

**CITY OF SHOREVIEW  
AGENDA  
CITY COUNCIL WORKSHOP  
DECEMBER 9, 2013  
7:00 P.M.**

1. ROLL CALL
2. INTERVIEWS WITH PLANNING COMMISSION CANDIDATES  
7:00 - Deb Ferrington  
7:15 – Kent Peterson  
7:30 – Patricia Evans
3. DISCUSSION REGARDING REQUEST FROM SHOREVIEW  
AREA PICKLEBALL CLUB
4. DISCUSSION REGARDING PROPOSED AMENDMENT TO  
TOBACCO LICENSING REGULATIONS
5. REVIEW OF UPDATED PEDDLER ORDINANCE
6. OTHER ISSUES
7. ADJOURNMENT



**Citizen Advisory Committees and Commissions  
Application Form**

Name Deborah A. Ferrington

Address 366 N Owasso Blvd., Shoreview MN 55126

\*Home phone number 651-765-2461 \*Work phone number 612-624-8267

E-mail ferri013@umn.edu

How long have you lived in the City of Shoreview? 14 years

Is there any reason that you would be unable to attend regular monthly meetings?

Yes  No (There are times when I am out of town on business, but I should be able to attend the majority of the meetings.)

On which committee or commission are you interested in serving? If interested in more than one, please prioritize your choices:

- Bike and Trails Committee
- Economic Development Authority \*
- Economic Development Commission \*
- Environmental Quality Committee
- Grass Lake Watershed Management Organization
- Human Rights Commission
- Lake Regulations Commission
- Park and Recreation Commission
- Planning Commission
- Public Safety Committee
- Snail Lake Improvement District Board

\* Persons who work in, own, or operate a business within City are eligible to serve on EDA and EDC

What are your specific areas of interest within this committee's or commission's scope of responsibilities? I am most interested in facilitating the mission of the PC, which is "to assist with long-range planning in the community and to foster high quality development." The challenges of a fully-developed community take vision and sensitivity to accomplish this task.

One of the most significant challenges is in working with long-time residents during the development process and balancing their needs with community growth and revitalization. I believe that I have the ability to help the city of Shoreview achieve this task.

Briefly describe your work experience or other background information that would relate to this committee.

I have served on the PC for several years and have enjoyed the challenges associated with helping to guide the development of our city. I believe that I bring a different perspective to the committee since I have lived in multiple regions of the country prior to moving into Shoreview.

Please list other organizations or clubs that you have participated in.

I previously served on the Bikeways and Trailways committee. Other than professional organizations associated with my work at the University of Minnesota, I currently participate in the Lake Owasso Garden Club.

Why would you like to serve on this committee or commission? I want to be part of the continued growth and revitalization of our vibrant community.

Additional Comments:

If appointed to a committee or commission, may we include your phone number(s) in the committee/commission handbook?

Yes     No

*Deborah A. Ferrington*

Signature

10-25-13

Date

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**Applicant**

**Planning Commission  
Interview Questions**

1. Why are you interested in serving on the Planning Commission?
2. What specific knowledge and experience would you bring to the Planning Commission?
3. In your opinion from a planning and zoning perspective, what has been done well and what could be improved in our community?
4. As a member of the Planning Commission, how would you balance neighborhood concerns with overall community goals?
5. Do you see the need for redevelopment in certain areas in Shoreview?  
(IF YES, please give us examples and how you would like to see the property redeveloped.)

6. How flexible do you think the City should be when dealing with variances or requests for deviations to the code?

7. Do you have any questions of us?



**Citizen Advisory Committees and Commissions  
Application Form**

Name Kent Peterson

Address 1070 Bucher Avenue, Shoreview, MN 55126

\*Home phone number 651 483-3935 \*Work phone number 651 353-3903

E-mail peterson751@msn.com

How long have you lived in the City of Shoreview? 40 years

Is there any reason that you would be unable to attend regular monthly meetings?

Yes  No

On which committee or commission are you interested in serving? If interested in more than one, please prioritize your choices:

- Bike and Trails Committee
- Economic Development Authority \*
- Economic Development Commission \*
- Environmental Quality Committee
- Human Rights Commission
- Lake Regulations Commission
- Park and Recreation Commission
- Planning Commission
- Public Safety Committee

\* Persons who work in, own, or operate a business within City are eligible to serve on EDA and EDC

What are your specific areas of interest within this committee's or commission's scope of responsibilities? \_\_\_\_\_

I would implement and enforce Shoreview's long-range plan and zoning ordinances while minimizing any potential negative impact. I am especially interested in promoting high quality development wanted by Shoreview residents. All areas of Shoreview need proactive planning to maintain safe, welcoming neighborhoods where families of all ages and cultures want to live. If possible, I would specifically like to re-visit our Highway 96 redevelopment plan to do more to encourage a mixed-use city center in the area between the Community Center and Shoreview Village Mall.

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Briefly describe your work experience or other background information that would relate to this committee. \_\_\_\_\_

~~My work experience has been as a pharmacist and as a public health manager. As a pharmacist, I have a background in retail operations for Cub Foods for the past 10 years at the Blaine Village Mall at Lexington and Interstate 35W. As a program manager at the Minnesota Department of Health from 1973 to 2003, I managed programs in state-wide health facility planning, health promotion and health plan regulation. I learned how to listen to all sides of issues and try to find negotiated solutions. In addition to my B.S. in pharmacy, I have a Master of Public Health degree with additional course emphasis in community planning.~~

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Please list other organizations or clubs that you have participated in. \_\_\_\_\_

~~Throughout my 40 years living in Shoreview, I have been fortunate to participate in many organizations and clubs. I was past Board chair of Shepherd of the Hills Lutheran Church and currently active in Incarnation Lutheran Church. Through Shepherd of the Hills, I was an officer of Norcroft Community Housing Corporation, that helped to create early senior housing at Victoria Street at County Rd. F. In youth sports, I was a coach and past vice-president of North Suburban Soccer Association. Currently, I am also active in Arden Hills/Shoreview Rotary and the Shoreview Community Foundation.~~

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Why would you like to serve on this committee or commission? \_\_\_\_\_

~~Since I first was encouraged to apply for the Shoreview Public Safety Committee back in about 1978, I have been actively involvement in city government and I wish to continue as a part of the Planning Commission. In 1991, I became a member of the Bikeways and Trails Committee that implemented the original Bikeways and Trails Plan. After 10 years on the Bikeways and Trails Committee, I moved to the Parks and Recreation Commission where I was Chair of the Commission when we created Shoreview Parks Needs Assessment and Improvement Recommendations in 2005.~~

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Additional Comments: \_\_\_\_\_

See attached full resume.

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If appointed to a committee or commission, may we include your phone number(s) in the committee/commission handbook?

Yes       No



Signature

November 23, 2013

Date

**Kent E. Peterson**  
1070 Bucher Avenue  
Shoreview, MN 55126  
(651) 483-3935 (Home)  
(651) 353-3903 (Cell)  
Email: peterson751@msn.com

**Education:**

- University of Minnesota, School of Public Health, Master of Public Health, 1973
- University of Iowa, College of Pharmacy, B.S. in Pharmacy, 1968

**Family:**

Spouse Diane Peterson, 2 adult children (Marita and Paul) living in Metro Twin Cities and 6 grandchildren in Metro Twin Cities

**Professional experience:**

|                 |  |
|-----------------|--|
| 2003 to present | Pharmacist, Cub Pharmacy, Blaine Village                   |
| 1973 to 2003    | Program Manager, Minnesota Department of Health            |
| 1970 to 1972    | Associate Director, Iowa Pharmacists Ass'n, Des Moines, IA |
| 1968 to 1970    | Commissioned Corps, US Public Health Service, Sisseton, SD |

