

CITY OF PLYMOUTH

ORDINANCE NO. 2022-09

ORDINANCE AMENDING SECTIONS 105, 200 AND 1150 OF THE CITY CODE CONCERNING COMPLYING WITH CURRENT PRACTICES AND STATE STATUTES

THE CITY OF PLYMOUTH, MINNESOTA ORDAINS:

SECTION 1. Section 105.01, Subd. 2 of the Plymouth City Code concerning Definitions of Commonly Used Terms is amended as follows:

Subd. 1. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases (which shall be capitalized in the Code text), for the purpose of the provisions of this Code, shall have the following meanings:

Subd. 2. ~~Administrative Services Director means the chief financial officer for the City.~~

~~Subd. 3.~~ Alarm System means an assembly of equipment and devices (or a single device such as a solid state unit) arranged to signal the presence of a hazard. For the purposes of this ordinance, the alarm, when triggered, must be directly connected to a central monitoring agency which then notifies the Police and/or Fire Departments of an emergency to which public safety personnel must respond, or may emit an audible signal which will require urgent attention and to which public safety personnel are expected to respond.

Subd. ~~43~~. Alarm User means the person, firm, partnership, association, corporation, company or organization of any kind on whose premises an alarm system is maintained. "Alarm User" includes persons occupying dwelling units for residential purposes.

Subd. ~~54~~. All-Terrain Vehicle means a motorized flotation-tired vehicle of not less than three low-pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds.

~~Subd. 6. Reserved.~~

~~Subd. 7. Reserved.~~

Subd. ~~85~~. Animal shall mean all living creatures, not human, endowed with sensation and power of voluntary movement, and includes mammals, birds, amphibians and reptiles.

Subd. ~~96~~. At Large means an animal off the property of its owner and not under restraint of the owner or a member of the owner's immediate family.

Subd. ~~107~~. Building means any structure subject to the provisions of Section 400 of this Code. The term also includes farm buildings and dwellings.

Subd. ~~118~~. Building Drain and Building Sewer have the meanings given them by the State Building Code.

Subd. ~~129~~. Building Official means the Plymouth Building Official or his/her designee.

Subd. ~~13~~10. Burner means a firebox, barrel or similar container used for an outdoor fire, but not including grills or barbecues used principally for the cooking of food.
(Ord. 94-12, 7/11/94)

Subd. ~~14~~11. Burning Permit means a permit issued by an Open Burning Inspector authorizing fires exempted from the general provisions hereof, and setting conditions therefore.
(Ord. 94-12, 7/11/94)

Subd. ~~15~~12. Calendar Year means the period from January 1 through December 31 of each year.

Subd. ~~16~~13. Camp Fire means a fire set for cooking, warming, or ceremonial purposes, ~~which is not more than three feet in diameter by three feet high, and has had the ground 25 feet from the base of the fire cleared of all combustible material. Camp fire sites shall not be located closer than 25 feet to any structure.~~
(Ord. 94-12, 7/11/94)

Subd. ~~17~~14. Charter means the Charter for the City of Plymouth, Minnesota effective January 1, 1993, as set forth in Appendix VI.

Subd. ~~18~~15. City means the City of Plymouth, Minnesota and all the territory lying within its boundaries over which it has jurisdiction.

Subd. ~~19~~16. City Attorney means the Plymouth City Attorney.

Subd. ~~20~~17. City Clerk means the Plymouth City Clerk or an employee of the City appointed as Deputy Clerk.

Subd. ~~21~~18. City Engineer means the Plymouth City Engineer or his/her designee.

Subd. ~~22~~19. City Manager means the Plymouth City Manager or his/her designee.
(Ord. 2002-12, 3/26/2002)

Subd. ~~23~~20. Code, this Code, or Code of Ordinances means the Plymouth City Code adopted by ordinance in 1969 as recodified in 1979 and 1993, as organized, compiled and codified herein.

Subd. ~~24~~21. Community Development Director means the Plymouth Community Development Director or his/her designee.

