

Chapter #6

MUNICIPAL REGULATION AND LICENSING (Non-Liquor)

601.01. Application of regulations.

Subd. 1. **Compliance required.** It shall be unlawful for any person either directly or indirectly to engage in any business, or to use in connection therewith any vehicle, premises, machine, or device, in whole or in part, for which a license or permit is required by any provision of this title or any other law or ordinance of this municipality, without a license or permit therefor being first procured and kept in effect at all times as required by any provision of this title or any other law or ordinance of this municipality.

Subd. 2. **One act constitutes doing business.** For the purpose of this title any person shall be deemed to be engaged in any business for which a license or permit is required, and thus subject to the requirements of this title, when he or she does one act of:

- a. Selling any goods or service for which a license is required;
- b. Soliciting this type of business or offering those goods or services for sale or hire; or
- c. Acquiring or using any vehicle or any premises in this municipality for this type of business purposes.

Subd. 3. **Agents responsible for obtaining license.** The agents or other representatives of non-residents who are doing business in this municipality shall be personally responsible for the compliance with the provisions of this title by their principals and of the businesses they represent.

Subd. 4. **Separate license for branch establishments.** A license shall be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under any provision of this title shall not be deemed to be a separate place of business or branch establishment.

Subd. 5. **No license required for mere delivery.** No license shall be required of any person for any mere delivery in this municipality of any property purchased or acquired in good faith from that person at his or her regular place of business outside the corporate limits, where no intent by the person is shown to exist to evade the provisions of this title.

601.02. Application for licenses.

Subd. 1. Every person required to procure any permit, license, or transfer under the provisions of this title or any other law or ordinance of this municipality shall submit an application for the license to the Manager-Clerk in writing.

Subd. 2. The application shall conform to the following:

- a. Be a written statement upon forms provided by the Manager-Clerk, which form shall include an affidavit to be sworn by the applicant before a person authorized to administer an oath;
- b. Contain all information necessary to comply with the subdivision of this title under which the license is required and any other information required by the application;
 - 1) Contain, in addition to all other matters required by ordinance or by law to be shown, the following facts set forth: Name and address of applicant;
 - 2) Purpose for which license or permit is asked;
 - 3) As to license any occupation or permit the doing of any act, the place within the corporate limits where that occupation or act is to be carried on or done; and
 - 4) The length of time the license or permit is to cover.
- c. All questions on the application blank must be answered and all information required must be furnished. Any application for a license made by an individual owner shall be signed and sworn to by that owner; if made by a partnership, it shall be signed and sworn to by one of the partners; and if made by a corporation, by one of the duly elected officials of the corporation.

601.03. Fees, bonds, and insurance as required. Every applicant for any permit, license, or transfer of a license to be issued or granted by this municipality shall pay the full amount of the permit fee, license fee, or transfer fee required by this code and other ordinances of this municipality, and shall file the application, any bond, insurance policy, or certificate therefor, and certified copy of a state license, if these are required for the license.

601.04. Fees established. Except as otherwise specifically stated in the regulations for specific licenses or permits, the fees for the various licenses, permits, and transfers shall be as fixed or estimated by the City or as otherwise provided in the fees ordinances adopted hereafter.

601.05. License conditions or restrictions. The Council may impose conditions on the granting of the license, including, but not limited to, the requirement of public liability insurance coverage in amounts as the Council deems necessary to protect life and property.

601.06. License bonds; procedure. If the provisions under which any license is to be issued require the licensee to furnish a bond, the bond shall be duly executed by the licensee and a corporate surety, and shall be furnished to the Manager-Clerk at the time the application is filed or as soon thereafter as the Manager-Clerk shall request. The bond shall be in an amount and with those penalty provisions as shall be required by the aforementioned provisions and shall be approved as to form, execution, surety, and amount by the Manager-Clerk. The bonds may be in a form as will terminate with the annual license period or may be in a form so as to provide for

automatic renewal in the event the license is renewed.

601.07. License issuance. Applications for a license shall be filed with the Manager-Clerk on or before April 15 of each year unless a different time is necessary under provisions for specific licenses. Upon approval by the City Council, the Manager-Clerk shall issue a license. The Council may revoke a license at any time, for cause, following a hearing conducted as hereinafter provided.

601.08. License contents. Each license issued under this title shall state upon its face the following:

- a Name of the licensee and any other name under which the business shall be conducted and the activity licensed;
- b The name and address of each business so licensed;
- c The amount of license fee;
- d The dates of issuance and expiration thereof; and
- e Other information as the Manager-Clerk or Council shall determine.

601.09. License period. A license shall be valid for one year. All permits, licenses, or transfers issued under any provision of this title shall terminate on June 30 next following the date of issuance thereof, unless a different termination date with respect to specific licenses shall be specifically provided with respect to a permit, license, or transfer. If a license is not renewed on or before June 30 of each year, then all rights granted by that license shall cease.

601.10. Duties of licensee.

Subd. 1. **Compliance required.** Every licensee and permittee under any provision of this title or other ordinances of this municipality shall have the duties set forth in the divisions which follow.

Subd. 2. **Duties.** The licensee or permittee shall:

- a *Permit inspection.* Permit all reasonable inspections of his or her business and examinations of his or her books and records by the authorities so authorized by law;
- b *Comply with governing law.* Ascertain and at all times comply with all laws, ordinances, and regulations applicable to the business;
- c *Cease business.* Refrain from operating the licensed business after expiration of his or her license and during the period his or her license is revoked or suspended;
- d *Display license.* All licenses, tags, plates, or other method of identification authorized by this title or other ordinances of the municipality shall be kept on display at a conspicuous

place on the licensed premises, vehicle, or device; or where neither premises, vehicle, or device are licensed, on the person of the licensee; or in the case of licenses for billboards or signboards, at the place of business of the licensee;

- e *Maintain possession of license.* Not loan, sell, give, or assign, to any other person, or to allow any other person to use or display or to have in his or her possession, any license or insignia which has been issued to the licensee;
- f *Pay taxes.* Pay prior to date penalty attaches for non-payment, all special assessment and real and personal taxes levied against real and personal property owned by the licensee and used in the licensed business; and
- g *Allow inspections.* All persons licensed hereunder are subject to proper periodic inspections, so far as to give the police officers and other duly authorized inspectors the right and power at all times to enter upon their premises for the purpose of ascertaining the manner in which the business is being conducted.