**Accomplishments, Community Activities, Memberships:**

- Past-president, current member of Shoreview-Arden Hills Rotary. Two-time Paul Harris Award recipient for community service
- Current Vice-Chair of Shoreview Community Foundation, board member 2008-current
- Past-chair and current member of Shoreview Parks and Recreation Commission, 2000-current
- Shoreview Citizen of the Year, 2009, awarded by Shoreview City Council
- Current member of Incarnation Lutheran Church, active in Chontala, Guatamala Mission group (twice in delegations), Holy Hammers for Habitat for Humanity and Caring for Creation group
- Current volunteer in Ramsey County Medical Reserve Corp, public health disaster assistance and preparedness training, 2004-current
- Active as Shoreview Green Community volunteer, leading clean water projects and buckthorn eradication in Shoreview parks for past 7 years
- Shoreview Highway 96 Redevelopment Task Force 1998-99
- Past alternate member of Vento Re-Use Planning Task Force for TCCAP, 1995-96
- Immediate past-president of Orchid Society of Minnesota and current member of Publications Committee of American Orchid Society
- Past vice-president of North Suburban Soccer Association 1990-94
- Past- member of Shoreview Bike and Trail Committee 1991-2000, Shoreview Public Safety Committee 1978-1991
- Co-founder and secretary of the former Norcroft Community Housing Corporation,

a non-profit organized in 1990 by 4 Shoreview churches to develop senior housing

- Former volunteer consultant for Management Assistance Program for Non-profits (MAP) assigned to Minnesota Council on Black Aging for 5 years in late 1990s to help resolve financial problems
- Election Judge, 2003-current

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**Applicant**

**Planning Commission  
Interview Questions**

1. Why are you interested in serving on the Planning Commission?
2. What specific knowledge and experience would you bring to the Planning Commission?
3. In your opinion from a planning and zoning perspective, what has been done well and what could be improved in our community?
4. As a member of the Planning Commission, how would you balance neighborhood concerns with overall community goals?
5. Do you see the need for redevelopment in certain areas in Shoreview?  
(IF YES, please give us examples and how you would like to see the property redeveloped.)

6. How flexible do you think the City should be when dealing with variances or requests for deviations to the code?

7. Do you have any questions of us?

**City of Shoreview  
Citizen Advisory Committees and Commissions  
Application Form**

Name Patricia Evans

Address 3430 Richmond Ave

\*Home phone number 651-765-6059 \*Work phone number \_\_\_\_\_

E-mail patpeiffer@gmail.com

How long have you lived in the City of Shoreview? 12.5 years

Is there any reason that you would be unable to attend regular monthly meetings?

Yes      No

On which committee or commission are you interested in serving?

- Bikeways and Trailways Committee
- Economic Development Commission
- Environmental Quality Committee
- Grass Lake Watershed Management Organization
- Human Rights Commission
- Lake Regulations Commission
- Park and Recreation Commission
- Planning Commission**
- Public Safety Committee
- Snail Lake Improvement District Board
- Telecommunications and Technology Committee

What are your specific areas of interest within this committee's or commission's scope of responsibilities? I want to see Shoreview

remain a vibrant and attractive  
community.

Briefly describe your work experience or other background information that would relate to this committee. As a former IT manager, I can

see the big picture. As a Stephen minister  
I know the importance of listening. Currently,  
I sub in the Moundsview school district in →

Please list other organizations or clubs that you have participated in. Committee

Member on Bikeways & Trailways since  
2003

Why would you like to serve on this committee or commission? I believe  
in Shoreview and as a citizen of this  
community I know the importance of  
giving back.

Additional Comments \_\_\_\_\_

\*If appointed to a committee or commission, may we include your phone number(s) in the committee/commission handbook?

Yes     No

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## Applicant

### Planning Commission Interview Questions

1. Why are you interested in serving on the Planning Commission?
2. What specific knowledge and experience would you bring to the Planning Commission?
3. In your opinion from a planning and zoning perspective, what has been done well and what could be improved in our community?
4. As a member of the Planning Commission, how would you balance neighborhood concerns with overall community goals?
5. Do you see the need for redevelopment in certain areas in Shoreview?  
(IF YES, please give us examples and how you would like to see the property redeveloped.)

6. How flexible do you think the City should be when dealing with variances or requests for deviations to the code?

7. Do you have any questions of us?

**TO: MAYOR AND COUNCILMEMBERS**

**FROM: TERRY SCHWERM  
CITY MANAGER**

**DATE: DECEMBER 6, 2013**

**SUBJECT: REQUEST FROM THE SHOREVIEW AREA PICKLEBALL CLUB**

### **INTRODUCTION**

At the December 4, 2013 Park and Recreation Commission meeting, the Shoreview Area Pickleball Club presented a request to convert two tennis courts in the City to six dedicated pickleball courts. They would now like to present their request to the City Council for consideration.

### **BACKGROUND**

In 2012, several residents who play pickleball requested that the City line some pickleball courts on our existing tennis courts. In late fall, the City added lines to the tennis courts at Commons Park and Shamrock Park so they could be used for both tennis and pickleball. During the summer and early fall of 2013, these outdoor courts at Commons Park were used by a growing number of pickleball players. In addition to lining these outdoor courts last winter (2012-2013) the City also lined three pickleball courts in the Community Center gymnasium and began an open pickleball time between 8:00 am-11:00 am on Monday, Wednesday, and Fridays. Last winter, pickleball had a small (8-10 people) but regular following throughout the winter season.

Starting this November, the City again offered open pickleball at the Community Center and made the daily admission rate more affordable (\$3.00 per time) by handling it like our drop-in basketball program. Attendance has increased significantly and there are now 20-30 players that come to the Community Center on a regular basis to play pickleball during these open hours. Often times, there can be several people waiting to rotate into games.

A Shoreview Area Pickleball Club has just recently formed and already has 71 members. The club has requested that the City consider creating some dedicated "pickleball only" outdoor courts for the 2014 season (May-October). This would greatly increase capacity to handle the growing number of people with interest in pickleball. One of the key elements of the regular pickleball player is that in addition to exercise, pickleball is very social and many players select a regular time to congregate and play the game. A six court pickleball configuration can accommodate up to 24 players at one time, as opposed to eight players on a dual lined tennis court.

A growing number of cities have now converted existing tennis courts into pickleball only courts, or have constructed new pickleball only courts. For example, Woodbury's 6 court dedicated pickleball site is one of the most popular in the metro area.

Attached is a copy of the information that was submitted to the Park and Recreation Commission by the Shoreview Area Pickleball Club. After hearing this request, the Commission voted unanimously to recommend to the City Council that the City explore converting two of the four courts at Bobby Theisen Park into pickleball only courts. The reason that Bobby Theisen Park was selected is that there are currently 4 tennis courts at the park. By converting two of the courts at the park to pickleball, there would be two remaining tennis courts at the site. One of the four courts at Theisen Park is currently used for roller hockey, which would be discontinued with this proposed change. Staff believes that if we are going to provide space for roller hockey, it should be as part of a paved hockey rink area. Staff estimates that the cost to reline and convert tennis courts to pickleball courts will likely be about \$15,000-\$30,000. If the Council is interested in moving forward with this project, it would be funded from the Community Investment Fund.

### **SUMMARY**

Staff wanted to provide an opportunity for the Shoreview Area Pickleball Club to present their request to the Council. Staff is seeking direction from the Council on whether we should proceed with the request as recommended by the Park and Recreation Commission.