Subd. ~~25~~22. Community Service Officer means an employee of the City, designated by the City Manager and assigned to the Police Department, exercising limited law enforcement, code enforcement and related duties under the supervision of the Police Chief.

Subd. ~~26~~23. Comprehensive Plan means the series of maps, reports, Statement of Goals, Objectives and Criteria; and documents prepared by the Planning Commission and adopted by the Council to designate long-range orderly growth and development of the community; including, but not limited to: a Land Use Guide Plan, a Thoroughfare Guide Plan, Community Facilities Plan and policies for Plan execution.

Subd. ~~27~~24. Council means the Plymouth City Council.

Subd. ~~28~~25. County means Hennepin County, Minnesota.

Subd. ~~29~~26. Current Service means one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; elimination of sight obstructions within rights-of-way; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in the Plymouth City Code, Minnesota Statutes, Sections 463.15 to 463.26, as amended; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; the operation of a street lighting system; and unpaid alarm system permit fees required under Section 1155 of this Code.

Subd. ~~3027~~. Dangerous Animal means any Animal which has attacked, molested, bitten, confined or assaulted a person or domestic Animal, or which otherwise has demonstrated that it poses a significant risk of causing harm or injury to persons or domestic Animals.

Subd. 28. Deputy City Manager means the chief financial officer of the City.

Subd. ~~3129~~. Director of Public Safety means the Plymouth Director of Public Safety or his/her designee. (Ord. 2018-18, 9/25/2018)

Subd. ~~3230~~. Disease Control Area means the entire area within City limits, except those areas annually designated by the Forester as "no control zones" pursuant to State Statute. (Ord. 94-12, 7/11/94)

Subd. ~~3331~~. Distinguished or Characterized by an Emphasis Upon means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified anatomical areas," or "specified sexual activities." (Ord. 2002-12, 3/26/2002)

Subd. ~~3432~~. DNR means the Minnesota Department of Natural Resources.

Subd. ~~3533~~. Emergency Ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare in which the emergency is defined and declared in the preamble to the ordinance.

Subd. ~~3634~~. Employee, Employ, And Employment describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises. (Ord. 2002-12, 3/26/2002)

Subd. ~~3735~~. Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. (Ord. 96-29, 12/11/96)

Subd. ~~3836~~. Escort Agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration. (Ord. 96-29, 12/11/96)

Subd. ~~3937~~. Establish or Establishment means and includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business.

(Ord. 96-29, 12/11/96, Ord. 2002-12, 3/26/2002)

Subd. **4038**. False Alarm means any activation of an alarm system that result in a response by the Police or Fire Department where an emergency situation does not exist. "False Alarm" includes, but is not limited to, activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligent use or maintenance of the alarm system by its owner or lessee or by the owner's or lessee's employees or agents. "False Alarm" does not include activation of the alarm by utility company power outages or by climatic conditions such as tornadoes, lightning, earthquakes, other violent conditions of nature, or any other conditions which are clearly beyond the control of the alarm manufacturer, installer and owner. "False Alarm" does not include activation of an alarm system as the result of an effort or order to upgrade, install, test, or maintain the system, if the Police/Fire Dispatcher and, where applicable, central monitoring agency for the alarm system are each notified in advance of said upgrade, installation, test or maintenance.

(Ord. 2001-08, 2/27/2001)

Subd. **4139**. Fire Alarm System means an alarm system designed, installed, or operated to prompt a response by the Fire Department.

Subd. **4240**. Fire Chief means the Plymouth Fire Chief or his/her designee.

(Ord. 2018-18, 9/25/2018)

Subd. **4341**. Fire Inspector means an employee of the City assigned to the **Community Development Fire** Department, and whose duties involve the enforcement of the Fire Code.

Subd. **4442**. Forester, Tree Inspector or Inspector means a person who is so certified for tree inspection by the Minnesota Department of Agriculture.

Subd. **4543**. Garbage means solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection. And further including but not limited to animal, vegetable wastes, grease, wrappings, shells, grounds, bones, entrails, and similar materials resulting from the handling, preparation, cooking, service and consumption of food, and other animal wastes. Garbage does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.