601.11. Enforcement.

Subd. 1. **Inspections.** It shall be the duty of the police officers to inspect and examine all premises, businesses, and enterprises subject to license, or which have been licensed by this municipality, and the City Manager-Clerk shall have the right to direct any police officer, or any other appropriate officer to make inspections at all reasonable times.

Subd. 2. **Sealing of unlicensed, defective, or unsafe machines or devices and affixing license insignia.** Any food vending machine, cigarette vending machine, pinball machine, children's amusement device, mechanical amusement device, or other amusement device which is defective or unsafe, or which is licensed and has no license tag or other license insignia affixed as required by law, or is required to be licensed and the machine or device is not currently licensed, may be sealed by a tape or wire to prevent its continued use. The tape or tag attached to the seal shall state that the machine or device is not to be used.

Subd. 3. **Removing seal, using machine prohibited.** No person shall remove or deface a seal affixed under these provisions except under the direction of an authorized agent of this municipality. No person shall use any machine or device on which a seal has been affixed under the provisions hereof.

601.12. Termination of license.

Subd. 1. At any time that the City Manager-Clerk or other official responsible for enforcement shall determine that any person licensed under this title or other ordinance of this municipality shall have failed to comply with any requirement of law or with any provision of this title, the Manager-Clerk shall notify the licensee in writing of the violation, this notice to be delivered by the U.S. Mail or personally as the Manager-Clerk may determine, and deposit of the notice in the U.S. Mail, addressed to the address stated on the license application, shall constitute service of the notice. If the person cannot be otherwise found the notice may be posted on the premises

licensed. The notice shall require compliance with the provision of law, code, or ordinance specified within a reasonable time to be specified by the Manager-Clerk.

Subd. 2. Upon expiration of that time, unless the licensee shall have requested a hearing in writing, the Manager-Clerk, in the event that the license involved shall have been issued by the Manager-Clerk, may terminate the license, or in the event that the license has been issued by the Council, the Manager-Clerk shall report the matter to the Council and the Council may thereafter terminate the license, subject to compliance with any procedure prescribed by the provisions of the ordinance or code section pursuant to which the license or permit was issued.

601.13. Hearing.

Subd. 1. In the event that a hearing is requested by the licensee, the City Manager-Clerk shall set a time for the hearing not less than 10 days and not more than 20 days after the request, at which time the Manager-Clerk shall hear all testimony offered by the licensee, and shall inform the licensee of all information upon which alleged violation of law by the licensee has been determined. If the Council has issued the license, the hearing shall be conducted by the Council. On completion of the hearing, the Manager-Clerk or Council, as the case may be, may make a final order suspending or terminating the license in question.

Subd. 2. Upon the entry of any suspension or revocation order by the Manager-Clerk, the licensee may appeal the determination of the Manager-Clerk to the Council by filing a request for an appeal with the Manager-Clerk within ten days after receipt of notification of the order of the Manager-Clerk, and the Council shall thereupon promptly hear the licensee and review the determination of the Manager-Clerk and make its final order sustaining or modifying the determination of the Manager-Clerk.

601.14. Payment of taxes on licensed premises required. It shall be a condition to the issuance of any license by this municipality pursuant to this code or any of the ordinances of this municipality hereinafter referred to and amended, that all real estate taxes and special assessments levied against the premises licensed shall be paid prior to the last date when payable without penalty. Upon receipt of evidence that the taxes or special assessments levied against any licensed premises have become delinquent, the Manager-Clerk shall notify the licensee of the delinquency and that all licenses issued for the premises under the circumstances hereinafter described shall be terminated and canceled 30 days after date of the notice, and unless the taxes and special assessments are paid and the County Treasurer's receipt for the same delivered to the City Manager-Clerk within that 30-day period, the license described in the notice shall upon termination of the 30-day period be deemed cancelled and terminated; provided, however, that no license shall be cancelled or terminated during the time in which any judicial proceeding is pending challenging the validity of the amount of the tax or special assessment in question.

Part 2. REGULATION OF THE SALE OF TOBACCO & TOBACCO RELATED DEVICES

602.01 Purpose. The purpose of this Part is to regulate the sale, possession, and use of tobacco and tobacco related devices, to protect minors from the serious effects associated with the use of tobacco; to further the public policy of the State of Minnesota in regard to preventing young people from starting to smoke; and to protect the general health and welfare of citizens of the City of Pierz.

602.02 Definitions.

Subd. 1. **Tobacco.** Cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco related devices.

Subd. 2. **Tobacco related devices.** Cigarette papers or pipes for smoking.

Subd. 3. **Tobacco Hearing Board.** Board appointed by the Pierz City Council to hear challenges to the administrative penalties imposed under this Ordinance.

602.03 License.

Subd. 1. Any person who keeps for retail sale, sells at retail, or otherwise disposes of tobacco or tobacco related devices at retail shall first obtain a tobacco license from the City.

Subd. 2. The license fee for a tobacco license shall be set by the City Council. Tobacco licenses shall expire on the 31st day of June each year.

Subd. 3. Applications for tobacco licenses shall be made through the City Clerk=s Office. Licenses shall be issued by the Pierz City Council.

Subd. 4. Tobacco licenses shall be issued only to a particular person and for a specific place. No tobacco licenses shall be issued to a movable place of business.

Subd. 5. Tobacco licenses shall be posted and displayed on the licensed premises in plain view of the public.

602.04 Basis For Denial of License. The Pierz City Council may deny issuance or renewal of a tobacco license or revoke a tobacco license already issued for any of the following reasons:

Subd. 1. The applicant is under 18 years of age.

