

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL BUSINESS LICENSING AND REGULATIONS

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GENERAL PROVISIONS**§ 110.01 DEFINITIONS.**

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any person making an application for a license under this title.

APPLICATION. A form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

BOND. A corporate surety document in the form and with the provisions acceptable and specifically approved by the city.

BUSINESS. Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this title.

LICENSE. A document issued by the city to an applicant permitting him or her to carry on and transact a business.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

LICENSEE. An applicant who, pursuant to his or her application, holds a valid, current, unexpired and unrevoked license from the city for carrying on a business.

SALE, SELL and SOLD. All forms of barter and all manner or means of furnishing merchandise to persons.

(1981 Code, § 5.01)

§ 110.02 APPLICATIONS.

All applications shall be made as follows.

(A) All applications shall be made at the office of the City Administrator upon forms that have been formulated by the city for such purposes.

(B) All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

- (1) Applicant's name, age and citizenship;
- (2) Applicant's present address and length of time he or she has lived at that address;
- (3) Applicant's occupation and length of time so engaged;
- (4) Applicant's addresses and occupations for the 3 years next preceding the date of application;
- (5) Names and addresses of applicant's employers, if any, for the 3 years next preceding the date of application;
- (6) Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so the date and place of conviction and the nature of the offense;
- (7) Type of license and location of premises for which application is made;
- (8) Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

(C) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any wilful omission to state any information called for on such application form, shall, upon discovery of the falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this title, or any part hereof.

(D) The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to the extent as he or she deems necessary. For such investigation the City Administrator may enlist the aid of the Chief of Police. The Council shall not consider an application before the investigation has been completed.

(E) Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

(1981 Code, § 5.02) Penalty, see § 10.99

§ 110.03 ACTION ON APPLICATION FOR LICENSE.

(A) *Granting.* The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this title.

(B) *Issuing.* If an application is granted, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council and upon payment of the appropriate license fee and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a fiscal year basis. Unless otherwise herein specified, license fees shall not be pro rated on the basis of 1/12 for each calendar month, or part thereof remaining in the then current license year. Licenses shall be valid only at 1 location and on the premises therein described.

(C) *Transfer.* No license shall be transferable between persons. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division.

(D) *Termination.* Licenses shall terminate only by expiration or revocation.

(E) *Refusal and revocation.* The Council may, for any reasonable cause, refuse to grant any application or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon licensee's affidavit that the original has been lost and upon payment of a fee of \$2 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE. (1981 Code, § 5.03) Penalty, see § 10.99

§ 110.04 CARRYING OR POSTING.

All transient merchants, peddlers and solicitors shall at all times when so engaged carry their license on their person. All other licensees shall post their licenses in their places of business near the licensed activity. All licensees shall display their licenses upon demand by any officer or citizen. (1981 Code, § 5.04)

§ 110.05 PENALTY FOR PROPERTY OWNERS.

It is unlawful for any person to knowingly permit any real property owned or controlled by him or her to be used, without a license, for any business for which a license is required by this title. (1981 Code, § 5.05) Penalty, see § 10.99

§ 110.06 RESPONSIBILITY OF LICENSEE.

The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee himself or herself.
(1981 Code, § 5.06)

§ 110.07 FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses under this title shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Administrator and open to inspection during regular business hours. For the purpose of fixing the fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any such subdivision or categorization shall be included in the resolution authorized by this section.
(1981 Code, § 5.08)

§ 110.08 CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.
(1981 Code, § 5.09)

§ 110.09 LICENSE DENIAL AND FIXING RATES; HEARING.

(A) *Right to deny.* The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this title where the business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public or the public health, safety and convenience. The Council may also consider the location of the business in making the determination; provided, however, that before making the determination on location, the Council shall hold a public hearing thereon pursuant to the notice to interested parties and the public as it may deem necessary or proper in action calling for the hearing.

(B) *Rates.* Where, under specific provision of this title, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, the rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

(C) *Hearing*. Any applicant or licensee under this title who challenges denial of a license or rates fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor. Notice of time, place and purpose of the hearing shall be given to such persons and by such means as the Council may determine in calling the hearing.
(1981 Code, § 5.10)

§ 110.10 INSURANCE REQUIREMENTS.

Whenever insurance is required by a section of this title, after approval by the Council, but before the license shall issue, the applicant shall file with the City Administrator a policy or certificate of public liability insurance showing:

(A) That the limits are at least as high as required;

(B) That coverage is effective for at least the license term approved; and

(C) That the insurance will not be cancelled or terminated without 30-days' written notice served upon the City Administrator. Cancellation or termination of the coverage shall be grounds for license revocation.

(1981 Code, § 5.11) (Ord. 5, 3rd Series, eff. 6-6-1981)

BUSINESS REGULATIONS

§ 110.25 SHOWS.

(A) *License required*. It is unlawful for any person to present any public show, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license therefor from the city.

(B) *Exceptions*.

(1) Performances presented in the local schools and colleges, under the sponsorship of schools and colleges, and for the students thereof only, not open to the general public.

(2) Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only.

(3) Any performance or event in, or sponsored by, bona fide local church and non profit organizations, provided that the organization shall be incorporated.

(1981 Code, § 5.31) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.26 TOBACCO.

(A) *Definition.* As used in this section, the term **TOBACCO** means and includes tobacco in any form, including but not limited to, cigarettes, cigars, bagged, canned or packaged product.

(B) *License required.* It is unlawful for any person, directly or indirectly, to keep for retail sale, sell at retail, or otherwise dispose of any tobacco in any form unless a license therefor shall first be obtained from the city.

(C) *Restrictions.*

(1) Separate licenses shall be issued for the sale of tobacco at each fixed place of business, and no license shall be issued for a movable place of business.

(2) It is unlawful for any person to keep for sale, sell or dispose of any tobacco in any form containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine.

(1981 Code, § 5.32) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

Cross-reference:

Selling tobacco to minors, see § 131.02

§ 110.27 JUNK DEALERS.

(A) *Definition.* The term **JUNK** as used in this section means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags and wood.

(B) *License required.* It is unlawful for any person to deal in junk without having a license therefor from the city.

(C) *License restriction.* The licensee shall keep the premises upon which the business of junk dealing is to be conducted and where junk as herein defined is to be stored and handled entirely surrounded by a substantial tight fence or wall of not less than 8 feet nor more than 10 feet in height. The enclosure shall be maintained in good condition at all times and constructed so that no dust or other material may pass through. Any such fence shall not have more than 1 opening upon any public street, and the opening shall not be more than 10 feet wide and shall be equipped with a substantial, solid light gate or door of the same height as the fence or wall, and the same shall be kept securely closed at all times when the establishment is not open for business. No junk, motor vehicle or accessory of any description shall be kept, displayed or exhibited on the outside or protrude above the fence. Not more than 2 signs of any kind, whatsoever, shall be painted, posted or erected on the fence or walls, nor shall both signs be painted or erected on any 1 side but shall, if 2 signs are used, be on separate faces or sides of the fence or walls. Neither sign shall exceed in size 50 square feet. The wording of the sign shall pertain only to the owner, firm name and the business conducted on such premises.