(Ord. No. 2020-14 , § 1, 10/27/2020)

Subd. **4644**. Gasoline Service Station means any premises whereon the owner or occupant conducts the business of furnishing and selling gasoline and lubricating oils or accessories for motor vehicles.

Subd. **4745**. Health Authority means the Health Officer or the Public Health Sanitarian.

Subd. **4846**. Hunting shall mean pursuing, shooting, injuring, capturing or attempting to pursue, shoot, injure or capture any animal.

Subd. **4947**. Individual Sewage Treatment System or Systems means a sewage treatment system or part thereof, serving a dwelling, other establishment, or group thereof, that uses subsurface soil treatment and disposal.

(Ord. 98-35, 11/04/98)

Subd. **5048**. Industrial Wastes means the liquid wastes from industrial processes as distinct from sanitary sewage.

Subd. **5149**. Junk Vehicle means any vehicle which is not in operable condition, or which is partially dismantled, or which is used for the sale of parts or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling or salvage of any kind, or which is not currently licensed for operation within the State of Minnesota or by the State of Minnesota.

Subd. **5250**. Kennel means premises where the business of selling, boarding, breeding, treating or grooming animals is conducted.

(Ord. 98-24, 7/22/98)

Subd. ~~53~~51. Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

(Ord. 96-29, 12/11/96)

Subd. ~~54~~52. Misdemeanor means a penal offense or crime which the Council is empowered to make punishable with fine and/or imprisonment.

Subd. ~~55~~53. Motor Bicycle and Motor Bicycle Licenses have the meanings given them by Minnesota Statutes, Section 168.831, as amended.

Subd. ~~56~~54. Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and bicycles with motor attached, other than those vehicles defined as motorized bicycles in Subdivision 4(a), but excluding a tractor.

Subd. ~~57~~55. Motorized Bicycle means a bicycle with fully operational pedals which may be propelled by human power or a motor, or by both, with a motor with a capacity of less than 50 cubic centimeters piston displacement, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.

Subd. ~~58~~56. Noxious Weeds means plants defined by the Minnesota Commissioner of Agriculture to be injurious to public health, public roads, crops, livestock and property.

Subd. ~~59~~57. Nude Model Studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(Ord. 96-29, 12/11/96)

Subd. ~~60~~58. Nudity, Nude or a State of Nudity means:

A. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or

B. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

(Ord. 96-29, 12/11/96, Ord. 2002-12, 3/26/2002)

Subd. ~~61~~59. Open Burn, Open Burning or Open Fire means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.

(Ord. 94-12, 7/11/94; Ord. 96-29, 12/11/96)

Subd. ~~62~~60. Open Burning Inspector means the City Forester or Fire Chief or their respective designees.

(Ord. 94-12, 7/11/94; Ord. 96-29, 12/11/96)

Subd. ~~63~~61. Operate or Cause to be Operated means to cause to function or to put or keep in a state of doing business.

(Ord. 2002-12, 3/26/2002)

Subd. ~~64~~62. Operator means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in

operation, the business. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

(Ord. 2002-12, 3/26/2002)

Subd. ~~6563~~. Owner means, in the case of personal property, a person, other than a lien holder, having the property in or title to personal property. In the case of real property, the term means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, vendees under a contract for deed and mortgagors.

Subd. ~~6664~~. Pawnbroker means a person who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

Subd. ~~6765~~. Peddler means a person who goes door-to-door to residences or offering for sale any goods, wares or merchandise, or services.

(Ord. 2018-18, 9/25/2018)

Subd. ~~6866~~. Person means an individual, firm, partnership, association, cooperative, corporation or other entity; the term may extend and be applied to bodies corporate and politic, or to other unincorporated associations.

Subd. ~~6967~~. Petty Misdemeanor means an offense, which does not constitute a crime, which the Council is empowered to make punishable with a fine.

Subd. ~~7068~~. Police Alarm System means an alarm system designed, installed, or operated to prompt a response by the Police Department.