# November Totals for Shoreview Pickup Pickleball

Notes:

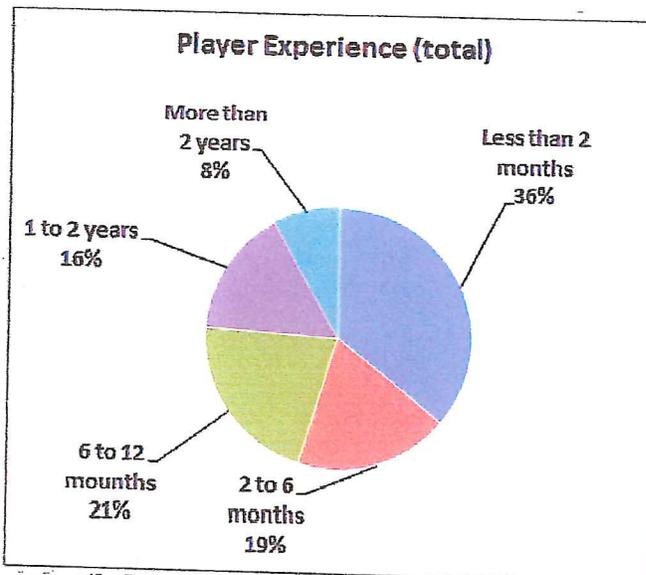
capacity or over capacity on all dates except Black Friday

\$351 Dollars paid for admission

3 memberships bought that I know of

76% of players have less than 1 year experience

36% of players learned to play at Pickup Pickleball the last 2 months



12/4/2013

City of Shoreview  
Parks and Recreation  
4580 Victoria St N

Request for 6 pickleball courts,

The Shoreview Area Pickleball Club (SAPC) with 71 members request that a tennis court be renewed into 6 pickleball courts. SAPC would also like to be involved in the design and site selection.

SAPC also recognizes that an annual fee of about 10\$ per person could be charged by the City of Shoreview for their scheduled usage of these courts.

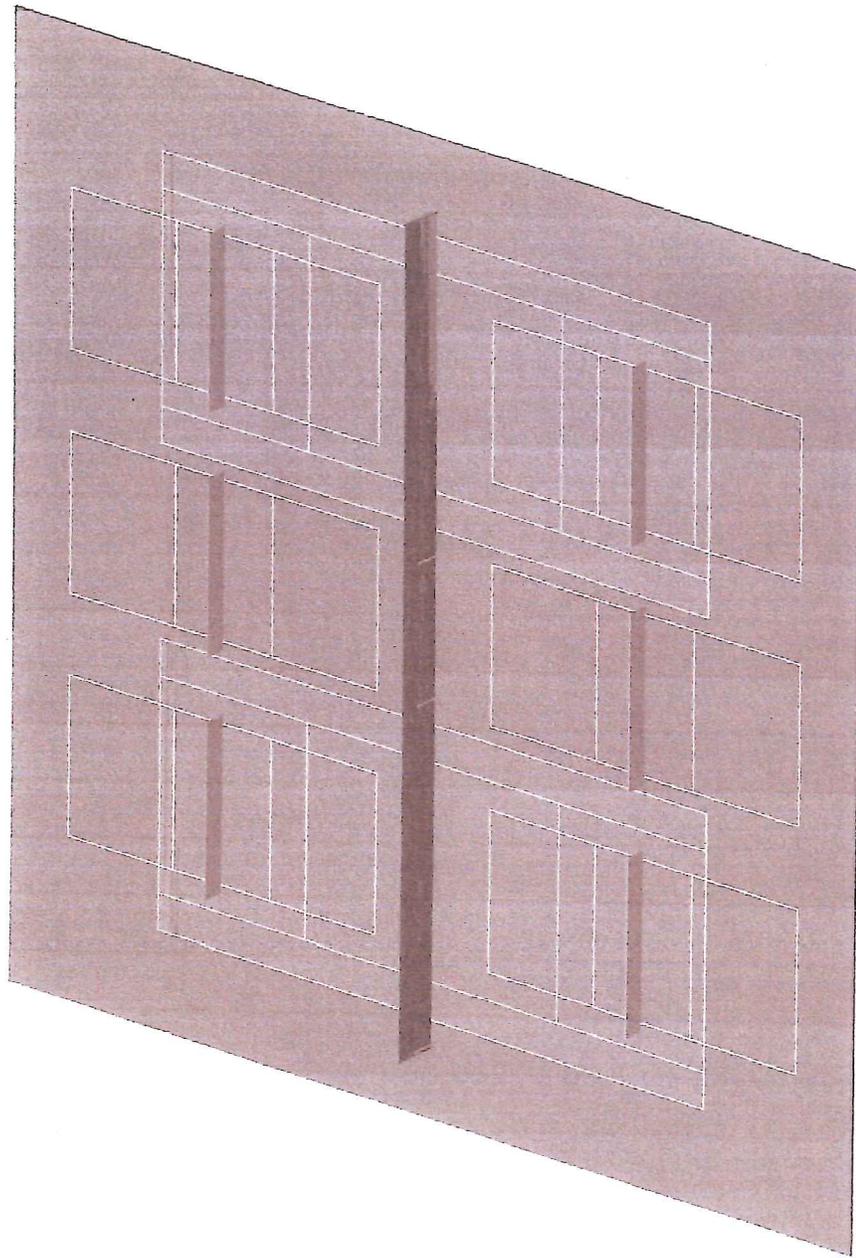
Thank you for considering our request.

Any questions please call John (651-353-6256)

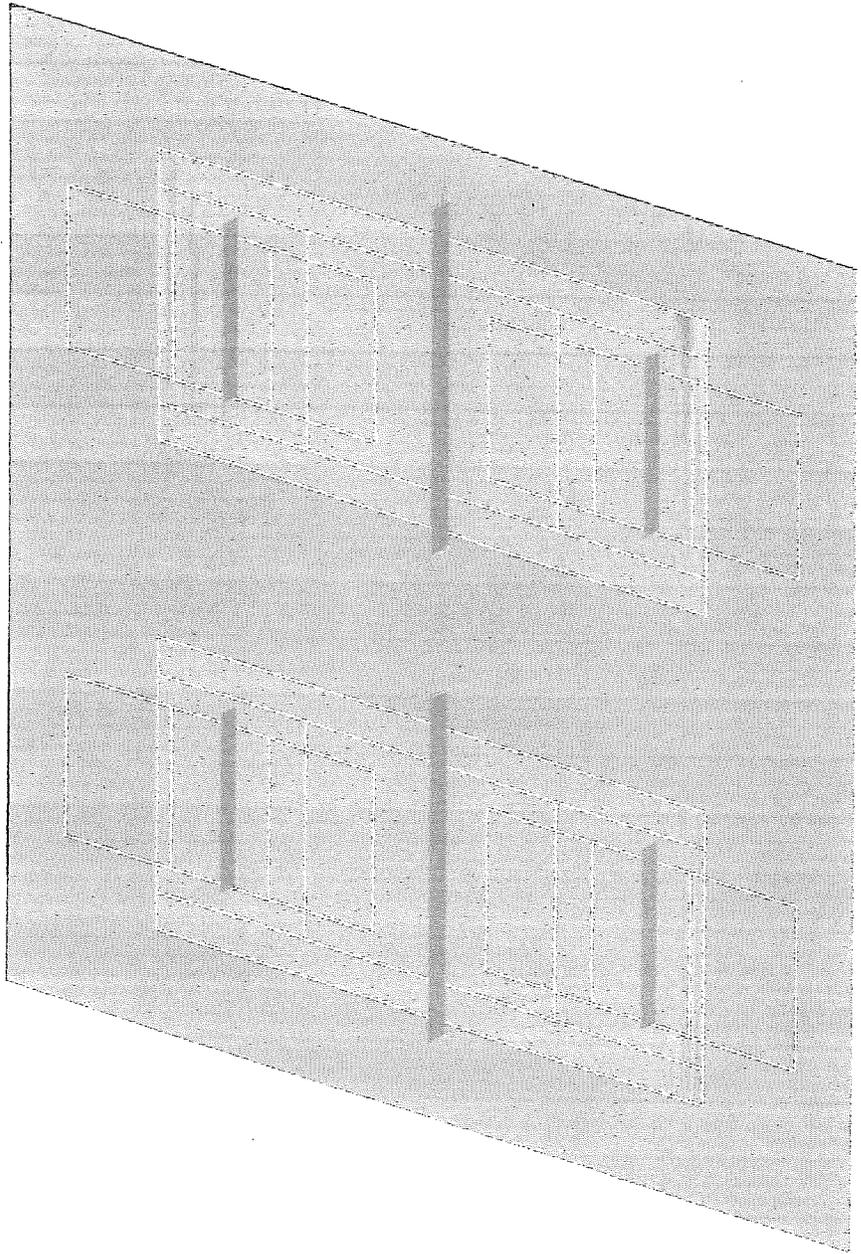
John Malmgren President  
Shoreview Area Pickleball Club(SAPC)

John Malmgren President SAPC • 651-353-6256 • 931 Tanglewood Drive

SHOREVIEW AREA PICKLEBALL CLUB(SAPC)







SCALE 0/1/3

**TO: MAYOR AND COUNCILMEMBERS**

**FROM: TERRY SCHWERM  
CITY MANAGER**

**DATE: DECEMBER 3, 2013**

**SUBJECT: DISCUSSION REGARDING PROPOSED AMENDMENT TO TOBACCO LICENSING  
REGULATIONS**

### **INTRODUCTION**

In 2012, the City updated its tobacco regulations based on recommendations from the Association for Non-Smokers-Minnesota (ANSR) and the North Suburban Tobacco Compliance Project. Since that update, there has been a tremendous increase in the sale and use of e-cigarettes and it has been recommended that cities further update their regulations to address this issue.