(D) *Bond requirement.* Before issuing a junk dealer's license as provided for herein, the applicant shall execute and deliver to the City Administrator a bond in the penal sum of \$500 with sufficient sureties approved by the Council and conditioned that the applicant will in every particular conform with the requirements of any law relating to junk dealers.

(1981 Code, § 5.50) (Ord. 196, eff. 5-22-1969; Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.28 SECOND HAND DEALERS.

(A) *Definition.* The term **SECOND HAND MERCHANDISE** as used in this title means and includes, but is not limited to, all used furniture, used clothing, used housewares, used appliances, used plumbing and electrical fixtures and appurtenances, used building materials and bric-a-brac, excluding motor vehicles, and also excluding such items as may have been taken in trade by a dealer in new merchandise of the same or similar nature and also excluding items as may be occasionally sold by a householder or an organization.

(B) *License required.* It is unlawful for any person to deal in second hand merchandise without having a license therefor from the city.

(C) *Bond required.* Before issuing any license as provided for herein, the applicant shall execute and deliver to the City Administrator a bond in the penal sum of \$500 with sufficient sureties, approved by the Council and conditioned that the applicant will in every particular conform with the requirements of any law concerning second hand dealers.

(D) *Unlawful acts.*

(1) It is unlawful for a licensee to purchase second hand merchandise knowing or having reason to believe that the same was stolen.

(2) It is unlawful for a licensee to purchase property from a person under lawful age without the written consent of his or her parent or guardian.

(3) Every licensee shall prepare and deliver to the Chief of Police, before 12:00 noon on each Monday, a legible and accurate list of all merchandise purchased during the preceding week, together with the name and residence address of the seller.

(1981 Code, § 5.52) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.29 SECOND HAND AUTO DEALERS.

(A) *License required.* It is unlawful for any person to engage in the business of buying, selling or trading in second hand automobiles without first having obtained a license therefor from the city.

(B) *Restrictions.*

(1) No license shall be issued to an applicant who shall have been convicted within 1 year of the date of application of a violation of this section, nor to any person who has within the 5 preceding years been convicted of a felony or misdemeanor involving stolen property.

(2) No licensee shall keep his or her place of business open between the hours of 10:00 p.m. and 7:00 a.m.

(3) No licensee shall sell, purchase, trade, or enter into any agreement therefor with a minor.

(4) Every licensee shall maintain a record of the name, residence address and personal description of every person with whom a transaction is consummated, the date and hour thereof, a description of the vehicle, including manufacturer's numbers, serial numbers, body style, seating or other capacity, color and license number of the automobile. The record shall be open for inspection by the Police Department at all reasonable times.

(1981 Code, § 5.53) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.30 PHOTOGRAPHERS.

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

STUDIO PHOTOGRAPHER. A person maintaining a studio within the city for the purpose of taking photographs and making portraits, the studio being equipped for the finishing process or processes.

TRANSIENT PHOTOGRAPHER. A person who does not maintain a studio within the city equipped for finishing processes except an isolated case of making a portrait or taking a photograph, and the isolated case shall involve no more than 1 order per calendar month.

(B) *License required.* It is unlawful for any person to engage in business as a studio photographer or transient photographer without first having obtained a license therefor from the city.

(1981 Code, § 5.54) (Am. Ord. 41, 3rd Series, passed 5-17-1984) Penalty, see § 10.99

§ 110.31 VENDING WAGONS.

(A) *Definition.* The term **VENDING WAGON** means any vehicle or structure temporarily or permanently placed upon any street for the purpose of selling or vending peanuts, popcorn, or other confectionery.

(B) *License required.* It is unlawful for any person to operate a vending wagon without first having obtained a license therefor from the city.

(C) *Consideration of application.* In addition to all other considerations the Council shall consider traffic location and public convenience in determining whether or not to issue the license. (1981 Code, § 5.56) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.32 GARBAGE AND REFUSE HAULERS.

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARBAGE. All putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water carried wastes.

OTHER REFUSE. Ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrescible wastes.

(B) *License required.* It is unlawful for any person not acting within the course of a contract with the city to haul garbage or other refuse without a license therefor from the city.

(C) *Exception.* Nothing in this section shall prevent persons from hauling garbage or other refuse from their own residences or business properties, provided the following rules are observed:

(1) That all garbage is hauled in containers that are water tight on all sides and the bottom and with tight fitting covers on top;

(2) That all other refuse is hauled in vehicles with leak proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo; and

(3) That all garbage and other refuse shall be dumped or unloaded only at a sanitary landfill.

(D) *Hauler licensee requirements.* Hauler licenses shall be granted only upon the condition that the licensee have tight packer type vehicles in good condition to prevent loss in transit of liquid or solid cargo and that the same be dumped or unloaded only at the designated city dump or sanitary landfill and strictly in accordance with regulations relating thereto.

(1981 Code, § 5.57) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.33 INSTALLATION, ALTERATIONS, SERVICING AND REPAIRING OF GAS AND OIL PIPING, APPLIANCES, AND APPURTENANCES.

(A) *License required.* It is unlawful for any person to install, alter, service or repair gas or oil piping, appliances and appurtenances without having a license therefor from the city.

(B) *Bond requirement.* Before issuing a gas and oil installer's license as provided for herein, the applicant shall execute and deliver to the City Administrator a bond in the penal sum of \$2,000, conditioned to indemnify and save harmless the city from all liability and damages caused by the negligence, of any nature, covering the work done under the license, and conditioned further that all work shall be performed in accordance with regulations prescribed by law. The bond shall be approved as to form by the City Attorney.

(1981 Code, § 5.58) (Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.34 PLUMBERS.

(A) *License required.* It is unlawful for any person to engage in the work or business of plumbing or the installation of water or sewer pipes without a license therefor from the city, provided, however, that no person shall be so licensed unless he or she shall have a master plumber's license from the Minnesota State Board of Health and any revocation or suspension by the State Board of Health shall immediately revoke or suspend the license issued by the city.

(B) *Bond required.* Before a license shall be granted to any person as a plumber, the applicant shall execute and deposit with the City Administrator a code compliance bond in the sum of \$25,000, conditioned to indemnify and save harmless the city from all liability and damage caused by the negligence of any nature covering the work done under the license and conditioned further that all work shall be performed in accordance with regulations prescribed by the Minnesota Department of Health. The bond shall be approved as to the form by the City Attorney.