Subd. ~~7169~~. Point of Collection means curbside and alley locations where solid waste containers and garbage, rubbish, yard waste, source-separated organic material, and recyclable material shall be placed for collection by a licensed collector.

(Ord. No. 2020-14 , § 1, 10/27/2020)

Subd. ~~7270~~. Public School means any school building, school grounds, play area, parking lot or athletic field owned or leased by a public school district.

Subd. ~~7371~~. Public Sewer means a sewer receiving both surface runoff and sewage.

~~Subd. 74. Reserved.~~

Editor's note— Repealed by Ord. 96-22, 9/18/96.

Subd. ~~7572~~. Recreation Fire has the same definition as a "Camp Fire."

(Ord. 94-12, 7/11/94)

Subd. ~~7673~~. Recreational Vehicle means any Motorized Bicycle, All-Terrain Vehicle, Motorcycle, or other motorized vehicle designed or used for a recreational purpose. The term does not include snowmobiles as defined under the terms of Section 1325 of this Code.

Subd. ~~7774~~. Recyclable Materials has the meaning given it in Minnesota Statutes, Section 115A.03 and includes paper, glass, plastics, metals, automobile oil, and batteries.

Subd. ~~7875~~. Regularly Features or Regularly Shown means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.

(Ord. 2002-12, 3/26/2002)

Subd. **7976**. Removal Location means a location in the City to which a building may properly be moved and on which such building may properly be located after such moving pursuant to Section 415.

Subd. **8077**. Rough Fish shall mean carp, buffalofish, sucker, redhorse, sheepshead, dogfish, burbot, cisco, gar, goldeye and bullhead.

Subd. **8178**. Rubbish means waste products which are composed wholly or partly of such materials as sweepings, swill, cleanings, trash, refuse, litter, industrial solid wastes or domestic solid wastes; organic wastes or residue of animals, fruit, or other vegetable or animal matter from kitchen, dining room, market, food establishment or any place dealing or handling meat, fowl, fruit, grain, or vegetables; offal, animal excrete, or the carcass of animals; tree or shrub trimmings (greater than ¼-inch in diameter), or grass clippings, brick, plaster, wood, metal, roofing materials, pipe or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste materials, cans, used containers, boxes and packing materials, ashes, tires, junk, Christmas trees, rocks, sod, dirt, glass, jars, bottles, auto parts, cement brick, leaves, burn barrels, household appliances, furniture, toys, floor coverings, fabric, drain oil, solvents and fluids, or other such substance which may become a nuisance.

Subd. **8279**. Sanitary Sewer means a sewer which carries sewage and to which storm surface and ground waters are not intentionally admitted "Sanitary Sewage".

Subd. **8380**. Sauna means and includes a steam bath or heat or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, and the associated premises.

Subd. **8481**. School Official means the principal, assistant principal, or any school teacher of a Public School.

Subd. **8582**. Secondhand Goods Dealer means a person whose regular business includes selling or receiving tangible personal property (excluding motor vehicles) previously used, rented, owned or leased.

Subd. **8683**. Self Service Merchandising means open display of tobacco products where the public has access without the intervention of an employee.

(Ord. 96-04, 2/21/96)

Subd. **8784**. Semi-Nude or in a Semi-Nude Condition means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

(Ord. 96-29, 12/11/96, Ord. 2002-12, 3/26/2002)

Subd. **8885**. Sewage Works means all facilities for collecting, pumping, treating and disposing of sewage.

Subd. **8986**. Sewage means a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

Subd. **9087**. Sewer means a pipe or conduit for carrying sewage.