Subd. 2. The applicant has been convicted, within the past five years, of violation of Federal, State, or local law or regulation relating to the sale of tobacco.

Subd. 3. The applicant had a license for the sale of tobacco revoked within the preceding twelve (12) months.

Subd. 4. The applicant fails to provide information required on the application form or provides false or misleading information.

Subd. 5. The applicant is prohibited by Federal, State, or other local law or regulation from holding such license.

Subd. 6. The applicant is delinquent in the payment of Federal, State or local taxes.

Subd. 7. The applicant or proposed business location is in violation of any local ordinances.

602.05 Prohibited Acts.

Subd. 1. No person shall keep for retail sale, sell at retail, or otherwise dispose of tobacco or tobacco related devices at retail:

- a. Without first obtaining a tobacco license from the City of Pierz,
- b. Unless a current City of Pierz tobacco license is posted and displayed on the licensed premises in plain view of the general public,
- c. Unless a sign warning of the dangers of tobacco uses is displayed on the licensed premises in plain view of the general public, said sign must be of a size and type approved by the Pierz Council,
- d. In open displays which are accessible to the public without intervention of a store employee

Subsection (d) does not apply to retail stores which derive at least 90% of their revenue from the sale of tobacco and tobacco related devices.

Subd. 2. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

602.06. Administrative Penalties.

Subd. 1. If a licensee, employee, or agent of the licensee, violates the provisions of this Ordinance, or any State law relating to the sale of tobacco or tobacco related devices, the licensee shall be charged an administrative penalty of no less than \$75.00 for the first violation, no less than \$200.00 for the second violation within 24 months after the initial violation, and no less than \$250.00 for a third or subsequent violation within 24 months after the initial violation. In addition, the licensee's authority to sell tobacco shall be suspended for no less than seven (7) days upon a third or subsequent violation.

Subd. 2. No license shall be suspended or revoked nor other penalty take effect until the licensee has received notice, either by being served personally or by mail, of the alleged violation and has

had an opportunity for hearing. The hearing shall be held before the Tobacco Hearing Board. The request for a hearing must be made in writing by the licensee within fourteen (14) days from mailing or ten (10) days from personal delivery of the notice of violation. Requests for hearings shall be directed to the Pierz City Clerk.

Subd. 3. If the licensee fails to request a hearing within the time limits stated in Paragraph B, the Tobacco Hearing board may accept the allegations as accurate and shall determine the appropriate administrative penalty.

Subd. 4. If a hearing is requested, it shall be held within three (3) weeks of receipt of the request. The licensee shall have the right to hear evidence concerning the accusation, cross examine witnesses, and offer evidence in his/her defense. The hearing is open to the public. The Tobacco Hearing Board may act if a majority of its members are present and participate in the decision.

Subd. 5. If the Tobacco Hearing board determines that a violation of the Ordinance occurred, that decision along with a statement of the facts supporting the violation and the penalty imposed shall be recorded in writing and a copy shall be provided to the violator. If the Tobacco Hearing Board determines that no violation occurred or that no penalty shall be imposed, such findings shall be recorded in writing and a copy provided to the accused individual.

Subd. 6. Appeals of any decision made by the Tobacco Hearing Board shall be filed in the District Court in Morrison County. Such appeals must be filed within 30 (thirty) days of receipt of a written notice of determination.

Subd. 7. Any individual other than the licensee who is found to have violated this Ordinance shall be charged an administrative penalty of \$50.00. Such person has the hearing rights outlined above.

Subd. 8. Nothing in this Section shall prevent the State of Minnesota or the City of Pierz from seeking criminal prosecution of individuals who violate laws relating to the sale of tobacco or tobacco related devices.

602.07. Criminal Penalty. A violation of any portion of this Ordinance constitutes a misdemeanor offense punishable according to the laws of the State of Minnesota.

602.08 Fees. Fees shall be set annually by resolution at the first meeting of the year.

Part 3. MAILBOXES & TUBES

603.01. Placement. No person shall place a mailbox along the road right-of-way within the municipality, on personal property, or the property of someone else unless the following conditions are met:

- a When a road is built or a new road is constructed, the City Council shall determine placement of mailboxes.
- b Patrons receiving mail delivery must live on property abutting a rural route.
- c Mailboxes are not permitted along CSA #39, CSA #43 or on Main Street except where designated by the City.

603.02. Specification. Mailboxes installed within the corporate limits of the City of Pierz shall have the following specifications:

Box size:	8" wide x 21" long x 10 2 A high
Box color:	Silver or white
Pole height:	42"
Set back from curb:	8" to 12" from curb or outside edge of shoulder
Pole style:	MNDOT approved swing away
Placement on lot:	next to driveway approach or 5 feet from lot corner if not on driveway side of lot

603.03 Maintenance. Each individual receiving mail by rural delivery will be responsible for the maintenance and upkeep of both the post and the mailbox. Boxes and supports in clusters are the joint responsibility of those individuals receiving mail at that location.

603.04. Permit Required. No person shall install a mailbox along a rural route without a permit from the City.

- a A copy of the approved permit must be presented to the Post Office to attain a route and mailbox number.
- b If a mailbox is to be placed on someone else=s property along the designated route, permission from the property owner must be obtained in writing.
- c If a house is sold on an existing route, application for a new mailbox must be made by the new owner.
- d If a new home is constructed along an existing route, an application for a permit must be made.
- e No newspaper delivery tubes are permitted.

Part 4. SEXUALLY-ORIENTED BUSINESSES THE REGULATION AND LICENSING

604.01. Purpose. The purpose of this provision of the Pierz City Code is to prescribe licensing requirements for sexually-oriented businesses in order to protect the general health, safety, and welfare.

604.02. Findings of The City Council. The City Council of the City of Pierz makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as previously

studied by the City Council in adopting its Zoning Code provisions regulating the location of adult entertainment facilities.

Subd. 1. Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services, as well as causing increased costs for prosecution services.