(1981 Code, § 5.59) (Ord. 68, eff. 4-29-1909; Ord. 74, eff. 5-6-1910; Ord. 148, eff. 11-11-1954; Ord. 200, eff. 7-8-1965; Am. Ord. 5, 3rd Series, passed 5-21-1981) Penalty, see § 10.99

§ 110.35 DANCES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC DANCE. Any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership or payment of money, directly or indirectly.

PUBLIC DANCING PLACE. Any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

(B) *License required.* It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefor from the city.

(C) *License fee.* The fee for the issuance of a license under this section shall be set by the Council from time to time by resolution. The license fee may include the costs of investigating the applicant's character, reputation, past experience, and history.

(D) *Application and license.*

(1) A verified application for a dance license shall be filed with the city and shall specify the names and addresses of the person, persons, committee or organization that is to hold the dance, time and place thereof, and the area of the dance floor.

(2) All applications shall be accompanied by affidavits of 2 residents showing that the applicant has not been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past 5 years. No license shall be issued to any person who has been so convicted.

(3) No license shall be granted by the Council for any place having so called private apartments or private rooms furnished or used for any purpose other than a legitimate business purpose which adjoins the dancing place or which may be reached by stairs, elevators, or passageway leading from the dancing place. Nor shall a license be granted for any place which is not property ventilated and equipped with necessary toilets, washrooms or lighting facilities.

(4) Applications may be referred by the Council to the Chief of Police for investigation and report prior to being acted upon by the Council.

(5) The Council shall act upon all dance license applications at a regular meeting thereof, whether or not it is included in the call or agenda of the meeting.

(6) At least 1 security person shall be designated by the licensee, and the security person shall be present at the dance site during the entire time that the dance is in progress. The licensee shall be responsible for the security person's acts and conduct.

(7) The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefor, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.

(8) No license shall be issued to any applicant under the age of 18 years.

(E) *Dance regulations.*

(1) *Certain persons prohibited.* No licensee shall permit any unmarried person under the age of 16 years, unless the unmarried person is accompanied by his or her parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

(2) *Hours of dancing.* No public dance shall be held on Sunday between the hours of 1:00 a.m. and 12:00 noon. No public dance shall be held on any day between the hours of 1:00 a.m. and 6:00 a.m.

(1981 Code, § 5.62) (Am. Ord. 5, 3rd Series, passed 6-6-1981; Am. Ord. 104, 3rd Series, eff. 11-17-1989) Penalty, see § 10.99

CHAPTER 111: AMUSEMENT CENTERS AND MACHINES

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- 111.08 Use for gambling or payoffs
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§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMUSEMENT CENTERS. The operation by any person of a business in which 1 of the sources of income is derived from the operation of mechanical or electronic devices and consists of the operation of 3 or more machines in 1 location and is open for public use and participation.

MACHINE. A table or a mechanical or electronic device of any of the following types: a pool, billiard or snooker table or a machine or contrivance, including pinball machines, mechanical miniature pool tables, bowling machines, shuffle boards, electric rifle or gun ranges, miniature mechanical devices, electronic games and devices, and games or amusements patterned after baseball, basketball, hockey and similar games and like devices, machines, or games which may be played solely for amusement and not as a gambling device and which devices or games are played by the insertion of a coin or coins or at a fee fixed and charged by the establishment in which the devices or machines are located, and which contain no automatic payoff devices for the return of money, coins, merchandise, checks, tokens or any other thing or item of value; provided, however, that the machine may be equipped to permit a free play or game.

(1981 Code, § 5.33, Subd. 1)

§ 111.02 LICENSES REQUIRED.

(A) No person shall keep, operate, maintain or permit to be operated or maintained upon premises within his or her direct or indirect control within the city any machine, unless the person shall have first procured a license as hereinafter provided for each machine.

(B) No person shall own, operate or permit operation of an amusement center on premises owned, leased, or operated by him or her or engage in the business of operating an amusement center in the city unless an annual amusement center license has been obtained. The amusement center license shall be in addition to any other license required by this chapter.

(C) It is further provided that nothing in this section shall be construed to require licensing of coin-operated music boxes, more commonly known as jukeboxes.
(1981 Code, § 5.33, Subd. 2)

§ 111.03 APPLICATIONS.

All applications shall conform to the provisions of § 110.02, but shall also include a statement that the applicant, if requested by the City Administrator, will permit a record of his or her fingerprints to be made by the Police Department for the purpose of additional investigation to determine whether or not the application should be granted.
(1981 Code, § 5.33, Subd. 3)

§ 111.04 LICENSES.

(A) Each applicant for a license to operate or maintain a machine or an amusement center, as said terms are hereinbefore described, shall pay an annual license fee as established by the Council, pursuant to § 110.07. A separate fee shall be established for each machine and for each amusement center licensed. Licenses shall cover an annual period as established by the Council.

(B) The application for license shall be presented to the Council for consideration, and, if approved, the City Administrator shall issue the license to the applicant.
(1981 Code, § 5.33, Subd. 4) (Ord. 16, 3rd Series, eff. 2-19-1982)

§ 111.05 INSPECTION.

(A) Applications for license for machines or amusement centers may be referred to the Chief of Police, or his or her designated inspector, who shall then investigate the location wherein it is proposed to operate the machine or machines, ascertain if the applicant is a person of good moral character, and he or she shall either recommend approval or disapproval of the application. The location may also be investigated

by the Fire Inspector and Building Official to ascertain whether the location is in compliance with all codes and City Code provisions, determine the maximum capacity of the proposed location, and require such improvements or changes as will bring the proposed location and structure in compliance with all code requirements and City Code provisions.

(B) Each machine licensed under this section shall be inspected by the Police Department.
(1981 Code, § 5.33, Subd. 5) (Ord. 115, 3rd Series, eff. 5-4-1990)

§ 111.06 DISPLAY OF LICENSE.

The license or licenses herein provided for shall be posted permanently and conspicuously at the location and on each machine in the premises wherein the device is to be operated or maintained to be operated.

(1981 Code, § 5.33, Subd. 6)

§ 111.07 LOCATION OF MACHINES.

(A) No machine shall be located, placed, maintained or operated on any public street, avenue, boulevard, lane, alley, or other public ground within the city. No machine shall be so located that its operation will create a nuisance.

(B) The maximum number of machines as defined in § 111.01 shall be limited to 2 in number at any location of any 1 business establishment, unless the establishment is licensed as an amusement center.

(1981 Code, § 5.33, Subd. 7)

§ 111.08 USE FOR GAMBLING OR PAYOFFS.

(A) It is unlawful for the owner of any such machine, or for the owner or operator of any establishment where it is located, to permit the same to be used for gambling or for the making of bets or wagers.

(B) It is unlawful for the licensee or for the owner or operator of the establishment where the machine is located to give any money, token, merchandise or any other thing of value or any reward or prize in lieu of free games registered on the machine, and all free games so registered shall be played on the machine registering the free game or games.