Subd. **9188**. Sexual Encounter Center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration: a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities." The definition of sexual encounter center or any Sexually Oriented Businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

(Ord. 96-29, 12/11/96, Ord. 2002-12, 3/26/2002)

Subd. **9289**. Sexually Oriented Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer

persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(Ord. 96-29, 12/11/96)

Subd. **9390**. Sexually Oriented Bookstore, Sexually Oriented Video Store, or Sexually Oriented Store means a commercial establishment which as a principal business purpose offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact discs, computer software, digital recordings, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas;" or
- B. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

(Ord. 96-29, 12/11/96)

Subd. **9491**. Sexually Oriented Business means a sexually oriented arcade; sexually oriented bookstore, video store or other sexually oriented store; sexually oriented cabaret; sexually oriented conversation/rap parlor; sexually oriented massage parlor; sexually oriented motel; sexually oriented motion picture theater; sexually oriented sauna; sexually oriented theater; escort agency; nude model studio; or sexual encounter center; and other premises, enterprises, establishments, businesses, or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

(Ord. 96-29, 12/11/96)

Subd. **9592**. Sexually Oriented Cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of semi-nude; or
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
- C. Films, motion pictures, video cassettes, slides, compact discs, computer software, digital recordings, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(Ord. 96-29, 12/11/96, Ord. 2002-12, 3/26/2002)

Subd. **9693**. Sexually Oriented Conversation/Rap Parlor means a conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

(Ord. 96-29, 12/11/96)

Subd. **9794**. Sexually Oriented Massage Parlor means a massage parlor which excludes minors by reason of age, or which provides for any form of consideration, the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by the massage parlor is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

(Ord. 96-29, 12/11/96)

Subd. **9895**. Sexually Oriented Motel means a hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- B. Offers a sleeping room for rent for a period of time that is less than 10 hours;
- C. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than 10 hours.

(Ord. 96-29, 12/11/96)

Subd. ~~9996~~. Sexually Oriented Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(Ord. 96-29, 12/11/96)

Subd. ~~10097~~. Sexually Oriented Sauna means a sauna which excludes minors by reason of age, or which provides for any form of consideration, a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

(Ord. 96-29, 12/11/96)

Subd. ~~10198~~. Sexually Oriented Theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(Ord. 96-29, 12/11/96; Ord. 2002-12, 3/26/2002)

Subd. ~~10299~~. Shade Trees means any deciduous or coniferous tree situated in the City.

Subd. ~~103100~~. Shade Tree Disease means Dutch elm disease caused by Ophiostoma Nova-Ulmi and/or Ceratocystis Ulmi, oak wilt, caused by Ceratocystis Fageceorum, or any disorder affecting the growth and life of shade trees.

Subd. ~~104101~~. Shade Tree Control Program or Program means a program developed by the City to combat Shade Tree Disease in accordance with rules promulgated by the Commissioner of Agriculture.

Subd. ~~105102~~. Solicitor means a person who goes door-to-door to residences soliciting, or taking or attempting to take orders for sale of goods, wares, merchandise, or personal property or services of any nature whatsoever for future delivery or future performance whether or not such individual has, carries or exposes for sale, a sample of the subject to such order or whether or not he is collecting advance payments for such orders. Any such activity shall be deemed soliciting if it has as its ultimate purpose the obtaining of orders of such nature, even though it may not purport, initially, to be an effort to obtain such an order.

(Ord. 2003-32, 11/10/2003)

Subd. ~~106103~~. Solid Waste Container means a container used in the storage and collection of garbage, rubbish, yard waste, source-separated organic material, and recyclable material collection. Each container shall be provided with a tight fitting cover and bail or handles and a tight fitting cover.

(Ord. No. 2020-14 , § 1, 10/27/2020)

Subd. ~~107~~**104**. Source-separated Organic Materials has the meaning given it in Minnesota Statutes, Section 115A.03 Subd. 32a. for "Source-separated compostable materials." Source-separated organic materials excludes yard waste regulated in Minnesota Statutes, Section 115A.931.

(Ord. No. 2021-07 § 1, 4/13/2021)

Subd. ~~108~~**105**. Specified Anatomical Areas means:

- A. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- B. Less than completely and opaquely covered human genitals, public region, buttocks, or a female breast below a point immediately above the top of the areola.

(Ord. 96-29, 12/11/96; Ord. 2002-12, 3/26/2002; Ord. No. 2021-07 § 1, 4/13/2021)

Subd. ~~109~~**106**. Specified Sexual Activities means and includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections A—C above.