Subd. 2. Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

Subd. 3. Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

Subd. 4. Sexually-oriented businesses can cause or contribute the public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

Subd. 5. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

604.03. Conclusions of The City Council. In direct furtherance of the substantial goals of public health, safety, and welfare, the Pierz City Council adopts the following licensing regulations, recognizing that it has a great interest in the promotion of health and the prevention of criminal activity. It is not the intent of this Section to inhibit the freedom of speech component of sexually-oriented businesses; instead, this Section represents a balancing of competing interests: reduced criminal activity through the regulation of sexually-oriented businesses versus the protected rights of participants in sexually-oriented businesses and their patrons. Thus, this Section is designed to alleviate undesirable social problems that accompany sexually-oriented businesses without curtailing the constitutionally protected expression.

604.04. Definitions.

Subd. 1. **Adult Body Painting Studio**, Adult Book Store, Adult Companionship Establishment, Adult Entertainment Facility, Adult Mini Motion Picture Theater, Adult Modeling Studio, Adult Motion Picture Theater, Adult Sauna, Sexually-Oriented Business, Specified Anatomical Areas and Specified Sexual Activities are defined in Pierz Zoning Ordinance, Section as amended.

Subd. 2. **Booths, Stalls, or Partitioned Portions of a Room or Individual Room.** Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct; or Enclosures which are part of a business operated on the premises which offers movies or

other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee. The phrase booths, stalls, or partitioned portions of a room or individual rooms does not mean enclosures which are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

Subd. 3. **City.** City of Pierz, Minnesota.

Subd. 4. **Clean.** The absence of dirt, grease, rubbish, garbage, semen, bodily excretions, and other offensive, unsightly, or extraneous matter.

Subd. 5. **Doors, Curtains or Portal Partitions.** Full, complete, nontransparent closure devices through which one cannot see or view activity taking place within the enclosure.

Subd. 6. **Fondle or Caress.** An affectionate touching, rubbing or stroking with the intent to sexually arouse or excite.

Subd. 7. **Good Repair.** Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

Subd. 8. **Health Inspectors.** Inspectors employed by the County of Morrison or their agents.

Subd. 9. **Licensed Facility.** Any premises requiring a license under this Section.

Subd. 10. **Minor.** Any natural person under the age of eighteen (18) years.

Subd. 11. **Nudity.** The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

Subd. 12. **Open to an Adjacent Public Room so That The Area Inside is Visible to Persons in the Adjacent Public Room.** Either the absence of any entire door, curtain or portal partition or a door or other device which is made of clear, transparent material such as a glass, plexi-glass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

Subd. 13. **Patron.** A customer of a licensed facility.

Subd. 14. **Person.** One or more natural persons; a partnerships, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.

604.05. License Required. No person shall own or operate a sexually-oriented business within the City unless such person is currently licensed under this Ordinance Chapter.

604.06. License Application. The application for a license under this Chapter shall be made on a form supplied by the City Clerk and shall request the following information:

Subd. 1. for all applicants:

- a Whether the applicant is a natural person, corporation, partnership, or other form of organization.
- b The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

Subd. 2. If the applicant is a natural person:

- a The name, place and date of birth, street and city address, and phone number of the applicant.
- b Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
- c The street and city addresses at which the applicant has lived during the preceding two (2) years.
- d The type, name and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.
- e Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were made.

Subd. 3. If the applicant is a partnership:

- a The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart B of this section.
- b The name(s) of the managing partner(s) and interest of each partner in the business.
- c A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. '333.01, a certified copy of such certificate shall be attached to the application.

Subd. 4. If the applicant is a corporation or other organization:

- a The name of the corporation or business form, and if incorporated, the state of incorporation.

- b A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minn. Stat. ' 303.06, shall be attached.
- c The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in subpart B of this Section.

604.07. Application Execution And Verification. If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof. Applications for licenses under this Article shall be submitted to the City Clerk. Within twenty (20) calendar days of receipt of a completed application and payment of all licensing application fees, the City Clerk or designee shall verify any and all of the information requested of the applicant in the application including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this Chapter.

604.08. Application Consideration. No later than fifteen (15) calendar days after the completion of the license application verification and investigation by the City Clerk, as prescribed in these ordinances, the City Clerk shall accept or deny the license application in accordance with this Chapter. If the application is denied, the City Clerk shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right, within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the City Clerk's determination to the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received by the City Clerk, the hearing before the City Council shall take place within twenty (20) calendar days of the City Clerk's receipt of the request for appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be issued to the licensee until a certificate of occupancy has been issued for the license premises. During the application consideration process prescribed herein, an applicant operating a business not previously subject to the license requirement of this Chapter may remain operating pending the outcome of the application consideration, including appeals to the City Council or final outcome of an appeal to a court of law.

604.09. Fees.

Subd.1. **Application Fee.** The license application fee shall be set by the Council at the first meeting of each year. The license application fee shall be paid in full before the application for a license is accepted. All fees shall be paid to the City Clerk for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before approval by the City Clerk the license fee shall be refunded to the applicant. When the license is for premises where the building is not ready for occupancy, the time fixed for

computation of the license fee for the initial license period shall be ninety (90) days after approval of the license by the issuing authority or upon the date an occupancy permit is issued for the building.

Subd. 2. **Investigation Fee.** An applicant for any license under this ordinance shall deposit with the issuing authority, at the time an application is submitted, an investigation fee as set by the Council at the first meeting of each year to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. The investigation fee shall be non-refundable.

604.10. Persons And Locations Ineligible For a License. The City Clerk shall issue a license under this Chapter to an applicant unless one (1) or more of the following conditions exist:

Subd. 1. The applicant is a minor at the time the application is submitted

Subd. 2. The applicant failed to supply all of the information requested on the license application;

Subd. 3. The applicant gave false, fraudulent, or untruthful information on the license application;

Subd. 4. The applicant has had a sexually-oriented license revoked within a one (1) year period immediately preceding the date the application was submitted;

Subd. 5. The applicant has had a conviction of a felony or a gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;

Subd. 6. The sexually-oriented business does not meet all of the zoning requirements prescribed in the City of Pierz Zoning Code. This provision shall not apply to a business existing at the time this Chapter and ordinance is enacted which is not yet required to comply with the Pierz Zoning Code;

Subd. 7. The premises to be licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;

Subd. 8. The applicant has not paid the license and investigation fees required.