### **BACKGROUND**

Electronic cigarettes are battery operated nicotine vaporizers that are often designed to look like traditional cigarettes. The product is sold in cartridges filled with nicotine and users breathe in nicotine vapor produced by a small heating element. Since the e-cigarette is a relatively new product, little is known about the health impacts of the product. Attached is an information sheet on e-cigarettes published by the Ramsey Tobacco Coalition and a memo on regulating e-cigarettes by the Tobacco Control Legal Consortium.

Although the City's current ordinance does a fairly good job of regulating nicotine delivery devices (e-cigarettes come under this definition) the City Attorney reviewed the ordinance and is suggesting several minor amendments that would strengthen our code in this area.

Essentially, the proposed amendments provide a stronger and broader definition of nicotine delivery devices. In addition, the Code extends the City's regulation that prohibits tobacco or tobacco related product use and sampling in retail establishments to delivery devices. This would prevent the opening of vaping lounges, which has started to occur in other communities. All other regulations pertaining to the licensing and sale of tobacco products would continue to apply to e-cigarettes.

The proposed amendments to the ordinance were reviewed by the Public Safety Committee at its November meeting. One of the committee members suggested one minor language change and the committee recommended that the Council approve the proposed code amendments.

Katie Engman, from the Ramsey Tobacco Coalition, will be at the workshop meeting to answer any questions the Council may have about e-cigarettes. She also has samples of the products and can answer more detailed questions about e-cigarettes.

### **SUMMARY**

The staff wanted to review the proposed amendment with the Council prior to scheduling this on a regular agenda for approval.

## 706 Tobacco Products

706.010

**Purpose and Intent.** The purpose of this ordinance is to regulate the sale, possession and use of tobacco, tobacco products, tobacco-related devices, and ~~nicotine or lobelia~~ delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, and ~~nicotine or lobelia~~ delivery devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time. In making these findings, the City Council accepts the conclusions and recommendations of Center for Disease Control in their study “Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997,” and of the following medical professionals in these medical journals: Khuder SA, et al., “Age at Smoking Onset and its Effect on Smoking Cessation,” Addictive Behavior 24(5):673-7, September-October 1999; D’Avanzo B, et al., “Age at Starting Smoking and Number of Cigarettes Smoked,” Annals of Epidemiology 4(6):455-59, November 1994; Chen, J & Millar, WJ, “Age of Smoking Initiation: Implications for Quitting,” Health Reports 9(4):39-46, Spring 1998; Everett SA, et al., “Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students,” Preventive Medicine, 29(5):327-33, November 1999, copies of which are adopted by reference.

706.020

**Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) **Compliance Checks.** The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices, and ~~nicotine or lobelia~~ delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, tobacco-related devices, and ~~nicotine or lobelia~~ delivery devices.
- (B) **Individually Packaged.** The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other

packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

- (C) Indoor Area. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- (D) Loosies. The common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term “loosies” does not include individual cigars with a retail price, before any sales taxes, of more than \$2.00 per cigar.
- (E) Minor. Any natural person who has not yet reached the age of 18 years.
- (F) Moveable Place of Business. Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
- (G) Nicotine or Lobelia Delivery Devices. Any product containing or delivering nicotine or lobelia or any other substance intended or unintended for individual human consumption, or any component part of such a product. Delivery devices include those products that can be used to deliver nicotine, lobelia or any other substance that can be used to deliver nicotine, lobelia or any other substance through inhalation of vapor. Delivery device does not, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes and is being marketed and sold solely for that approved purpose.
- (H) Retail Establishment. Any place of business where tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores, restaurants, and drug stores.
- (I) Sale. Any transfer of goods for money, trade, barter or other consideration.
- (J) Self-Service Merchandising. Open displays of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices in any

manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.

- (K) Smoking. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco, plant, natural or synthetic product or inhaling or exhaling vapor or any other byproduct of a delivery device. ~~or plant product.~~ Smoking also includes carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.
- (L) Tobacco or Tobacco Products. Tobacco or tobacco products includes cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars, cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour, cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clipping, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- (M) Tobacco-Related Devices. Tobacco-related devices includes any tobacco product as well as a pipe, rolling papers, ashtray, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.
- (N) Vending Machine. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco-related devices or delivery device upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco-related device.

- (A) License Required. No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related device, or ~~nicotine or lobelia~~ delivery device without first having obtained a license to do so from the city.
- (B) Application. An application for a license to sell tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
- (C) Action. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.
- (D) Term. All licenses issued under this section shall be valid for the calendar year during which it is approved.
- (E) Revocation or Suspension. Any license issued under this section may be revoked or suspended as provided Section 706.130.
- (F) Transfers. All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.
- (G) Moveable place of business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.
- (H) Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
- (I) Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a

renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

- (J) Issuance as privilege and not a right. The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
- (K) Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any retail establishment or any licensed retail tobacco shop. Smoking for the purposes of sampling tobacco, ~~and~~ tobacco related products, delivery devices or any other product is prohibited.

**706.040** Fees. No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the City Code Exhibit B, as it may be amended from time to time.

**706.050** Basis for Denial of License.

- (A) Grounds for denying the issuance or renewal of a license under this chapter include but are not limited to the following:
  - (1) The applicant is under the age of 18 years.
  - (2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices.
  - (3) The applicant has had a license to sell tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices revoked within the preceding 12 months of the date of application.
  - (4) The applicant fails to provide any information required on the application, or provides false or misleading information.
  - (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
- (B) However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license;
- (C) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter.

706.060

**Prohibited Sales.** It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device:

- (A) To any person under the age of 18 years.
- (B) By means of any type of vending machine.
- (C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device between the licensee, or the licensee's employee, and the customer.
- (D) By means of loosies as defined in Section 706.020(D).
- (E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- (F) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

706.070

**Self-Service Sales.** It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices by any means whereby the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, tobacco-related devices, and ~~nicotine or lobelia~~ delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. This section shall not apply to retail stores which derive at least 90 percent of their revenue from tobacco, tobacco products, and tobacco-related products and delivery devices and where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.

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

**706.090**      **Compliance Checks and Inspections.** All licensed premises shall be open to inspection by the Ramsey County Sheriff's Office or other authorized city official during regular business hours. From time to time, but at least once per year, the city, or its designated law enforcement agency, shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices when those items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

**706.100**      **Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this chapter:

- (A)      **Illegal Sales.** It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device to any minor.
- (B)      **Illegal Possession.** It shall be a violation of this chapter for any minor to have in her or her possession any tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device. This shall not apply to minors lawfully involved in a compliance checks.
- (C)      **Illegal Use.** It shall be a violation of this chapter for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device.
- (D)      **Illegal Procurement.** It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco

product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco-related device, or ~~nicotine or lobelia~~ delivery device. This shall not apply to minors lawfully involved in a compliance check.