(C) It is unlawful for any person to keep, maintain, sell, or permit to be operated in his or her place of business any machine which has been converted into an automatic payoff device which shall automatically award money, prizes, tokens, merchandise, gifts, or anything of value other than free games to the operator or player of the machine. It is also unlawful for any person to convert any machine into an automatic payoff device.

(1981 Code, § 5.33, Subd. 8) Penalty, see § 10.99

§ 111.09 RESTRICTIONS.

(A) The licensee shall provide a responsible full time attendant upon the licensed premises during business hours.

(B) No amusement center or establishment licensed for amusement devices or machines shall permit any coin-operated musical device to be played or live entertainment or band or other type of live entertainment to play at such a level of sound as to constitute a public nuisance.

(C) It shall be the responsibility of the licensee to see that the licensed premises do not become overcrowded so as to constitute a hazard to the health or safety of persons therein. The Fire Chief, or his or her designee, may designate the maximum number of persons to be permitted on the licensed premises.

(D) Every licensee is made responsible for the conduct of his or her place of business and on the premises thereof permitting no disorderly conduct on the premises. It is unlawful for any licensee to permit any of the following in his or her place of business or on the premises thereof, to wit:

(1) Possession, use or sale of a controlled substance, as defined in M.S. § 152.02, as it may be amended from time to time;

(2) Sale to, possession of, or use of tobacco-related devices (including cigarette papers or pipes for smoking) for any person under 18 years of age;

(3) Liquor or beer:

(a) Minor to play any machine as herein defined, where liquor or beer, as those terms are defined in Chapter 117, is sold or consumed, unless accompanied by his or her parent or guardian;

(b) Possession, consumption or sale of beer or liquor in any establishment licensed as an amusement center or possessing machine licenses, which is not also licensed to sell beer or liquor;

(4) Fighting;

(5) Nudity or indecent or lewd behavior;

(6) Scattering or casting litter of any nature upon public or private property;

(7) Knowingly allow any other illegal activity not set forth above upon the licensed premises.

(E) The following hours of operation shall be complied with by amusement centers, except as otherwise provided herein:

(1) Monday through Thursday, except when the public and private schools are not in session, shall be from 3:00 p.m. until 10:00 p.m.;

(2) Friday, from 3:00 p.m. until 12:00 midnight;

(3) Saturdays, and during vacation periods of the public and private schools, from 9:00 a.m. until 12:00 midnight, except on Sundays, as hereinafter provided;

(4) Sunday, from 12:00 noon until 10:00 p.m.;

(5) Storm days, holidays, or non-school days, in the public and private schools, from 9:00 a.m. to 10:00 p.m.;

(6) Where any hours of operation set forth herein are in conflict with curfew hours as set forth in the City Code, the curfew hours shall control;

(7) The above opening and closing hours shall not apply to amusement centers and establishments possessing machine licenses that also possess on sale or off sale liquor licenses or beer licenses.

(F) To facilitate the enforcement of the rules, regulations and restrictions contained herein, and to further the intent of this chapter, attendance and use of the machines in amusement centers, other than those amusement centers located in establishments possessing on sale liquor licenses, or on sale beer licenses, shall be restricted to persons 18 years of age or younger. The above age restrictions shall not apply to persons over 18 years of age who are present as employees of the establishment, law enforcement personnel, persons present in an official capacity inspecting the premises, or parents or guardians of persons 18 years of age or younger who are lawfully upon the premises.

(G) The rules and regulations or restrictions set forth in this chapter shall be conspicuously posted in at least 1 prominent place in every amusement center and establishment possessing machine licenses. (1981 Code, § 5.33, Subd. 9)

§ 111.10 CERTAIN MACHINES NOT REGULATED.

Nothing in this chapter shall be held to apply to any machine held or kept for storage for later sale or distribution.

(1981 Code, § 5.33, Subd. 10)

§ 111.11 LOCATIONS WHERE AMUSEMENT CENTERS PERMITTED.

Amusement center licenses shall be permitted only in C-1 and C-2 zoning use districts.
(1981 Code, § 5.33, Subd. 11) (Ord. 16, 3rd Series, eff. 2-19-1982)

CHAPTER 112: PEDDLERS AND SOLICITORS

Section

- 112.01 Definitions
- 112.02 Exceptions to definitions
- 112.03 Licensing; exemptions
- 112.04 License ineligibility
- 112.05 License suspension and revocation
- 112.06 License transferability
- 112.07 Registration
- 112.08 Prohibited activities
- 112.09 Exclusion by placard

§ 112.01 DEFINITIONS.

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

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.

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

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she

may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term **CANVASSER**.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any 1 location for more than 14 consecutive days.

§ 112.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of **PEDDLERS**, **SOLICITORS**, and **TRANSIENT MERCHANTS**, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

§ 112.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329 as it may be amended from time to time.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 112.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name.
- (2) All other names under which the applicant conducts business or to which applicant officially answers.
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.
- (7) Full address of applicant's regular place of business (if any).
- (8) Any and all business related telephone numbers of the applicant.
- (9) The type of business for which the applicant is applying for a license.
- (10) Whether the applicant is applying for an annual or daily license.
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.
- (13) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
- (14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant.

(15) Proof of any requested county license.

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.

(17) A general description of the items to be sold or services to be provided.

(18) All additional information deemed necessary by the City Council.

(19) The applicant's driver's license number or other acceptable form of identification.

(20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established by the City Council.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Administrator, within 2 regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the required necessary information that is missing. If the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application the City Administrator must issue the license unless there exist grounds for denying the license under § 112.04, in which case the Clerk must deny the license. If the City Administrator denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for 1 calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

(3) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
Penalty, see § 10.99

§ 112.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

(A) The failure of the applicant to obtain and show proof of having obtained any required county license.

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

(C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or 3 complaints filed against the applicant within the preceding 5 years.

§ 112.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- (1) Fraud, misrepresentation or incorrect statements on the application form.
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity.
- (3) Conviction of any offense for which granting of a license could have been denied under § 112.04.
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

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

(D) *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled within 20 days from the date of the request. Within 3 regular business days of the hearing, the City Council shall notify the licensee of its decision.

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

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

Penalty, see § 10.99

§ 112.06 LICENSE TRANSFERABILITY.

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

Penalty, see § 10.99

§ 112.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 112.03, shall be required to register with the city. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

Penalty, see § 10.99

§ 112.08 PROHIBITED ACTIVITIES.

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

Penalty, see § 10.99

§ 112.09 EXCLUSION BY PLACARD.