604.11. Renewal Application.

Subd. 1. All licenses issued under this Chapter shall be effective for only one (1) year commencing with the date of approval by the City Clerk or City Council. An application for the renewal of an existing license shall be submitted to the City Clerk at least thirty (30) calendar days prior to the expiration date of the existing license.

Subd. 2. Within twenty (20) calendar days of receipt by the City Clerk of a fully completed renewal application, the City Clerk or designee shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Chapter. No later than fifteen (15) calendar days after the completion of the renewal application verification and investigation by the City Clerk or designee, as prescribed herein, the City Clerk shall issue a renewal license unless one (1) or more of the following conditions exist:

- a The applicant is a minor at the time the application is submitted;
- b The applicant failed to supply all of the information requested on the renewal application;
- c The applicant gave false, fraudulent, or untruthful information on the renewal application;
- d The sexually-oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this Chapter;
- e The sexually-oriented business does not meet the zoning requirements prescribed in the Pierz Zoning Code;
- f The premises licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- g The applicant has had a conviction of any crime listed in this Chapter; or
- h The applicant has had a sexually-oriented license revoked within a one (1) year period immediately preceding the date of the application was submitted.

Subd. 3. If the City Clerk denies a renewal application, the City Clerk shall notify the applicant in accordance with this Chapter and the notice shall, in addition, state the grounds for the denial.

Subd. 4. After the denial of a renewal application by the City Clerk, the applicant may appeal the City Clerk's determination to the City Council in accordance with this Chapter or by immediately challenging the determination in a court of law. If the City denies renewal of a license under this Chapter, the applicant shall not be issued a license under this Chapter for one (1) year from the date of denial. If, subsequent to the denial, the City finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial was final.

604.12. General License Restrictions.

Subd. 1. **Posting of License.** A license issued under this Chapter must be posted in a conspicuous place in the premises for which it is used.

Subd. 2. **Effect of License.** A license issued under this Chapter is only effective for the compact and contiguous space specified in the approved license application.

Subd. 3. **Maintenance of Order.** A licensee under this Chapter shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises, including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an

employee or independent contractor of the licensee constituting a violation of this Chapter shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

Subd. 4. Special Requirements for Live Adult Entertainment. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where entertainment can be seen by patrons, customers or spectators shall:

- a provide social entertainment on a platform intended for that purpose which is raised at least two feet from the level of the floor;
- b provide said entertainment at a distance no closer than six (6) feet to any patron;
- c not fondle or caress any patron;
- d Not solicit any pay or gratuity from any patron.

Subd. 5. No patron, customer or spectator of a licensed facility providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas shall:

- a fondle or caress any performer, dancer or other person, providing live entertainment;
- b directly pay or give any gratuity to any performer, dancer or other person providing live entertainment.

604.13. Restrictions Regarding License Transfer. A license granted under this Chapter is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application. When a sexually-oriented business licensed under this Chapter is sold or transferred, the existing licensee shall immediately notify the City Clerk of the sale or transfer. If the new owner or operator is to continue operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this Chapter.

604.14. Restrictions Regarding Hours of Operation. A licensee shall not be open for business to the public during the following hour: Not open before 5:30 a.m. nor after 1:00 a.m.

604.15. Restrictions Regarding Minors. No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of eighteen (18) years. Proof of age may be established only by: a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

604.16. Restrictions Regarding Sanitation and Health.

Subd. 1. **Partitions Facilitating Sexual Activity.** A licensee under this Chapter shall not allow any partition between a subdivision, portion, or part of the licensed premises having any aperture which is designed or constructed to facilitate sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks, or female breast between persons on either side of the partition.

Subd. 2. **Restrictions on Booths, Stalls, and Partitions.** A licensee under this Chapter shall not allow or have on the licensed premises or adjoining areas any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment that have doors, curtains, or portal partitions, unless such booths, stalls, or partitions have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms. Seating or reclining surfaces inside any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall be prohibited.

Subd. 3. **Authority of Health Inspectors.** The Morrison County Health Inspectors shall have the authority to inspect or cause to be inspected the licensed premises and adjoining areas in order to ascertain the source of infection or reduce the spread of communicable diseases. Such officials shall have the authority to issue appropriate orders to the licensee regarding health and sanitation.

Subd. 4. **Limitation on Number of Persons in Partitioned Areas.** Any booths, stalls, or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall not be occupied by more than one (1) person at a time.

Subd. 5. **General Sanitation Requirements.** All sexually-oriented businesses shall at all times be kept clean as defined herein and in a state of good repair as defined herein.

Subd. 6. **Duty to Supervise.** The licensee shall not permit specified sexual activities as defined herein to take place on the premises and shall have an affirmative duty to supervise the licensed premises and prevent such activities.

604.17. Civil Sanctions for License Violations.

Subd. 1. **Suspension.** The City Council may suspend a license issued pursuant to this Chapter for up to sixty (60) days if the City Council determines that a licensee has violated the following:

- a Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
- b Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
- c Any violation of this Chapter or state law.

- d A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364.03, Subd.2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, Subd.3.
- e Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

Subd. 2. **Revocation.** The City Council may revoke a license if the City Council determines that:

- a The licensee's license was suspended in the preceding fourteen (14) months and an additional cause for suspension as detailed in (A) above is found by the City Council to have occurred within the fourteen (14) month period;
- b the licensee gave false or misleading information in the material submitted to the City during the application process;
- c a licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- d a licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;
- e a licensee violated any of the provisions of Minnesota Statutes Section 617.241-617.299 relating to the illegal distribution, possession, or sale of obscene materials;
- f a licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;
- g a licensee has been convicted of an offense listed in this Chapter for which the time period required has not elapsed;
- h on two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in this Chapter for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed.
- i a licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or
- j) a licensee is delinquent in payment to the City, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, or other government imposed financial obligation.

