No Smoking Within 50 Feet"** shall be posted on the exterior of each wall of the temporary fireworks stand.

(G) Each temporary fireworks stand shall have a person who is **eighteen (18) years** old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Fire Chief.

(H) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by **12:00 Noon** on the **seventh (7th) day of July** of each year.

(I) No temporary fireworks stand shall be located within **five hundred (500) feet** of any other temporary fireworks stand.

(J) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least **fifteen (15) spaces**, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.

(K) No person shall discharge any fireworks within **two hundred fifty (250) feet** of the exterior walls of any temporary fireworks stand. Signs stating: **"No discharge of fireworks within 250 feet."** shall be posted on the exterior of all walls of the temporary fireworks stand.

7-10-12 STANDARDS FOR PUBLIC FIREWORKS DISPLAYS. All public fireworks displays shall conform to the following minimum standards and conditions:

(A) All public fireworks displays shall be planned, organized and discharged by pyrotechnician, "Pyrotechnician" means an individual who by experience and training has demonstrated the required skill and ability for safety setting up and discharging displays of special fireworks. All individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act. **(225 ILCS 227)**

(B) A permit must be obtained from the City and approved by the Fire Chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his or her address, the name of the Pyrotechnician and his or her address; the exact location, date and time of the proposed display; the number, type and class of fireworks to be displayed the manner in which the fireworks are being stored prior to the public fireworks display; and shall include the name and address of the insurance company providing the bond required.

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius. The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(D) When, in the opinion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may require that a Fire Department pumper and a minimum of two trained firefighters shall be on site **thirty (30) minutes** prior to and after the shooting of the event. The exhibitor shall repay the City for all costs to firefighters for such time.

(E) All combustible debris and trash shall be removed from the area of discharge for a distance of **three hundred (300) feet** in all directions.

(F) All unfired or "dud" fireworks shall be disposed of in a safe manner.

(G) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

(H) The permit shall be immediately revoked at any time the Fire Chief or a designee deems such revocation is necessary due to noncompliance, weather conditions such as, but not limited to, extremely low humidity or high winds. The display shall also be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.

(I) Areas of public access shall be determined by the Fire Chief or designer and maintained in an approved manner.

7-10-13 USE OF FIREWORKS IN PUBLIC PARKS. It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park, owned by the City, provided, however, that such use shall be permitted under the following circumstances:

(A) This provision shall not apply to possession of fireworks in the otherwise lawful use of public rights of way such as sidewalks and planting strips. This subsection shall not be a defense to a charge of obstructing traffic or otherwise obstructing a public right of way.

(B) The Fire Chief shall designate limited areas for use during the hours permitted by the Article for the discharge of fireworks as allowed by **Section 7-10-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-10-5** in such areas shall not be a violation of this Section. In doing so, the Fire Chief shall consider:

(1) The sensitivity of the area's environment, wildlife and wildlife habitat;

(2) The inconvenience and nuisance to abutting property owners;

(3) The safety and suitability of the area as a place for the discharge of fireworks; and

(4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

(C) Upon designation of any area, it shall be signed and posted by **July 1st** of each year for use on **July 4th** between the hours of **9:00 A.M.** and **11:00 P.M.** Designation of any area may be appealed in writing to the City Council by any citizen of the City. The decision of the City Council shall be final.

(D) Nothing in this Article shall be deemed to limit the authority of the City Council to allow event display of special fireworks under a permit issued in accordance with the provisions of the Code and State statutes.

7-10-14 **SPECIAL EFFECTS FOR ENTERTAINMENT MEDIA.** This Code does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the City in accordance with **Sections 7-10-7** and **7-10-8** of this Code.

7-10-15 **PERMITTED ACTS.** This Code does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

7-10-16 **APPLICABILITY.** The provisions of this Code shall not be applicable to toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick nor to novelty device not classified as common fireworks.

7-10-17 **STATUS OF STATE LAW.** This Code is intended to implement applicable State law, to wit, **Chapters 225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection, with that law and any and all rules or regulations issued pursuant to that law.