- (E) Use of False Identification. It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

**706.110** Exceptions and Defenses. Nothing in this chapter shall prevent the providing of tobacco, tobacco products, tobacco-related devices, or ~~nicotine or lobelia~~ delivery devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

**706.120** Severability. If any section or provision of this ordinance is held invalid, such invalidity shall not affect other sections or provisions which can be given force and effect without the invalidated section or provision.

**706.130** Administrative Fine, Suspension or Revocation. Any violation of the City's ~~r~~Regulations relating to the issuance of a Tobacco Products License or of any conditions/restrictions attached to the issuance of such license shall be cause for the imposition of an administrative fine, the suspension of the license or the revocation of the license pursuant to the procedures described in Shoreview Code Section 701.060.

If the violation relates to the sale of tobacco, tobacco products or delivery devices to minors by licensee or licensee's employees, the following administrative fines, suspensions or revocations shall be imposed:

- (A) The first such violation within 24 months shall subject the licensee to the payment of an administrative fine of \$250 plus an additional compliance check;
- (B) The second violation within 24 months shall subject licensee to the payment of an administrative fine of \$500 plus an additional compliance check;
- (C) The third violation within 24 months shall subject the licensee to the payment of an administrative fine of \$1,000 and to a minimum seven (7) business day suspension of the license;

- (D) The fourth violation within 24 months shall subject the licensee to the payment of an administrative fine of \$1,500 fine and to a minimum fifteen (15) business day suspension of the license;
- (E) The fifth violation within 24 months shall subject the licensee to the payment of an administrative fine of \$2,000 and to a minimum of thirty (30) business day suspension of the license.
- (F) The sixth violation within 24 months shall be cause for revocation of the license for up to one year.

The imposition of an administrative fine and a suspension of license or to a license revocation pursuant to this section shall be preceded by a hearing before the City Council.

**706.140**

**Administrative Fine – Individuals.** An individual who sells tobacco, tobacco products or delivery devices to a person under the age of 18 years of age will be charged an administrative penalty. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the City Council. A decision that a violation has occurred must be in writing. The following administrative fines shall be imposed:

- (A) First Violation within 24 months- \$50.00
- (B) Second Violation within 24 months- \$100.00
- (C) Third Violation within 24 months - \$150.00
- (D) Fourth Violation within 24 months - \$200.00
- (E) Fifth Violation within 24 months - \$250.00

Failure to pay this penalty by an individual who sells tobacco to a person under the age of 18 years of age will result in a misdemeanor violation for the first offense. Additional offenses within five years of a previous conviction will result in a gross misdemeanor.

**706.150**

**Administrative Penalties Procedures.** The following procedure should generally be followed for Council review of tobacco license violations that are subject to the administrative penalties established in 706.130 and 706.140:

- (A) The City Manager or designee will contact the licensee/seller asking if the licensee/seller will sign an admission of the facts of the alleged violation and an acceptance of the administrative penalty listed in Section 706.130 and 706.140. Licensees/sellers have the right to request a hearing before the City Council if not in agreement with the violation or the administrative penalty. The City Manager may also schedule a hearing

before the Council if he/she believes there is a valid reason to deviate from the administrative penalty.

- (B) If a hearing is requested, it will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. 14.57 to 14.70. The Council will issue written findings on the alleged violation and an order imposing sanctions, if any.
- (C) If the licensee/seller and the City Manager agree on the violation and the administrative penalty, a written admission will be provided to the Council with a proposed order. For first and second violations, the matter will be scheduled as part of the consent agenda, and it is expected that the Council will generally issue the proposed order without discussion. Nevertheless, the Council may choose to schedule the matter for special Council review and action. The City must provide at least ten (10) days notice to the licensee/seller before this review is conducted. Any violations beyond the second violation must be scheduled for a hearing before the Council.



One example of a rechargeable e-cigarette model



"blu" is a brand of electronic cigarettes manufactured by Lorillard, the company that makes Newport cigarettes. It is purposefully designed to look different than a cigarette for use by consumers in places with smoke-free policies.



This disposable electronic cigarette produced by NJOY costs about \$7. NJOY is the number one selling brand of electronic cigarettes.

## WHAT IS AN ELECTRONIC CIGARETTE?

Electronic cigarettes, also called e-cigarettes, are battery operated nicotine vaporizers that are produced primarily in China.<sup>1</sup> E-cigarettes often look like a traditional cigarette but do not produce smoke. The use of e-cigarettes is referred to as "vaping" rather than "smoking."

E-cigarette users purchase cartridges filled with liquid nicotine and other substances, attach the cartridge onto the e-cigarette battery, and breathe in nicotine vapor produced by a small heating element.

The cartridges are sold in many flavors such as cherry, bubblegum, vanilla, and fruit punch, making them appealing to youth.<sup>2</sup> Disposable e-cigarettes sell for about \$5 and rechargeable e-cigarettes cost up to \$120. E-cigarettes are often advertised as a safer alternative to tobacco cigarettes; however, the potential health risks associated with these products is not known.

Liquid nicotine found in e-cigarettes is derived from tobacco; however, most of the devices do not contain any tobacco. Similar to tobacco cigarettes, heavy metals, carcinogens, silicate, and nanoparticles (which can go deep into the lungs) have been found in e-cigarette vapor.<sup>3</sup>

## ARE ELECTRONIC CIGARETTES REGULATED?

The production and manufacturing of e-cigarettes is poorly regulated.<sup>4,5</sup> The Food and Drug Administration (FDA) has noted that "quality control processes used to manufacture these products are inconsistent or nonexistent." For example, three different e-cigarette cartridges with the same label were tested and each cartridge released a substantially different amount of nicotine with each puff.<sup>6</sup>

## WHAT ARE THE HEALTH EFFECTS OF ELECTRONIC CIGARETTE USE?

Because these products are so new, little is known about their long term health effects. There is a significant amount of research showing the harmful effects of nicotine: a highly addictive stimulant that increases blood pressure and heart rate.<sup>3</sup> E-cigarettes are designed to deliver high amounts of nicotine to the user. Often, e-cigarettes deliver more than two times the amount of nicotine approved by the FDA for smoking cessation aids.<sup>1</sup> Many of the ingredients found in e-cigarettes are known to be dangerous to human health. These ingredients can cause: lung and cardiac inflammation, cancer, and cell damage.



Many e-cigarettes are advertised as a smoke-free alternative, especially as a New Year's resolution. Source: Rolling Stone (January 17, 2013). Retrieved from [www.trinketsandtrash.org](http://www.trinketsandtrash.org)



Source: Ok! Magazine (October 3, 2011). Retrieved from [www.trinketsandtrash.org](http://www.trinketsandtrash.org)

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Ramsey Tobacco Coalition is a program of the Association for Nonsmokers-Minnesota.

## WHO USES ELECTRONIC CIGARETTES?

As a result of widespread availability, sales of e-cigarettes are increasing rapidly. Some predict that electronic cigarette sales could overtake traditional cigarette sales in the next decade. Electronic cigarettes are popular among people who are looking for an alternative to traditional cigarettes. These people are often looking for a "safer" alternative and the ability to smoke in places where cigarette smoking is prohibited.

## WHAT CAN I DO TO HELP PREVENT YOUTH ELECTRONIC CIGARETTE USE?

It is critical that local municipalities regulate e-cigarettes. All e-cigarette vendors should be licensed and subject to the same provisions as traditional tobacco retailers to ensure youth do not have access to these products. Minnesota state law currently regulates the sale of e-cigarettes by prohibiting sale to minors. Local ordinances should be updated at the county and city level to ensure that e-cigarettes are not sold to those under 18 years of age.

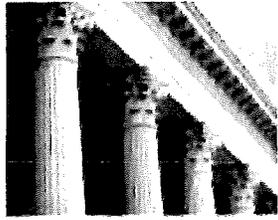
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Tobacco Control  
Legal Consortium



Tips and Tools

## Regulating E-Cigarettes

The Tobacco Control Legal Consortium has created this series of legal technical assistance guides to serve as a starting point for organizations interested in implementing certain tobacco control measures. We encourage you to consult with local legal counsel before attempting to implement these measures.<sup>1</sup> For more details about these policy considerations, please contact the Consortium.