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least inches long and 4 inches wide with print of at least 48 point in size stating No Peddlers, Solicitors or Transient Merchants, or Peddlers, Solicitors, and Transient Merchants Prohibited, or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

Penalty, see § 10.99

CHAPTER 113: TAXICABS

Section

- 113.01 Definitions
- 113.02 License required
- 113.03 License issuance and display and vehicle marking
- 113.04 Insurance required
- 113.05 Rates and hours of operation
- 113.06 Mechanical condition

§ 113.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DRIVER. The person driving and having physical control over a taxicab whether he or she be the licensee or in the employ of the licensed operator.

OPERATOR. A licensee owning or otherwise having control of 1 or more taxicabs.

TAXICAB. Any passenger conveyance being driven, on call or traversing a scheduled route for public use or hire upon payment of a fare or at regular fare rates, but not including such as are designed for mass transportation as buses, trains or streetcars.

(1981 Code, § 5.55, Subd. 1)

§ 113.02 LICENSE REQUIRED.

It is unlawful for any person to operate a taxicab business with its principal offices and headquartered in the city without a license therefor from the city.

(1981 Code, § 5.55, Subd. 2) Penalty, see § 10.99

§ 113.03 LICENSE ISSUANCE AND DISPLAY AND VEHICLE MARKING.

All licenses shall be issued for specific conveyances, except as otherwise herein provided. License tags, including number and year for which issued, shall be plainly visible from the front of the conveyance. Both sides of every licensed taxicab, when in use, shall be plainly and permanently marked as such with a painted sign or appurtenance showing the full or abbreviated name of the licensed operator.

(1981 Code, § 5.55, Subd. 4)

§ 113.04 INSURANCE REQUIRED.

Before a taxicab license is issued by the Council, and at all times effective during the licensed period, the licensee shall have and maintain public liability and bodily injury insurance in the amount of \$50,000 for any 1 person and \$100,000 for 2 or more persons injured in any 1 accident, as well as \$25,000 property damage insurance. The insurance shall cover all passengers carried by the insured licensee and shall be for public taxicab purposes.

(1981 Code, § 5.55, Subd. 6) (Ord. 41, 3rd Series, eff. 6-1-1984)

§ 113.05 RATES AND HOURS OF OPERATION.

Each applicant shall file with the City Administrator, before a taxicab license is issued or renewed, a schedule of proposed maximum rates to be charged by him or her during the license period for which the application is made. The schedule of proposed maximum rates, hours of operation, or a compromise schedule of rates and hours shall be approved by the Council before granting the license. The schedule, at least 4 inches by 6 inches in size, shall be posted in a conspicuous place in the taxicab in full view of passengers riding therein. Nothing herein shall prevent a taxicab licensee from petitioning the Council for review of the rates during the license period, and the Council may likewise consider the petition and make new rates effective at any time. No taxicab licensee shall charge rates in excess of maximum rates approved by the Council.

(1981 Code, § 5.55, Subd. 7)

§ 113.06 MECHANICAL CONDITION.

Before issuing a taxicab license, the applicant shall present to the Council a certificate signed by a competent and experienced mechanic showing that the taxicab conveyance is in good mechanical condition, that it is thoroughly safe for transportation of passengers and that it is in neat and clean condition. A similar certificate may be required from time to time during the licensed period. In lieu of the certificate the Council may accept the report of the Chief of Police relative thereto.

(1981 Code, § 5.55, Subd. 8)

CHAPTER 114: MASSAGE PARLORS

Section

- 114.01 Definitions
- 114.02 License
- 114.03 Qualifications
- 114.04 Construction requirements
- 114.05 Health and disease control
- 114.06 Maintenance of facilities
- 114.07 Business hours and inspection
- 114.08 Liquor
- 114.09 Solicitation
- 114.10 Licensing, suspended or revoked

§ 114.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MASSAGE, MASSEUR and MASSEUSE. The term *MASSAGE* means the rubbing, stroking, kneading, tapping or rolling of the body with the hands for the exclusive purposes of relaxation, physical fitness, or beautification and for no other purposes; the term *MASSEUR* means a male person and the term *MASSEUSE* a female person, who practices massage. The practice of massage is distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry and persons duly licensed or registered in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, nurses who work solely under the directions of any such persons, athletic directors and trainers are expressly excluded from the provisions of this chapter. Beauty culturists and barbers who do not give, or hold themselves out to give, massage treatments, as defined herein, other than is customarily given in such shops or places of business, for the purposes of beautification only, are also excluded from the provisions of this chapter.

MASSAGE PARLOR. Any room or rooms wherein a person for a fee may receive from another person a massage.

SANITARY. Free from the vegetative cells of pathogenic microorganisms.

SANITIZE. Adequate treatment of surfaces by a process that is effective in destroying vegetative cells of pathogenic bacteria and substantially reducing other microorganisms.

STEAM BATH, HEAT BATHING ROOM and SAUNA. A room or rooms used for the purpose of bathing, reducing body weight or relaxation, which utilize steam or hot air as a cleaning, weight reducing or relaxing agent.

(1981 Code, § 5.60, Subd. 1) (Am. Ord. 66, 3rd Series, passed 5-16-1986)

§ 114.02 LICENSE.

(A) Any person or corporation engaged in the operating, conducting, or keeping of the business of steam baths, heat bathing rooms, massage parlors and saunas shall obtain, from the City Council, a license before engaging in the operating, conducting or keeping of the business. The annual fee for the license shall be determined and set by the City Council by resolution.

(B) All persons engaged in the operation, conducting or keeping of steam baths, heat bathing rooms, massage parlors and saunas, either as an owner or employee or volunteer, shall in addition to any other license required by this chapter obtain an individual license from the City Council before engaging in the work. The annual fee for the license shall be determined and set by the City Council by resolution.

(C) Every application for a license under this section shall be filed with the City Administrator and at the time of each original application for a business of steam bath, heat bathing rooms, massage parlors and saunas, there shall be paid in full an investigation fee of \$100. No investigation fee shall be refunded. All applications shall be referred to the Chief of Police and to such other city departments as the Council shall deem necessary for verification and investigation of the facts set forth in the application. The Chief of Police and other department heads shall make a written recommendation to the Council as to the issuance or non-issuance of the license. The Council may order and conduct such additional investigation as it deems necessary.

(D) Applications shall be made upon forms supplied by the City Administrator which may require information deemed appropriate by the Council and among other items of information, the following:

(1) The name, address, age and telephone number of each person who shall be employed in the establishment;

(2) A list of prior employers of each employee and a short resume of their prior experience in the field of massage;

(3) A statement that the applicant and any employee has not been convicted for any offense punishable by more than 90-days' imprisonment and if, however, there have been such convictions, a list of such offenses, and the county and state in which prosecution was had;

(4) A description of the formal training or apprenticeship, if any, in which the applicant or any of his or her employees has been involved, together with the name or names of any instructors or masters.