7-10-18 **ENFORCEMENT.** The Fire Chief or designee, is authorized to enforce all provisions of this Code and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Code upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Fire Chief or designee, or to comply with any provisions of this Code or the requirements of the community development code relating to temporary structures.

7-10-19 **RECKLESS DISCHARGE OR USE PROHIBITED.** It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.

ARTICLE XI – RETAIL CANNABIS SALES

7-11-1 CANNABIS LICENSE REQUIRED. It shall be unlawful to sell or offer for sale at retail in the City any cannabis without having a retail cannabis license.

7-11-2 LICENSE APPLICATION.

(A) Applications for licenses required by this Article shall be made to the Mayor in writing, signed by the applicant if an individual or by a duly authorized agent thereof if a club or corporation, and verified by oath or affidavit of the applicant.

(B) These applications shall contain the following information and statements:

- (1) The name, age, and address of the applicant in the case of an individual; in the case of a corporation, for profit, or a club, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors, and if a majority in interest of the stock of the corporation is owned by **one (1) person** or his or her nominees, the name and address of that person; and in the case of a co-partnership, the persons entitled to share in the profits thereof;
- (2) The citizenship of the applicant, his or her place of birth; and if a naturalized citizen, the time and place of his or her naturalization;
- (3) The character of business of the applicant; and in case of a corporation, the objects for which it was formed;
- (4) The length of time that the applicant has been in business of that character; or in the case of a corporation, the date on which its charter was issued;
- (5) The amount of goods, wares, and merchandise on hand at the time application is made;
- (6) The location and description of the premises or place of business which is to be operated under the license;
- (7) A statement whether the applicant has made similar application for a similar other license on premises other than described in this application and the disposition of that application;
- (8) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing, contained in this Article, laws of this state, or the ordinances of this City;
- (9) Whether a previous license by any state or subdivision thereof or by the federal government has been revoked and the reasons therefor; and
- (10) A statement that the applicant will not violate any of the laws of this state, the United States, or any ordinance of the City in the conduct of his or her place of business.

7-11-3 INELIGIBLE PERSONS OR CONDITIONS. No license of any kind shall be issued to the following:

- (A) A person who is not a resident of the City; except in case of railroad or boat licenses;
- (B) A person who is not of good character and reputation in the community in which he or she resides;
- (C) A person who is not a citizen of the United States;
- (D) A person who has been convicted of a felony under any federal or state law, unless the commission determines that the person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in the person's application and the commission's investigation. The burden of sufficient rehabilitation shall be on the applicant;

- (E) A person who has been convicted of being the keeper or is keeping a house of ill fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- (G) A person whose license issued under this act has been revoked for cause;
- (H) A person who at the time of application for renewal of any license issued hereunder would not be eligible for that license upon a first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in that co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision;
- (J) A corporation, if any officer, manager, or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of that corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;
- (K) A corporation unless it is incorporated in this state, or unless it is a foreign corporation which is qualified under **805 ILCS 5/1.01 et seq.**, the Business Corporation Act of 1983, to transact business in this state;
- (L) A person whose place of business is conducted by a manager or agent unless the manager or agent possess the same qualifications required by the license;
- (M) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, subsequent to the passage of this act, or has forfeited his or her bond to appear in court to answer charges for any violation of this type;
- (N) A person who does not beneficially own the premises for whichh a license is sought; or does not have at least thereon for the full period for which the license is to be issued;
- (O) Any law-enforcing public official, includeing members of local liquor control commissions, any Mayor, Alderman, or member of the City Council or commission; and no official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor; except that license may be granted to an official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of the license is approved by the State Liquor Control Commission;
- (P) A person who is not a beneficial owner of the business to be operated by the licensee;
- (Q) A person who has been convicted of a gambling offense as prescribed by **720 ILCS 5/28-1(a)(3) through 28-1(a)(11)** of, or as proscribed by **720 ILCS 5/28-3**, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforementioned statutory provisions;
- (R) A person to whom a federal wagering stamp has been issued by the federal government for the current tax period;
- (S) A co-partnership to whichh the federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period;
- (T) A corporation, if any officer, manager, or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of that corporation, has been issued a federal wagering stamp for the current tax period;
- (U) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period;
- (V) Failure to make a tax return;
- (W) The filing of a fraudulent return;
- (X) Failure to pay all or part of any tax or penalty finally determined to be due;
- (Y) Failure to keep books or records;
- (Z) Failure to secure and display a certificate of sub-certificates of registration, if required; or
- (AA) Willful violation of any rule or regulation of the department relating to the administration and enforcement of tax liability.