### Electronic Cigarettes (E-Cigarettes)

Electronic nicotine delivery systems (“electronic cigarettes” or “e-cigarettes”) are products often shaped like cigarettes, cigars or pipes that are designed to deliver nicotine or other substances to a user in the form of a vapor. Typically, e-cigarettes consist of battery-powered heating elements and replaceable cartridges that contain nicotine or other chemicals, and an atomizer that, when heated, converts the contents of the cartridge into a vapor that a user inhales.

First marketed in China in 2004, these products are now available around the world, thanks largely to Internet sales and aggressive marketing claims promoting the safety, convenience and cost-effectiveness of e-cigarettes over conventional cigarettes. E-cigarette manufacturers also claim that because their products are non-combustible and emit a vapor rather than secondhand smoke they can be legally used where traditional tobacco products are banned. While proponents of e-cigarettes, including some in the public health community, view them as less hazardous alternatives to combustible cigarettes, others see them as gateway products to tobacco abuse and nicotine addiction and support their restriction or even removal from the market. Those in favor of regulating the product point out that e-cigarette cartridges are available in a variety of flavors that appeal to youth (such as bubblegum, chocolate and mint), and can be purchased at mall kiosks, where young people often congregate, as well as online, where safeguards against youth access can be breached more easily than in face-to-face purchases.



Public health authorities generally agree on the need for further scientific study to confirm the products’ unproven safety claims.<sup>2</sup> The Food and Drug Administration (FDA) and many leading public health organizations have expressed concern about the

lack of clinical studies on the potential health risks posed by e-cigarettes and the way these products are marketed without appropriate health warnings or legal age restrictions. In recent years, litigation between the FDA and e-cigarette manufacturers stemming from concerns about the safety and regulatory status of these products resulted in a temporary ban on the import of e-cigarettes into the United States.<sup>3</sup> Today, as discussed below, federal policy regarding the regulation of e-cigarettes is in transition. This brief guide provides pointers for communities and policy makers to consider when drafting or implementing laws or policies that regulate e-cigarettes.

## Policy Options

Public health organizations support regulating e-cigarettes for several reasons, such as: reducing youth initiation to nicotine and tobacco products, protecting the health of all users, and promoting the enforcement of smoke-free laws. There are several policy options that can advance these public health goals.

**Regulating Sale.** As discussed below, the FDA is developing a strategy to regulate e-cigarettes containing tobacco as tobacco products. State and local governments are not prevented from regulating the sale of tobacco products.<sup>4</sup> For example, a government could prohibit the sale of such products anywhere within its jurisdiction, prohibit the sale of such products to minors, require these products to be kept behind the counter, or allow these products to be sold only in places adults are permitted to enter.

**Regulating Marketing.** State and local governments have an interest in protecting the public from false or misleading claims about any product. Prohibiting e-cigarette manufacturers and retailers from making unsubstantiated marketing claims about the safety and benefits of these products is in the best interest of public health. Every state and some local governments have laws in place to control misleading product claims, and these laws may be enforceable against some e-cigarette marketing efforts. For instance, state consumer protection and unfair trade practices statutes typically prohibit false or misleading advertising about products sold within the state. State and local governments may also be able to consider options designed to limit the targeted marketing of e-cigarettes to minors. While commercial speech concerns can be a part of such a policy consideration,<sup>5</sup> thought should be given to how e-cigarettes are promoted in a community and whether restrictions can be placed on those efforts. Notably, a law prohibiting the sale of e-cigarettes would also be likely to substantially reduce the marketing of these products.

**Regulating Use.** Proponents of e-cigarettes claim these products are safer to use than traditional tobacco products, and do not expose bystanders to the risk of secondhand smoke.<sup>6</sup> Yet concern about the lack of scientific data on e-cigarettes has caused a growing number of state and local governments to prohibit their use in various public places—often under existing or new smoke-free laws. The goal of such legislation is generally to minimize the use of products that pose unknown health risks—particularly unregulated products that deliver powerful drugs, such as nicotine, to the user. Another legislative goal is to prevent confusion in the enforcement of smoke-free laws caused by

the perception that e-cigarette smokers (also known as “vapers”) are actually smoking conventional cigarettes. Omitting e-cigarettes from smoke-free laws could cause conventional smokers to assume that smoking is permitted and nonsmokers might become needlessly concerned at what they see as a violation of a smoke-free law.

### Policy Elements

Regardless of the type of policy effort pursued to regulate e-cigarettes, each policy shares a few common elements, such as:

- **Clear definitions and concise language:** To avoid confusion about what constitutes an e-cigarette, make sure your definitions are explicit about what they cover and broad enough to anticipate future product innovations. This eliminates ambiguity if new products are released that are similar to e-cigarettes but do not fall under a narrow definition.
- **Robust enforcement options:** Enforcing restrictions on the sale, marketing and use of e-cigarettes can be challenging unless clear procedures are established, including a reasonable penalty and appeal process. Effective enforcement of these policies often includes coordination among different enforcement agencies and consistent procedures throughout a community.
- **Well-planned implementation process:** Establish a process for publicizing the policy and educating the community, as well as procedures for receiving, tracking and following up on complaints. Make sure you set a realistic date for the policy to take effect.

### Policy Challenges

One of the most controversial issues affecting the regulation of electronic cigarettes has been debate over their status as either drug delivery (e.g., smoking cessation) devices or tobacco products. The regulatory status of e-cigarettes was at the heart of recent litigation between the FDA and e-cigarette manufacturers, including *Sottera Inc. v. Food & Drug Administration*.<sup>7</sup> Under the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), the FDA has authority to regulate “any product made or derived from tobacco that is intended for human consumption.” The brands of e-cigarettes being marketed most widely today do not contain tobacco, but most often do contain nicotine extracted from tobacco.<sup>8</sup> Between 2008 and 2010, the FDA determined that certain e-cigarettes were unapproved drug/device combination products, comparable to nicotine patches, which the agency has regulated for years under the drug and device provisions of the federal Food, Drug and Cosmetic Act (FDCA).

In December 2010, the U.S. Court of Appeals for the D.C. Circuit issued a decision in *Sottera*, stating that e-cigarettes and other products “made or derived from tobacco” are not “drugs,” “devices,” or combination products, unless they are marketed for therapeutic purposes – and that the FDA can regulate them as tobacco products under the Tobacco

Control Act. On April 25, 2011, the FDA announced it will not appeal the court's decision and that it is now developing a strategy to regulate e-cigarettes containing tobacco as tobacco products under the Tobacco Control Act. For the latest federal information about regulating e-cigarettes, visit the FDA's website at <http://www.fda.gov>.

As with any tobacco product, state and local policies restricting the sale and marketing of e-cigarettes may be subject to legal challenges, such as Commercial Speech or Commerce Clause claims.<sup>9</sup> Policies regulating the use of e-cigarettes may also be challenged in court, particularly since e-cigarette restrictions are often included in smoke-free laws, requiring drafters to redefine "smoking" to include the use of not only cigarettes, cigars, pipes and other traditional tobacco products, but also e-cigarettes. Communities may want to consider a comprehensive approach that targets similarly addictive gateway products on the market now or in the future (such as nicotine water or lobelia e-cigarettes).

### Select Legislation and Policies

Below are a few examples of tobacco control policies that include provisions regulating the sale, marketing or use of e-cigarettes.<sup>10</sup> Many of these provisions are included in smoke-free laws. Local and state governments might also want to consider other legislative avenues or regulatory options, such as pricing strategies.