Subd. 2. **Hearing Procedures.** A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight (8) days notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the application.

604.18. Criminal Penalty. A violation of this article shall be a misdemeanor under Minnesota law, punishable by a fine not to exceed \$1,000 or imprisonment not to exceed ninety (90) days, or both.

Part 5. RENTAL HOUSING, MAINTENANCE, REGULATION AND LICENSING

605.01. Purpose. The purpose of this ordinance is to enhance the supply of safe, sanitary and adequate housing for the citizens of Pierz and to prevent the deterioration of existing housing. The objectives of this ordinance include, but are not limited to, the following:

Subd. 1. Protection and preservation of the stability and residential character of residential areas in the City.

Subd. 2. The prevention and correction of housing conditions that adversely affect the life, safety, health and general well-being of persons occupying rental dwellings in the City.

Subd. 3. The establishment of minimum standards for light, ventilation, cooling, heating and sanitary equipment necessary to insure the health and safety of occupants of rental dwellings.

Subd. 4. The establishment of minimum standards for the maintenance of rental dwellings.

Subd. 5. The prevention of the emergence of blighted and deteriorating housing in the City.

Subd. 6. The prevention of overcrowding of rental dwellings.

Subd. 7. The preservation of the value of land and buildings in the City.

605.02. Definitions.

Subd. 1. **Basement.** A portion of a building located partly underground but having less than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Subd. 2. **Board of Adjustment.** The Pierz City Council shall act as the Pierz Board of Adjustment.

Subd. 3. **Cellar.** A portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Subd. 4. **Compliance order.** An order issued by the rental property inspector instructing the rental property owner to bring the rental premise up to standards as defined in the Rental Housing Maintenance Ordinance.

Subd. 5. **Dwelling.** Any building, including a manufactured home, which is wholly or partially used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a dwelling

Subd. 6. **Dwelling unit.** Any building, room, or group of rooms, including a manufactured home, located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating by human occupants.

Subd. 7. **Extermination.** The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the city.

Subd. 8. **Garbage.** The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

Subd. 9. **Habitable room.** A room or enclosed floor space used or intended to be used for the purposes of living or sleeping, excluding bathrooms, water closet compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces. A room or enclosed floor space used or intended to be used for the purposes of cooking or eating shall be considered as a room or space being used or intended to be used for the purpose of living under this definition.

Subd. 10. **Infestation.** The presence, within or around a dwelling, of any insects, rodents, or other pests.

Subd. 11. **Inspector.** Police Chief, or other person designated by the Police Chief.

Subd. 12. **Local property manager.** A local property manager is a person residing within 50 miles of the City of Pierz who is authorized by the rental property owner to make decisions for the owner about rental, occupancy and maintenance of the rental property.

Subd. 13. **Multiple dwelling.** Any dwelling containing 2 or more dwelling units.

Subd. 14. **Occupant.** Any person over 1 year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit.

Subd. 15. **Operator.** Any person who has charge, care, or control of a building or part thereof in which dwelling units are let.

Subd. 16. **Ordinary minimum winter conditions.** The temperature 15 °F above the lowest recorded temperature for the previous 10-year period.

Subd. 17. **Owner.** Any person who alone, jointly, or severally with others:

- a. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- b. Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such persons thus representing the actual owner shall be bound to comply with the provisions of this section and of any rules and regulations adapted pursuant thereto, to the same extent as if they were the owner.

Subd. 19. **Plumbing.** Any of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

Subd. 18. **Registrant.** The person or persons who have registered the rental property with the City of Pierz.

Subd. 19. **Rental.** The leasing of a rental unit to a non-owner for a fixed or non-fixed period of time and shall include lease to buy, contract for deed, installment sales, purchases whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of either a statutory mortgage foreclosure procedure, a statutory termination of contract for deed procedure, or a statutory repossession procedure and other similar procedures.

Subd. 20. **Rental unit.** Any room or group of rooms located within a dwelling and forming a single habitable unit.

Subd. 21. **Combustible and noncombustible waste materials** except garbage, and the term shall include, but not be limited to the residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

Subd. 22. **State codes.** The Minnesota State Building Code as adopted by City of Pierz.

Subd. 23. **Substantiated disorderly conduct.** Conduct for which a police investigation was warranted based upon probable cause or a complaint.

Subd. 24. **Supplied.** Paid for, furnished, or provided by or under the control of the owner or operator.

Subd. 25. **Temporary housing.** Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

605. 03. Application.

Subd. 1. This ordinance applies to buildings, their premises, accessory structures thereto and dwelling units therein, used or designed to be used as rented residences by tenants. All rental premises lawfully existing on the effective date of this ordinance and registered as provided herein need not be altered to comply with City Code, except in the following cases:

- a. If a portion of the building is altered, that portion must be built pursuant to the codes in effect at the time of alteration.
- b. If the building is moved or relocated.
- c. If the building or a portion thereof is determined to be unsafe or hazardous by the Building Official, pursuant to this Ordinance, State Codes or State Law, that portion deemed unsafe must be corrected to current Codes.
- d. If the rental premise's occupancy exceeds the standards of State Codes.

605.04. Service equipment and utilities.

Subd. 1. Except as otherwise provided by law, an owner or operator of a rental premises may not cause service equipment or utility service to be removed, shut off or discontinued for any occupied rental premises, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies or if there is an outstanding utility bill that is 30 to 60 days or more over due. The owner of the rental property is responsible for all City of Pierz utility bills.

605.05. Transfer of responsibility. A contract between owner and operator, operator and occupant, or owner and occupant, with regard to compliance with this Ordinance, does not relieve the owner or operator of duties imposed by this Ordinance.

605.06. Notice of maximum occupancy. An owner or operator must advise the occupant, in writing, of the maximum number of occupants permitted in the rental premises. The maximum number of occupants shall not exceed the limits of State Codes.