7-11-4 **LIMIT OF ONE LICENSE.** **One (1) license** is authorized by the City Council of the City, Montgomery County, Illinois to be issued to any entity which would be entitled to sell or distribute cannabis under Public Act 101-0027 as it may be amended from time to time and regulations promulgated thereunder.

7-11-5 **ANNUAL FEE.** The fee for a cannabis license shall be paid in one payment at the time of the issuance of the license and on an annual basis for renewal thereafter. The fee for the license shall be **One Thousand Dollars (\$1,000.00)**.

7-11-6 **TERM; DUE DATE.** Each license issued under this Article shall terminate on **June 30th** the next following its issuance. The fee to be paid shall be reduced in proportion in the full calendar months which have expired in the year prior to the issuance of the license.

7-11-7 **DISPOSITION OF FEES.** All fees for licenses issued under this Article shall be paid to the Mayor at the time the application is made, and shall be forthwith turned over to the Treasurer. In the event the license applied for is denied, the fee shall be returned to the applicant; if the license is granted, then the fee shall be deposited in the general corporate fund or in the other fund as shall have been designated by the Council by proper action.

7-11-8 **RECORD OF LICENSES.** The Mayor shall keep or cause to be kept a complete record of all licenses issued by him or her under this Article, and shall furnish to the City Clerk, City Treasurer, and Police Chief each a copy thereof, and upon issuance of any license or revocation of any old license, the Mayor shall give each of these officers notice in writing of an action within **forty-eight (48) hours** of the action.

7-11-9 **TRANSFER, ENCUMBRANCE, AND INHERITANCE PROHIBITED.** A license issued under this Article shall be purely a personal privilege, good for not to exceed **one (1) year** after issuance unless sooner revoked as provided in this Article, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. The license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee; provided, that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee, when the estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of the decedent, or the insolvency or bankruptcy, until the expiration of the license, but not longer than **six (6) months** after the death, bankruptcy, or insolvency of the licensee. A refund shall be made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under the license in accordance with provisions of this Section.

7-11-10 **BOND REQUIRED.** Each applicant for a license under this Article shall, upon acceptance of his or her application for any license or permit issued hereunder, file with the Mayor of City a surety bond in the penal sum of **One Thousand Dollars (\$1,000.00)** to be approved by the Mayor, payable to the City for the use of any person interested, binding obligors that the applicant will not violate any provisions of this Chapter and conditioned upon the prompt and full payment of any fine or penalty that may become due or payable by reason of any violation or violations. The payment of any fine or penalty shall not reduce the liability under the bond for future violations.

7-11-11 POSTING REQUIRED. Every person licensed in accordance with the provisions of this Article shall immediately post and keep posted while in force, in a conspicuous place on the premises, the license so issued. Whenever a license shall be lost or destroyed, a duplicated in lieu thereof shall be issued by the City Clerk.

7-11-12 REVOCATION. All license issued under this Article are mere revocable and conditional permits. The Mayor may revoke any retail cannabis sale license for any violation of any of the provisions of this Chapter or for any violation of any state law pertaining to the sale of cannabis.

(Ord. No. 2058; 11-25-19)

SCHEDULE "A"

LICENSE FEES

As provided in **Section 7-1-5** the following license fees are hereby established:

- | | | |
|-----|---|--|
| (A) | <u>Billiard and Pool Tables.</u> | |
| | Operator | \$300.00 per year plus \$15.00 per table over one. |
| (B) | <u>Billboards.</u> | |
| | Each Billboard Panel | \$10.00 per year. |