If you consider adapting any language from the following policies, take care to ensure the provision in question is practical and legal in your jurisdiction. Please note that the Tobacco Control Legal Consortium does not endorse or recommend any of the following policies. These examples are included simply to illustrate how various jurisdictions have defined and regulated these products.

| Locality/State | Policy Name  | Text of Policy  |
|----------------|--|---|
| Minnesota      | <u>Tobacco Modernization and Compliance Act of 2010, Minn. Stat. § 609.685</u> | Regulates sale of e-cigarettes and imposes criminal penalties for the sale of nicotine or <u>lobelia</u> delivery products, including e-cigarettes, to minors.<br><br>"Whoever sells to a person under the age of 18 years a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined by section 609.685, is guilty of a misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor."<br><br><b>Definition:</b> A nicotine delivery device is "a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined by section 609.685." |

|                                  |   |  |
|----------------------------------|---|--|
| New Hampshire                    | <u>An Act Prohibiting the Sale of E-Cigarettes to Minors, Chap. 0113</u>                                  | Prohibits sale of e-cigarettes and liquid nicotine to minors, distribution of free samples of such products in a public place, and use of such products on grounds of any public educational facility.<br><br><b>Definition:</b> “ <i>E-cigarette</i> means any electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic circuits that provides a vapor of pure nicotine mixed with propylene glycol to the user as the user simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, ore-pipes, or under any other product name.” |
| New Jersey                       | <u>New Jersey Smoke-Free Air Act, P. L. 2009, Chap. 182</u>   | Prohibits the smoking of tobacco products and the use of electronic smoking devices in all enclosed indoor places of public access and workplaces.<br><br><b>Definition:</b> “ <i>Electronic smoking device</i> means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, or pipe.”  |
| Utah                             | <u>Utah Code § 76-10-101, 104, 105, 111</u>   | Regulates sale, gift, or distribution of e-cigarettes by manufacturer, wholesaler, or retailer.<br><br><b>Definition:</b> “ <i>Electronic cigarette</i> means any device, other than a cigarette or cigar, intended to deliver vapor containing nicotine into a person’s respiratory system.”  |
| Suffolk County, New York         | <u>A Local Law Banning the Sale of E-Cigarettes to Persons Under the Age of 19, Local Law No. 29-2009</u> | Prohibits the sale of e-cigarettes to minors and “the use of e-cigarettes and like products in public places where traditional forms of smoking are already allowed.”<br><br><b>Definition:</b> “ <i>E-cigarette</i> shall mean any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquid nicotine and/or other substances mixed with propylene glycol to the user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.”                  |
| <b>Organizations</b>             |   |  |
| Americans for Nonsmokers’ Rights | <u>Model Ordinance</u>  | <b>Findings:</b> “Unregulated high-tech smoking devices, commonly referred to as electronic cigarettes, or ‘e-cigarettes,’ closely resemble and purposefully mimic the   |

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Prohibiting Smoking in All Workplaces and Public Places act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system. After testing a number of e-cigarettes from two leading manufacturers, the Food and Drug Administration (FDA) determined that various samples tested contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." ("Summary of results: laboratory analysis of electronic cigarettes conducted by FDA," *Food and Drug Administration (FDA)*, July 22, 2009; <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>.) E-cigarettes produce a vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions."

**Definition:** "*E-cigarette* means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor."

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### Other Helpful Resources

The Americans for Nonsmokers' Rights website contains the latest news, reports and related [resources on e-cigarettes](#). For guidance and regulatory information about e-cigarettes, check the Food and Drug Administration's [website on e-cigarettes](#). For a different perspective on e-cigarettes, visit the website of the [American Association of Public Health Physicians](#).

### Contact Us

Please feel free to contact the [Tobacco Control Legal Consortium](#) with any questions about the information included in this guide or to discuss local concerns you may have about implementing such a policy regulating e-cigarettes.

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<sup>1</sup> The information contained in this document is not intended to constitute or replace legal advice.

<sup>2</sup> American Heart Assoc. et. al., *Policy Guidance Document Regarding E-Cigarettes* (April 9, 2010) (this document was released prior to the final decision in *Soterra Inc. v. Food & Drug Admin.*, but contains useful information about e-cigarettes from major public health organizations).

<sup>3</sup> The Food and Drug Administration took enforcement action against several e-cigarette manufacturers for violations of the Federal Food, Drug, and Cosmetic Act (FDCA), including unsubstantiated claims and poor manufacturing practices. For information about the litigation between the FDA and e-cigarette manufacturers, as well as legal documents related to the enforcement actions taken by the FDA regarding these products, visit the FDA's e-cigarette website at <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm>.

<sup>4</sup> Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31, 123 Stat. 1776 (codified, in relevant part, at 15 U.S.C.A. §§ 1333-34 and 21 U.S.C.A. § 301 *et seq.* (2010)) (preserving local and state authority to regulate the sale of tobacco products).

<sup>5</sup> See Tobacco Control Legal Consortium, *Restricting Tobacco Advertising – Tips and Tools* (2011).

<sup>6</sup> Proponents claim that e-cigarettes emit an odorless vapor made of water and harmless chemicals rather than the hazardous secondhand smoke of combustible cigarettes.

<sup>7</sup> *Sottera, Inc. v. Food & Drug Admin.*, 627 F.3d 891 (D.C. Cir. 2010).

<sup>8</sup> Generally, the nicotine in electronic cigarettes is “derived from natural tobacco plants.” However, it is not entirely clear whether that is true of all electronic cigarettes currently on the market, or whether it will be true of future products. Furthermore, not all electronic cigarettes contain nicotine; some contain comparable chemicals such as lobelia. Letter from Michael M. Levy, Jr., Director, Division of New Drugs and Labeling Compliance, Food & Drug Administration, to William P. Bartkowski, President, Ruyan American, Inc. (Sept. 8, 2010), available at <http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm225181.htm>.

<sup>9</sup> See Tobacco Control Legal Consortium publications on Commercial Speech and Commerce Clause issues in the regulation of tobacco products on its website section, Federal Regulation of Tobacco Products, at <http://publichealthlawcenter.org/topics/special-collections/federal-regulation-tobacco-collection>.

<sup>10</sup> Several other states are considering legislation to regulate the sale and use of e-cigarettes and a growing number of countries, such as Australia, Canada, Brazil, Israel, Mexico and Hong Kong, have imposed marketing restrictions on these products. Also, back in 2008, the World Health Organization announced that it does not consider e-cigarettes an effective nicotine-replacement therapy and that these products need to undergo toxicity analyses and “operate within the proper regulatory framework.”

*Updated: May 2011*

**TO: MAYOR AND COUNCILMEMBERS**

**FROM: TERRY SCHWERM  
CITY MANAGER**

**DATE: DECEMBER 4, 2013**

**SUBJECT: REVIEW UPDATED PEDDLER ORDINANCE**

### **INTRODUCTION**

The City's current peddler/solicitor ordinance is out of date and needs to be updated to reflect current standards and regulations. The City Council is being asked to review a draft of the revised ordinance prior to placing it on a City Council agenda for formal adoption.

### **BACKGROUND**

The City's current peddler/solicitor ordinance needs to be updated to reflect current licensing standards. The current ordinance requires that all peddlers and solicitors be licensed by the City. The primary difference between a peddler and solicitor is that a peddler goes door to door selling products that they carry with them, while a solicitor is a person going door to door attempting to solicit orders for goods or services. According to our City Attorney and the League of Minnesota Cities, the City does not have the ability to license solicitors due to provisions of the Interstate Commerce Clause which provides the Federal government the exclusive authority to license interstate commerce. The League of Minnesota Cities has developed a model ordinance that can be used by cities.

Kevin Beck, an attorney from the Kelly and Lemmons firm, has worked with staff to develop a proposed ordinance for Shoreview. The ordinance is based primarily on the LMC model, but has been modified somewhat to reflect how Shoreview typically handles peddlers/solicitors.

As noted earlier, under our current ordinance the City collects a fee and licenses all peddlers and solicitors that operate in the City. The current fee is \$100 for 60 days and helps cover the administrative costs of running background police checks on all individuals who will be going door to door in the City. From time to time, we have denied licenses to some solicitors based on these background checks. Since nearly every license we issue is for a solicitor, rather than a peddler, a key policy issue is whether the City wants to continue to do background checks on solicitors, even though they cannot be licensed or charged a fee. (The City anticipates losing about \$2500-\$5000 per year in licensing fees).