(1981 Code, § 5.60, Subd. 2) (Ord. 126, 2nd Series, eff. 6-19-1976; Ord. 5, 3rd Series, passed 5-21-1981; Ord. 66, 3rd Series, eff. 5-16-1986; Am. Ord. 197, 3rd Series, passed 5-16-1996; Am. Ord. 233, 3rd Series, passed 11-5-1998)

§ 114.03 QUALIFICATIONS.

Any person who is 18 years of age or over and who possesses the necessary educational or practical qualifications therefor, as determined by an interview administered by the Council, shall be eligible for licensing under the provisions of this chapter.

(1981 Code, § 5.60, Subd. 3)

§ 114.04 CONSTRUCTION REQUIREMENTS.

(A) All public steam baths, heat bathing rooms, massage parlors and saunas shall be constructed of materials which are impervious to moisture, bacteria, mold or fungus growth. The floor to wall and wall to wall joists shall be constructed to provide a sanitary cover with a minimum radius of 1 inch.

(B) A minimum of 15 foot-candles of illumination shall be supplied in all work areas. A hand washing sink equipped with hot and cold running water under pressure and a sanitary towel dispenser shall be provided for personnel.

(C) All other equipment used in connection with public steam baths, heat bathing rooms, massage parlors and saunas shall be of sanitary design and construction which will permit frequent and thorough cleaning and sanitizing.

(D) All public steam baths, heat bathing rooms, massage parlors and saunas shall be equipped with a floor drain and shall conform to all applicable city and state codes and ordinances and statutes relating to gas, electrical and plumbing installation.

(1981 Code, § 5.60, Subd. 4)

§ 114.05 HEALTH AND DISEASE CONTROL.

(A) It is unlawful for any person, while afflicted with any disease in a communicable form, or while a carrier of the disease, or while afflicted with boils, infected wounds, sores or an acute respiratory infection, to work in or use the services of any public steam bath, heat bathing room, massage parlor or sauna in any capacity in which there is a likelihood of the person contaminating surfaces with pathogenic micro organisms or transmitting disease to other individuals; and no person known or suspected of being afflicted with any such disease or condition shall be employed or permitted in such an area or capacity.

(B) All employees shall wear light colored outer garments, maintain a high degree of personal cleanliness and conform to approved hygienic practices while on duty. They shall wash their hands thoroughly in an approved hand-washing facility before starting work and as often as may be necessary to remove soil and contamination.

(C) Linen shall be clean and laundered, handled and stored in an approved manner. All linens shall be white with no markings or names thereon.

(1981 Code, § 5.60, Subd. 5) Penalty, see § 10.99

§ 114.06 MAINTENANCE OF FACILITIES.

Floors, walls, ceilings, water closets, hand-washing sinks and urinals shall be in good repair and maintained in a clean, sanitary condition at all times. Sanitary hand cleaning agents, sanitary towels and toilet tissue shall be provided at all times and adequate refuse receptacles shall be provided and emptied and cleaned as required.

(1981 Code, § 5.60, Subd. 6) (Ord. 126, 2nd Series, eff. 6-19-1976)

§ 114.07 BUSINESS HOURS AND INSPECTION.

All steam baths, heat bathing rooms, massage parlors and saunas shall open for business no sooner than 8:00 a.m. and close for business no later than 10:00 p.m. During business hours, all steam baths, heat bathing rooms, massage parlors and saunas shall be open to inspection by the Building Official or his or her agents and to the Police Department.

(1981 Code, § 5.60, Subd. 7) (Ord. 66, 3rd Series, eff. 5-16-1986)

§ 114.08 LIQUOR.

Intoxicating or 3.2% malt liquors shall not be allowed on any premises licensed under this chapter. A violation of this chapter shall be grounds for the immediate revocation of the license.

(1981 Code, § 5.60, Subd. 8)

§ 114.09 SOLICITATION.

Licensees and their employees under this chapter shall not solicit business in any public place or in any licensed intoxicating liquor establishment.

(1981 Code, § 5.60, Subd. 9)

§ 114.10 LICENSING, SUSPENDED OR REVOKED.

(A) The Council may by resolution suspend, revoke, condition, limit, qualify, restrict or refuse to renew any license issued under this chapter upon the grounds of:

(1) Fraud or deception in connection with the securing of the license;

(2) Habitual drunkenness or intemperance in the use of drugs, including but not limited to controlled substances as defined by laws of the state, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers;

(3) Conduct unbecoming to a person licensed to practice massage or inimical to the best interest of the public;

(4) Violation of any of the provisions;

(5) Conviction of a crime involving moral turpitude.

(B) Before the Council shall order any such suspension, revocation, condition, limitation, qualification or restriction of a license, or refusal to renew, the holder thereof shall be entitled to a statement of the charges upon which the action is based, together with a right of hearing before the Council, as is made and provided under the statutes of the state.

(1981 Code, § 5.60, Subd. 10) (Ord. 126, 2nd Series, eff. 6-19-1976)

CHAPTER 115: ALARM SYSTEMS

Section

- 115.01 Purpose
- 115.02 Definitions
- 115.03 Permit required; exceptions
- 115.04 Fire alarms
- 115.05 Permit fees
- 115.06 Application for alarm business permit
- 115.07 Application for alarm agent permit
- 115.08 Application for alarm user permit
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- 115.10 Investigation and issuance
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- 115.14 Permit not assignable
- 115.15 Emergency reporting system; prohibitions
- 115.16 Possession, display and surrender of permits
- 115.17 Prohibitions
- 115.18 Limitation of liability

§ 115.01 PURPOSE.

The purpose of this chapter is to regulate the sale, installation and use of fire, burglar, and other emergency alarm systems by requiring alarm businesses, agents, and users to obtain a permit; to provide regulations for the issuance of the permits; and to provide for penalties for initiators of repeated false alarms.

(1981 Code, § 5.64, Subd. 1) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM AGENT. Any person who is employed by an alarm business, either directly or indirectly, whose duties include but are not necessarily limited to any of the following: selling, maintaining, leasing, servicing, repairing, replacing, moving or installing on any building, place or premise any alarm system.

ALARM BUSINESS. Any person, or if the business is a corporation, any person who is an officer, director, shareholder or employee of the corporation, engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring any alarm system or causing any alarm system to be sold, maintained, serviced, repaired, altered, replaced, moved, installed or monitored in or on any building, place or premises.

ALARM SYSTEM. An assembly of equipment and devices (including a single device such as a solid state unit which plugs directly into a 110-volt AC line or is designed to transmit by air waves) designed to signal the presence of a hazard requiring urgent attention and to which Police Department and/or Fire Department personnel are expected to respond. In this chapter, the term **ALARM SYSTEM** shall include the terms **AUTOMATIC HOLDUP ALARM SYSTEM**, **BURGLAR ALARM SYSTEM**, **HOLDUP ALARM SYSTEM**, and **WATERFLOW ALARM SYSTEM** as those terms are hereinafter defined.