(Ord. 96-29, 12/11/96; Ord. No. 2021-07 § 1, 4/13/2021)

Subd. ~~110~~**107**. Substantial Enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than 25 percent, as the floor area existed on the effective date of this Ordinance.

(Ord. 2002-12, 3/26/2002)

Subd. ~~111~~**108**. Swimming Pool means any structure, basin, chamber, or tank containing an artificial body of water for swimming, diving, relaxation or recreational bathing.

Subd. ~~112~~**109**. Swimming Pool, Private Residential means any permanent or portable structure such as a pool, hot tub, or spa located on private property under control of the homeowner, the use of which is limited to swimming or recreational bathing by the owner's family or invited guests, and having a depth of two feet or more at any point and (a) a surface area of 250 square feet or more, or (b) a volume of 3,250 gallons or more.

(Ord. 2014-13, 1/25/2014)

Subd. ~~113~~**110**. Taxicab means any motor vehicle engaged in the carrying of persons for hire, whether over a fixed route or not, and whether the same be operated from a street stand or subject to calls from a garage, or otherwise operated for hire except private auto deliveries as herein defined but the term shall not include vehicles subject to control and regulation by the Minnesota Public Utilities Commission or vehicles regularly used by undertakers in carrying on their business.

Subd. ~~114~~**111**. Taxicab Driver means any person who drives a Taxicab, either as the owner of the Taxicab or as an employee of a Taxicab operator.

Subd. ~~115~~**112**. Taximeter means any mechanical instrument or device by which the charge for hire of a Taxicab is mechanically calculated, whether by distance traveled or waiting time, or by both, and upon which charge shall be indicated by figures.

Subd. ~~116~~**113**. Tobacco Product means cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flower, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scrips, clippings, cuttings and sweepings of tobacco prepared

in such manner as to be suitable for chewing, sniffing or smoking in a pipe, rolling paper or other tobacco related devices.

(Ord. 96-04, 2/21/96)

Subd. ~~117~~114. Transfer of Ownership or Control of a sexually oriented business means and includes any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 2002-12, 3/26/2002)

Subd. ~~118~~115. Transient Produce Merchant means any person who engages in or transacts in any temporary and transient business within the City, selling the products of the farm or garden occupied and cultivated by that person; and, who for the purposes of carrying on such business, hires, leases, occupies, or uses, site, parking lot, vacant lot, motor vehicle, or trailer on a site other than the property on which the produce is grown and cultivated, in a zoning district where it is allowed by the Code and Zoning Ordinance.

(Ord. 2004-03, 1/13/2004)

Subd. ~~119~~116. Under Restraint means an animal controlled by a fence, leash or its owner's command within the confines of the owner's property or by a leash not exceeding six feet in length while outside of the owner's property and under the control and direction of the owner or a member of the immediate family, so as to be as effectively restrained, or within a vehicle that is enclosed sufficiently so as to prevent the animal from exiting the vehicle.

Subd. ~~120~~117. Vehicle means a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, and transport persons or property or pull machinery, and shall include, without limitation, automobiles, trucks, trailers, Motorcycles and tractors.

Subd. ~~121~~118. Wild Animal means any animal that is wild, ferocious, or vicious by nature, habit, disposition, or character. Animals in this category include, but are not limited to, any ape, (including chimpanzee, gibbon, gorilla, orangutan, or siamang), baboon, bear, bison, bobcat, cheetah, crocodile, coyote, deer, (including all members of the deer family such as antelope, elk, and moose), elephant, ferret, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, puma (also known as cougar, mountain lion, or panther), raptor, rhinoceros, any snake that is poisonous or any constrictor snake, snow leopard, tiger, wolf, or hybrid mix of any of the wild animals such as wolf/dog mixes.

(Ord. 98-24, 7/22/98; Ord. 99-04; 1/19/99; Ord. 2011-06, 2/22/2011)

Subd. ~~122~~119. Wood means dry, clean fuel only such as twigs, branches, limbs, ~~"presto lots,"~~ charcoal, cordwood or untreated dimensional lumber. "Wood" does not include wood that is rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreation fires when cut into three-foot lengths.