Both the City staff and the Public Safety Committee, who reviewed the proposed ordinance at their November meeting, believe there are some benefits in performing background checks on

solicitors. The Public Safety Committee and staff feel that having the names and contact information and performing police background checks of people that are going door to door is in the best interest of public safety in the City. Therefore, the proposed ordinance includes a registration process for solicitors that requires the City to perform background checks and issue a registration certificate for most door to door solicitors in the City. These background checks are conducted by the Ramsey County Sheriff's Department and typically take from about 10—14 days to complete. The registration process includes an opportunity for the solicitor to appeal a staff decision of denial to the City Council. In addition, the Sheriff's Department could issue a citation to someone who solicits in the City without first obtaining a registration certificate.

The other parts of the ordinance generally pertain to the licensing of peddlers even though that is a fairly rare occurrence in the City.

### **SUMMARY**

Staff wanted an opportunity to review the proposed new peddler/solicitor licensing and registration ordinance with the Council prior to placing the ordinance on an agenda for formal consideration.

## 709 Peddlers and Solicitors

**709.010 Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

~~(A)~~ “City Manager” shall mean the Shoreview City Manager or his/her designee.

~~(A)~~~~(B)~~ “Non-Commercial Door-to-Door Advocate” shall mean a person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term commercial door-to-door advocate shall fall under the terms solicitor or peddler and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

~~(B)~~~~(C)~~ “Peddler” shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

~~(C)~~~~(D)~~ “Person” shall mean any natural individual, group, organization, corporation, partnership, or similar association.

~~(D)~~~~(E)~~ “Professional Fundraiser” shall mean any person, including a corporation or other entity, who, for compensation, performs any solicitations or other services for a religious, political, social, or other charitable organization.

~~(E)~~~~(F)~~ “Regular Business Day” shall mean any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

~~(F)~~~~(G)~~ “Solicitor” means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

(G)(H) “Transient Merchant” shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.

**709.020** **Exceptions to Definitions.** For the purpose of this chapter, the terms Peddlers and, Solicitors, ~~and Transient Merchants~~ shall not apply to:

(A) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Persons engaging in non-commercial door-to-door advocacy shall not be required to apply for a license under § 709.030 or to register as a solicitor under ~~Section §~~ 709.070.

(B) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(C) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(D) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(E) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(F) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(G) Any person participating in an organized multi-person bazaar or flea market.

(H) Any person conducting an auction as a properly licensed auctioneer.

(I) Any officer of the court conducting a court-ordered sale.

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

**709.030** **Licensing and Registration; Exemptions**

(A) County License Required. No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first obtaining the appropriate license from the city or county as may be required by Minnesota Statutes Chapter 329, as ~~it may be~~ amended from time to time, ~~if the county issues a license for the activity.~~

(B) City License Required. Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to Section 709.070.

~~(C)~~ City Registration Required. All solicitors and any person exempt from the licensing requirements of this ordinance shall be required to register with the City prior to engaging in those activities. Registration shall be made on a registration form provided by the City Manager, but no fee shall be required. The City Manager shall conduct a background check on registrants. Within a reasonable time upon completion of the registration form, the City Manager shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

~~(B)~~

~~(C)~~(D) Application. An application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the ~~e~~City ~~e~~lerk~~Manager~~.

All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name.
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- (3) A physical description of the applicant (hair color, eye color, height, weight).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence, if one exists.
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.

- (7) Full address of applicant's regular place of business, if any exists.
  - (8) Any and all business-related telephone numbers of the applicant, including cellular phones.
  - (9) The type of business for which the applicant is applying for a license.
  - (10) The dates during which the applicant intends to conduct business.
  - (11) ~~Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.~~
  - (12) A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
  - (13) A list of the three (3) most recent locations where the applicant has conducted business as a peddler ~~or transient merchant.~~
  - (14) Proof of any required county license.
  - (15) ~~Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.~~
  - (16) A general description of the items to be sold or services to be provided.
  - (17) Any and all additional information as may be deemed necessary by the City Council.
  - (18) The applicant's driver license number or other acceptable form of government identification.
  - (19) The license plate number and physical description, including make, model, and color, for any vehicle to be used in conjunction with the licensed business operation.
- (~~D~~)(E) Fee. All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.
- (~~E~~)(F) Procedure. Upon receipt of the application and payment of the license fee, the City Clerk-Manager will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the City Clerk-Manager determines that the

application is incomplete, ~~the City Clerk he/she~~ must inform the applicant of the required, necessary information that is missing. If the application is complete, the ~~city clerk~~ City Manager must order any investigation, including background checks, necessary to verify information provided with the application. Within ten (10) regular business days of receiving a complete application, the City ~~Clerk~~ Manager must issue the license unless grounds exist for denying the license application under Section 709.040, in which case the ~~clerk must deny the request for a city peddler or transient merchant~~ license must be denied. If the City ~~Clerk~~ manager denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within ~~twenty (20) thirty (30) calendar~~ days of the date of the request of the hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

~~(F)~~(G) Duration. All licenses granted to peddlers ~~and transient merchants~~ under this ordinance shall be valid for sixty (60) days.

~~(G)~~(H) Professional Fundraisers Not Exempt. A professional fundraiser working on behalf of an otherwise exempt group or person shall not be exempt from the licensing requirements of this ordinance.

~~(H)~~(I) License Exemptions.

- (1) No license shall be required for any person to sell or attempt to sell, or take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
- (2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

#### **709.040 License Ineligibility.**

The following shall be grounds for denying a peddler ~~or transient merchant~~ license:

- (A) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.
- (B) The failure of an applicant to truthfully provide any information requested by the City as part of the application process.

- (C) The failure of an applicant to sign the license application.
- (D) The failure of an applicant to pay the required fee at the time of application.
- (E) A conviction within the past five (5) years of the date of application for **any** violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- (F) The revocation within the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler or, solicitor, ~~or transient merchant~~.
- (G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

**709.050 License Suspension and Revocation**

- (A) Generally. Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:
  - ~~(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.~~
  - ~~(2)(1) Fraud, misrepresentation or false statements made or~~ during the course of the licensed activity.
  - ~~(3)(2)~~ Subsequent conviction of any offense to which the granting of the license could have been denied under Section 709.040.
  - ~~(4)(3)~~ Engaging in any prohibited activity as provided under Section 709.080 of this ordinance.
  - ~~(5)(4)~~ Violation of any other provision of this ordinance.
- ~~(B) Multiple Persons Under One License. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business~~

~~as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.~~

~~(C)~~(B) Notice. Prior to revoking or suspending any license issued under this chapter, the City shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

~~(D)~~(C) Public Hearing. Upon receiving the notice provided in part (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the ~~city clerk~~ City Manager within ten (10) calendar days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within ~~twenty~~ thirty (2030) calendar days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

~~(E)~~(D) Emergency. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler ~~or transient merchant~~ licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this section.

~~(F)~~(E) Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

#### **709.060 License Transferability.**

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

#### **~~709.070 Registration.~~**

~~(A) All solicitors and any person exempt from the licensing requirements of this ordinance under 709.030 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.~~

~~(B) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.~~

**709.080 Prohibited Activities.**

~~It shall be a violation of this ordinance for any~~ No peddler, solicitor, ~~transient merchant,~~ non-commercial door-to-door advocate, or other person engaged in other similar activities ~~shall to~~ conduct business in any of the following manner:

- (A) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- (B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.
- (C) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (D) Conducting business before ~~9~~ 8 am or after 8 pm.
- (E) Failing to provide proof of license, or registration, and identification when requested.
- (F) Using the license or registration of another person.
- (G) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, ~~or~~ solicitor, ~~or transient merchant~~ shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
- (H) Remaining on the property of another when requested to leave.
- (I) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

**709.090 Exclusion By Placard.**

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

- (1) At least four inches long.
- (2) At least four inches wide.
- (3) With print of at least 48 point in size.
- (4) Stating “No Peddlers, Solicitors, or Transient Merchants,” “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

**709.100 Penalty.**

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

**709.110 Severability.**

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.