ALARM USER. Any person using an alarm system, as herein defined.

AUDIBLE ALARM. A device designed for detection of an unauthorized entry or fire on or in premises, which when activated generates an audible sound on the premises.

AUTOMATIC HOLDUP ALARM SYSTEM. An alarm system in which the signal transmission is initiated by the action of a robber.

BURGLAR ALARM SYSTEM. An alarm system signaling an entry or an attempted entry into the area protected by the system.

CENTRAL STATION or **CENTRAL STATION SYSTEM.** A place where alarm systems are monitored by a private organization (such as an alarm company or an answering service). It shall not mean or have any reference to the monitoring of alarms at the dispatch centers operated by the Police Department and/or the Fire Department.

DIGITAL DIALER. All alarms connected to a central station, answering service or other place from where calls will be placed to the Police Department or Fire Department informing the department that an alarm has been received from the establishment or residence utilizing the alarm with the intent that a police or fire unit be dispatched to answer the alarm.

DISPATCH CENTER. The dispatch center located in the police station at 303 4th Street Northwest and operated by the Police Department and/or the dispatch center located in the fire station at 415 4th Street Northwest and operated by the Fire Department.

FALSE ALARM. The malicious activation of an alarm system when no emergency exists, or the activation of an alarm system through mechanical failure, malfunction, improper installation, improper maintenance, or the negligence of the owner or occupant of the building where the alarm system is located, or by the negligence of the employees, agents, or guests of the owner or occupant. The terminology does not include, for example, alarms caused by tornadoes, earthquakes, or other violent weather conditions, or alarms caused by utility company power outages or telephone company line problems.

FALSE ALL CALL ALARM. A false alarm as defined herein to any building known to usually be occupied by many persons such as hotels, motels, nursing homes, public and private schools, grain elevators, and any church during normal hours of service.

FIRE ALARM SYSTEM or WATER FLOW ALARM SYSTEM. Those systems that signal the likelihood of fire or smoke within a building or area or the flow of water through a sprinkler system or some like system.

HOLDUP ALARM SYSTEM. An alarm system signaling a robbery or attempted robbery.

MANUAL HOLDUP ALARM SYSTEM. An alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

PROPRIETOR ALARM. An alarm which is not serviced by an alarm business and which when activated does not alert a central station, central station system, or dispatch center. (1981 Code, § 5.64, Subd. 2) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.03 PERMIT REQUIRED; EXCEPTIONS.

(A) It is unlawful for any person to work as an alarm agent; to own, manage, conduct, or carry on an alarm business or to own, use, or possess an alarm system without first complying with the provisions of this chapter and without first obtaining the proper permit as required by this chapter.

(B) The provisions of this chapter shall not be applicable to the following:

(1) Audible alarms affixed to motor vehicles as allowed by law;

(2) Strictly proprietary systems which are not connected to the dispatch center, any central station or other business or place intended for the receiving of alarms and which do not generate any audible sound which is intended to be heard off the premises of the owner;

(3) Strictly proprietary systems which create any signal, light or device intended to be heard or seen off the premises of the owner and intended to elicit a response by someone hearing or seeing the alarm, signal or light;

(4) The officers, agents and employees of the city in the performance of their official duties. (1981 Code, § 5.64, Subd. 3) (Ord. 128, 3rd Series, eff. 7-12-1991) Penalty, see § 10.99

§ 115.04 FIRE ALARMS.

Any exceptions listed in § 115.03 shall not apply to fire alarm systems. All fire alarm systems, fire extinguishing systems (including automatic sprinklers), and other fire protection systems and appurtenances thereof which are designed to alert someone of the danger of fire or smoke or waterflow shall meet the approval of the Chief of the Fire Department as to installation and location and shall be subject to such periodic tests as required by the Chief. Plans and specifications shall be submitted to the Chief for review and approval prior to construction or installation and shall meet all provisions of the Uniform Fire Code as adopted by the city. Any system not meeting the Code or approval of the Fire Chief shall not be installed and shall be deemed a violation of this chapter if installed without written approval of the Chief.

(1981 Code, § 5.64, Subd. 4) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.05 PERMIT FEES.

The Council shall, from time to time by resolution, set the fee to be paid by the applicant to the city for the issuance or renewal of an alarm business permit, an alarm agent permit, an alarm user permit, or the owner or user of a digital dialer or similar device. The fees shall be on an annual basis and shall be paid in advance on or before January 1 of each year covered by the permit. The fees for permits issued in the middle of a year shall be pro rated through and including the entire month in which the permit is first issued. No refunds for disconnects or for permits forfeited or turned in during any year shall be given.

(1981 Code, § 5.64, Subd. 5) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.06 APPLICATION FOR ALARM BUSINESS PERMIT.

(A) Applicants for a permit under this section shall file with the City Administrator a sworn application in writing on a form to be furnished by the City Administrator.

(B) The application shall give the following information:

(1) A full description of the exact nature of the business;

(2) Whether the business is a sole proprietorship, a partnership, a corporation, or other type of business entity;

(3) The names, complete residence addresses and residence telephone numbers of all owners of the business; and if any such owner is a corporation, the principal officers, directors and shareholders of the corporation and the names of all alarm agents employed by the alarm business;

(4) The names under which the business is conducted;

(5) The location of the proposed business for which the license is sought, the business mailing address if different from the location of business and the telephone number of the establishment where the business is to be conducted;

(6) Whether any license or permit to engage in the type of business for which the permit is sought has previously been denied to the applicant or suspended or revoked from the applicant; and if so the circumstances of the denial, suspension or revocation;

(7) The brand names of all equipment to be sold, serviced, maintained and used by the applicant;

(8) The application may include such other information as the Chief of Police finds reasonably necessary to determine the qualifications of the applicant for the permit.
(1981 Code, § 5.64, Subd. 6) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.07 APPLICATION FOR ALARM AGENT PERMIT.

(A) Applicants for a permit under this section shall file with the City Administrator a sworn application in writing on a form to be furnished by the City Administrator.

(B) The application shall give the following information:

(1) The application for an alarm agent permit shall include the personal history of the applicant. The applicant shall present, with the application, 2 recent photographs (1½ inches by 1½ inches), 1 to be filed with the application and 1 to be permanently attached to the alarm agent permit when issued. Each alarm agent permit must set forth the name and address of the applicant and, if the applicant is employed by an alarm business, the application shall include all of the information required by § 115.07;

(2) The application may include such other information as the Chief of Police finds reasonably necessary to determine the qualifications of the applicant for the permit.
(1981 Code, § 5.64, Subd. 7) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.08 APPLICATION FOR ALARM USER PERMIT.

(A) Applicants for a permit under this section shall file with the City Administrator a sworn application in writing on a form to be furnished by the City Administrator.