(Ord. 94-12, 7/11/94)

Subd. ~~123~~120. Yard Waste means materials such as ~~grass clippings,~~ leaves, weeds, tree or shrub trimmings (¼ inch in diameter or less) and other like-forms of organic material, but does not include garbage, rubbish, construction debris, soil, rock, aggregate, and similar materials.

(Ord. No. 2020-14 , § 1, 10/27/2020)

Subd. ~~124~~121. Zoning Ordinance means The Plymouth Zoning Ordinance attached to the Code as Chapter 21.

SECTION 2. Section 200.23 of the Plymouth City Code concerning City Council; Rules of Procedure is amended as follows:

200.23. Ordinances, Resolutions, Motions, Petitions and Communications.

Subd. 1. Readings. Every ordinance and resolution shall be presented in writing. ~~The vote on an ordinance shall be by roll call.~~ An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.

Subd. 2. Signing; Publication and Proof. Every ordinance passed by the Council shall be signed by the Mayor or, in the Mayor's absence, the Deputy Mayor, attested by the City Clerk, and filed in the ordinance book. Proof of publication of an ordinance shall be attached and filed with the ordinance. Each resolution shall be appropriately numbered and filed by the City Clerk.

Subd. 3. Repeals and Amendments. Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

SECTION 3. Section 1150.10 of the Plymouth City Code concerning Tobacco and Related Products is amended as follows:

1150.10. Compliance Checks and Inspections.

All licensed premises shall be open to inspection by the City policy or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with persons over the age of ~~15~~17 years but less than 21 years to enter the licensed premises to attempt to purchase tobacco-related products. Persons under the age of 18 that are engaged by the City to enter licensed premises for these compliance checks shall do so only with the written consent of their parents or guardians. Person under the age of 21 used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Persons under the age of 21 used for compliance checks shall not be guilty of unlawful possession of tobacco-related products when those items are obtained as a part of the compliance check. No person under the age of 21 used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons under the age of 21 lawfully engaged in a compliance check shall answer all questions about the person'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.

SECTION 4. Section 1150.12 of the Plymouth City Code concerning Tobacco and Related Products is amended as follows:

1150.12. Violations.

- A. **Petty Misdemeanors.** Any person who violates this ordinance shall be guilty of a **Petty** Misdemeanor unless the violation has a specific penalty designated by state law.
- B. *Administrative Civil Penalties; Individuals.* An individual who sells tobacco-related products to a person under the age of 21 years shall be subject to an administrative penalty of \$50.00. 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 Chief of Police or his/her designee. A decision that a violation has occurred must be in writing.
- C. *Administrative Civil Penalties; Licensee.* If a licensee or an employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this Chapter, the licensee shall be subject to an administrative penalty as follows:

Offense	Minimum (State)	Presumptive Penalty (City)	Maximum (City/State)
1 st Violation	\$300.00 and/or 0 days suspension	\$500.00 fine and 5-day suspension stayed	\$2,000.00 and/or 60-days suspension
2 nd Violation (within 36 months)	\$600.00 and/or 0 days suspension	\$750.00 fine and 5-day suspension	\$2,000.00 and/or 60-days suspension
3 rd Violation (within 36 months)	\$1,000.00 and 7 days suspension	\$1,000.00 fine and 10-day suspension	\$2,000.00 and/or 60 days suspension
4 th Violation (within 2436 months)	None listed	Revocation	Revocation

No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

- D. *Defense.* It is a defense to the charge of selling tobacco-related products to a person under the age of 21 years, that the licensee or individual, in making the sale, reasonably and in good faith relied upon representation of proof of age described in Minnesota Statutes, section 340A.503, subdivision 6, paragraph (a).

SECTION 5. This amendment shall be effective upon passage.

ADOPTED by the City Council this 28th day of June, 2022.

Jeffry Wosje, Mayor

ATTEST:

Jodi M. Gallup, City Clerk