605.07. Registration of Rental units.

Subd. 1. **General Rule:** It is unlawful to operate a rental premises without first having the rental premises registered and inspected. All newly constructed rental premises must be registered prior to being rented.

Subd. 2. **Operation of Rental Premises While Registration Revoked or Suspended:** It is unlawful to operate a rental premises while the registration for said premises is revoked or suspended. The rental premise must also be inspected before renting.

Subd. 3. **Property Manager:** Each rental premise must have an owner who resides within 50 miles of the City of Pierz, or a Local Property Manager designated in writing by the owner who resides within 50 miles of the City of Pierz.

Subd. 4. **Information:** Applications for registration must be made by the owner of the rental premises. The following information must be supplied:

- a. Name, address and telephone number of rental premises owner, owners partners if a partnership, corporate officers if a corporation;
- b. Name, address, and telephone number of a designated local property manager, if any;

- c. Legal and street address of the dwelling;
- d. Number of dwelling units within the dwelling; and
- e. The maximum occupancy of the premises.

Subd. 5. **Notice of Change:** The registrant must give notice in writing to the City within (5) business days after any change of the information in the application.

Subd. 6. **Transfer:** The registrant must give notice in writing to the City within (5) business days after having legally transferred or otherwise disposed of the effective control of a registered rental premises. The notice must include the name and address of the person succeeding to the ownership or control of the rental premises. For purposes of this subdivision the term "effective control" means that control exercised over property by a business proprietor, whether as owner or lessee or by an owner or lessee of other property.

Subd. 7. **Rental Registration License:** The license fee for registration of all rental premises shall be fixed and determined by the City Council, adopted by resolution. Such rental registration license fees may, from time to time, be amended by the Council by resolution.

Subd. 8. **Background Checks:** All registered owners of licensed rental premises shall be entitled to criminal history background checks of convictions for prospective tenants through the Pierz Police Department. The fee for this service shall be set by resolution by the Pierz City Council.

605.08. Inspections and Investigations.

Subd. 1. There will be one initial inspection of all rental units within the City of Pierz. Rental inspections will take place every 3 years and notice will be provided to landlords. All newly constructed rental units shall be exempt from inspections for (5) five years unless a formal written complaint is filed by a tenant or a request is made by the owner of the rental unit. The cost of the inspection shall be paid by the rental property owner. The amount of the inspection shall be set by the City Council by resolution. Said resolution shall be on file with the City Clerk. All other inspections shall take place after a formal written complaint has been made by the occupant of the rental unit. If no violation is found the occupant of the rental unit will pay the inspection fee.

Subd. 2. The Police Chief, or any other person designated by the City Council are hereby authorized to make inspections reasonably necessary for the enforcement of this ordinance. During the inspection, the person designated by the City Council shall use the Cities Rental Property Inspection Checklist. This checklist will be reviewed by the planning and zoning commission by the third regularly scheduled meeting of the even numbered years or as required by law. Fees for making inspections shall be set by and altered by the City Council.

Subd. 3. All persons authorized herein to inspect shall have the authority to enter, with a 24-hour notification to the landlord unless consent to enter is granted either from the landlord or the tenant, any dwelling, dwelling unit, rental dwelling or rental unit pursuant to the provisions of this section.

Subd. 4. Persons inspecting any dwelling, dwelling unit, rental dwelling, or rental unit as provided herein shall notify the owner of all violations, if any, by written notice. The notice shall direct that compliance be made within a reasonable time not to exceed 60 days, unless extended by the compliance official based on good cause. The dwelling, dwelling unit, rental dwelling, or rental unit shall be reinspected.

Subd. 5. **Notice of violation:** A notice of violation shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon the owner personally or if the owner is served with such notice by any other method authorized or required under the laws of this state.

Subd. 6. **Hearing:** Any person affected by any notice which has been issued in connection with the enforcement of any provision of this section or of any rule or regulation adopted pursuant hereto may request and shall be granted a hearing on the matter before the Board of Adjustment, provided that such person shall file with the city a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within 10 days after the date the notice was served upon the person. Upon receipt of such petition, the city shall set a time and place of such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced by the city within a reasonable time, not to exceed 30 days after the date on which the petition was filed, except that, upon request of the petitioner, a postponement of the date for hearing beyond the 30 days could be granted by the city for good cause shown.

Subd 7. **Order of the Board:** After such hearing, the Board of Adjustment shall sustain, modify, or withdraw the notice depending upon its finding as to whether the provisions of this section and any rules and regulations adopted pursuant hereto have been complied with. If the Board of Adjustment sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this section shall automatically become an order if a written petition for a hearing is not filed with the city within 10 days after such notice is served. The decision of the Board of Adjustment shall be final.

Subd. 8. **Records at hearing:** The proceedings at any hearing, including the findings and decision of the Board of Adjustment, shall be summarized, reduced to writing, and entered as a matter of public record with the city. Such record shall also include a copy of every notice or order issued in connection with the matter

Subd. 9. **Emergency Action:** Whenever the Police Chief, or other designated person finds that an emergency exists which requires immediate action to protect the public health, the city, Police Chief, or other designated person may, without notice or hearing, issue an order citing the existence of such an emergency requiring that such action be taken as deemed necessary to meet the emergency and if deemed necessary, closing off all or a portion of a rental dwelling or rental unit until the emergency condition causing the emergency is corrected. Notwithstanding the other provisions of this section, such order shall be effective immediately. Notice of the emergency action

shall be posted at the units or areas of the dwelling or dwelling units affected and shall be served upon the owner or agency as set forth herein. No person shall remove the posted notice other than the Police Chief, or other designated person. Any person to whom such order is directed shall immediately comply therewith, but upon petition to the city shall be afforded a hearing as soon as possible. After such hearing and depending upon whether compliance with the provisions of the section and of the rules and regulations adopted pursuant hereto is found, the city may continue such order in effect or modify or revoke it.

Subd. 10. **Further actions or injunctive relief:** Nothing in this section shall prevent the city from taking affirmative action under any of its city fire, housing, zoning, or other health safety codes or any other state or federal statutes or laws for violations thereof to seek either injunctive relief or criminal prosecution for such violations in accordance with the terms and conditions of a particular ordinance or code under which the city would proceed against the property owner, designated property administrator, or occupant of any residential rental dwelling unit covered by these registration and inspection requirements. Nothing contained in this section shall prevent the city from seeking injunctive relief against a property owner or designated property administrator who fails to comply with the terms and conditions of this chapter on registration to obtain an order closing such rental units until violations of this particular section or other section of this ordinance have been remedied by the property owner or designated property administrator.

Subd. 11. **Penalty:** A person found to be in violation of this section is guilty of a misdemeanor. Each day in which any such violation shall continue shall be deemed a separate offense.

Subd. 12. The city may also enforce this section administratively in the following manner:

- a First violation. Violators shall pay an administrative penalty of \$250 and bring the dwelling, dwelling unit, or premises into compliance as required under this section within 30 days or such other time period as may be designated under this section.
- b Second violation. Violators shall pay an administrative penalty of \$500 and bring the dwelling, dwelling unit, or premises into compliance as required under this section within 30 days or such other time period as may be designated under this section.
- c Third violation. Violators shall pay an administrative penalty of \$1,000 and bring the dwelling, dwelling unit, or premises into compliance as required under this section within 30 days or such other time period as may be designated under this section, or suspension, revocation, or refusal to renew registration of a rental unit or such other provisions as set forth in this section.

605.09. Restrictions on transfer of ownership. It is unlawful for the owner of a rental premises upon whom a Compliance Order has been served, to sell, transfer, or lease or otherwise dispose of the rental premises until the Compliance Order has been complied with, unless the owner furnishes to the buyer or lease a true copy of any Notice of Violation or Compliance Order and obtains and possesses a receipt of acknowledgment. A person other than a tenant obtaining an interest in the rental premises who has received notice of the existence of a Compliance Order is bound by the order without further notice and is subject to the penalties and procedures provided by this Chapter.

605.10. Conduct on registered premises.

Subd. 1. It shall be the responsibility of the occupant to conduct themselves in such a manner as not to cause the premises to be disorderly. It shall be the responsibility of the owner to maintain the premises in an orderly fashion as provided herein.

Subd. 2. Disorderly conduct is defined as follows: Whoever does any of the following which will, or will tend to , alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct: 1) engages in brawling or fighting; or 2) disturbs the peaceful repose of others; or 3) engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, resentment, or disturbance of the peace of others. A person does not violate this section if the person's disorderly conduct was caused by an epileptic seizure.

Subd. 3. Upon determination by the City that an instance of substantiated disorderly conduct occurred on a registered premises, the City shall give notice to the registrant and occupant of the violation and direct the registrant and occupant to take steps to prevent further violations.

Subd. 4. If another instance of substantiated disorderly conduct, occurs on the registered premises within twelve (12) months of an incident of substantiated disorderly conduct for which a notice was given, the City shall notify the registrant and occupant of the violation and shall also require the registrant and occupant to submit a written report of the actions taken, and proposed to be taken, by the registrant and occupant to prevent further disorderly conduct of the premises. This written report shall be submitted to the City Clerk within five (5) days of receipt of the Notice of Disorderly Use. The report will include a response to all Notices of Disorderly Use on the premises within the preceding three (3) months.

Subd. 5. If another instance of substantiated disorderly conduct on the registered premises occurs within twelve (12) months after any one (1) previous instance of substantiated disorderly conduct for which notices were given to the registrant and occupant pursuant to this Chapter, the City may revoke or suspend the rental premises registration until such time as the owner and occupant have satisfied the City that the condition giving rise to the complaint has been corrected.

Subd. 6. No adverse action shall be imposed upon the registrant where the instance of disorderly use of the registered premises occurred during a pendency of eviction proceedings.

Subd. 7. A determination that the registered premises have been used in a disorderly manner shall be made upon a fair preponderance of the evidence to support such a determination. The fact of dismissal or acquittal of criminal charge shall not operate as a bar to adverse license action under this Chapter.

Subd. 8. Disorderly conduct shall not include police calls made by one resident of a rental premises for protection from others, nor shall it include police calls made by residents of rental premises to report crimes

605.11. Execution of compliance orders. Upon a failure to comply with a Compliance Order within the time set therein, and no appeal having been taken, or upon failure to comply with a modified Compliance Order within the time set therein, the criminal penalty established hereunder notwithstanding, the City Council after due notice to the owner may by resolution cause the cited deficiency to be remedied as set forth in the Compliance Order. The cost of such remedy together with the cost of prosecution is a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes, Chapter 429, for any of the reasons set forth in Section 429.101, Subdivision 1, and specifically for the removal or elimination of public health or safety hazards from private property. The assessment will be payable in a single installment. It is the intent of this Section to authorize the City to utilize all of the provisions of Section 429.101 to promote the public's health, safety and general welfare. The City may revoke or suspend a rental premises permit for failure to comply with a Compliance Order.

605.12. Condition of rental premises. All properties used as rental premises shall conform to the following requirements and to the state codes:

Subd. 1. Exterior of Rental Premises:

- a. Sanitation: All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The accumulation of rubbish, trash, garbage and debris around the rental premises shall not be permitted.
- b. Grading and Drainage: All premises shall be graded and maintained to prevent the accumulation of stagnant water thereon or within any structure located thereon, except for water retention areas or reservoirs.
- c. Accessory Structures: All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

Subd. 2. Rubbish and Garbage: Accumulation of Rubbish or Garbage: All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

Subd. 3. Manufactured Homes: All manufactured homes used as rental premises, including mobile homes and trailers, shall conform to the U.S. Department of Housing and Urban Development, (HUD) codes in effect for the year of their manufacture and shall be in good repair.

605.13. Penalty. Any person, firm, corporation, or partnership who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor. Each violation of this ordinance shall constitute a separate offense.

605.14. Supersede. This ordinance shall supersede and repeal all prior and consistent ordinances. This ordinance shall be effective upon passage and publication required by law.