(B) The application shall give the following information:

(1) The application for an alarm user permit shall state the name, address, and telephone number of the applicant's property serviced by an alarm system or by a central station system and the name, address, and telephone number of the applicant's residence if other than the property serviced by the alarm. If the applicant's alarm system or central station system is serviced by an alarm business, the applicant shall include the name and address of the alarm business. It shall also contain the names, addresses and current telephone numbers of at least 2 agents of the applicant for responses to alarm calls when the applicant is not present to respond. The agents shall have keys and possess the necessary knowledge to reset or take any action necessary with the alarm;

(2) The application may include such other information as the Chief of Police finds reasonably necessary to determine the qualifications of the applicant for the permit.

(1981 Code, § 5.64, Subd. 8) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.09 PERSON INELIGIBLE FOR PERMIT.

No permit shall be issued to any applicant for an alarm agent permit or an alarm business permit who has been convicted of a felony under the laws of this state or any other state or federal law of the United States within 5 years of the date of application; or if after investigation by the Chief of Police, applicant's character, reputation, experience or other record is determined to be inimical to the safety or the general welfare of the community.

(1981 Code, § 5.64, Subd. 9) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.10 INVESTIGATION AND ISSUANCE.

(A) Upon receipt of each application, the City Administrator shall refer the application to the Chief of Police who shall immediately institute an investigation of the applicant's business and moral character as the Chief of Police deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this chapter within 10 days after it has been filed by the applicant with the City Administrator. An application shall be denied if the applicant willfully falsifies any information on the application.

(B) If, as a result of the investigation, the applicant's character or business reputation is found to be unsatisfactory, the Chief of Police shall endorse on the application his or her recommendations for disapproval and his or her reasons for the same and shall return the application to the City Administrator who shall present the application to the Council for its consideration at its next regularly scheduled meeting.

(C) If, as a result of the investigation, the applicant's character or business reputation is found to be satisfactory, the Chief of Police shall endorse on the application his or her recommendation for approval and shall return the application to the City Administrator who shall present the application to the Council for its consideration at its next regularly scheduled meeting. If the application is granted by the Council, a permit shall be issued by the City Administrator. The permit shall exhibit the signature of the City Administrator and shall list at a minimum the name and address of the permittee, the date of issuance and the term of the permit which shall not exceed 1 year and any other information as may be required by the Council by resolution.

(1981 Code, § 5.64, Subd. 10) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.11 SUSPENSION OR REVOCATION OF PERMIT.

(A) An alarm business permit, an alarm agent permit, or an alarm user permit shall be revoked or suspended for a period of time by the Chief of Police for any reason for which the granting of the permit might be lawfully denied or for a violation of any provision of this chapter or of any rule or regulation made in implementation thereof by the Chief of Police under this chapter. Suspension or revocation of an alarm user permit shall result in disconnection of the alarm system at the discretion of the Chief of Police.

(B) An alarm user permit may be revoked or suspended:

(1) When the alarm user or his or her agent fails to respond to his or her activated alarm within a reasonable time when requested to do so;

(2) When the alarm user is not available in person or by his or her representative, employee or alarm company to be contacted regarding an alarm;

(3) When an alarm user's alarm system has signaled an excessive number of false alarms as defined herein;

(4) When an alarm user fails to pay fees charged under this chapter.

(1981 Code, § 5.64, Subd. 11) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.12 APPEAL FROM DENIAL, SUSPENSION OR REVOCATION.

Every applicant for, or holder of, an alarm business permit, an alarm agent permit, or an alarm user permit shall have the right to appeal to the Council upon a denial of the application or upon a suspension or revocation of the permit. The appeal shall be made in writing to the Council within 15 days from the date of the denial, suspension or revocation of a permit. The written appeal shall be filed in the office of the City Administrator, shall be addressed to the Council, and shall state the basis of the appeal. The City Administrator shall then arrange to have the appeal heard within 30 days of the time of filing with the City Administrator. The City Administrator shall cause the applicant or holder to be given notice of the hearing by certified mail at least 7 days in advance of the date of the hearing. The applicant or holder may appear before the Council and the applicant or holder, or his or her designated representative, may make an oral presentation of his or her appeal or he or she may make the appeal through a written statement or he or she may do both. The Council shall rule on the appeal within 20 days after it is heard. (1981 Code, § 5.64, Subd. 12) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.13 CHARGES FOR FALSE ALARMS.

(A) *Penalty charges for false alarms.* Any alarm business or alarm user who maintains or has an alarm system which signals a false alarm which in the opinion of the police officers or firefighter who responded to the alarm is caused by the negligence of the owner or occupant of the building where the alarm system is located or the employees, agents, or guests of the owner or occupant shall pay a penalty charge to the city as shall be determined from time to time by the Council by resolution. The Police and Fire Departments shall keep records of all false alarms received by the Departments and the explanation for the false alarms. These records shall be available for inspection by alarm users and alarm businesses. If no cause for the false alarms is determined, it shall be the duty and responsibility of the alarm user to ascertain what the cause is and to take steps to prevent the signaling of additional false alarms to the dispatch center and to pay necessary charges for excessive false alarms. (1981 Code, § 5.64, Subd. 13)

(B) *Penalty charges for false all call fire alarms.* Any alarm user who maintains or has a fire alarm system which signals a false all call fire alarm which in the opinion of the firefighters who responded to the alarm is caused by the negligence of the owner or occupant of the building where the alarm system is located, or the employees, agents, or guests of the owner or occupant, shall pay a penalty charge to the city as shall be determined from time to time by the Council by resolution. The Fire Department shall keep records of all false all call alarms received by the Department and the explanation for the false all call alarms. These records shall be available for inspection by alarm users and alarm businesses. If no cause for the false all call alarms is determined, it shall be the duty and responsibility of the alarm user to ascertain what the cause is and to take steps to prevent the signaling of additional false all call alarms to the dispatch center and to pay necessary charges for excessive false alarms to all call alarms. This chapter shall not apply to single-family residences and small businesses which typically do not

require an all call response consisting of all available firefighters and equipment. It shall apply to locations which typically do require an all call response, including, but not limited to hotels, motels, nursing homes, public and private schools, grain elevators, and any church during normal hours of service.

(1981 Code, § 5.64, Subd. 14)

(C) *Penalty charges for false alarms received from digital dialing equipment.* Since digital dialing equipment is becoming more prevalent in the alarm business industry, and since the alarm may be transmitted long distances to a central station or other answering point, and since these central stations or answering points telephone the dispatch center reporting a burglar alarm, fire alarm, or other emergency at certain locations, and since these alarms must be answered by police and/or fire personnel as would those transmitted directly to the dispatch center, the penalties of division (A) of this section shall be applicable to those alarms telephoned in by a central station or answering point as a result of receiving an alarm signal from such a digital dialer.

(1981 Code, § 5.64, Subd. 15)

(Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.14 PERMIT NOT ASSIGNABLE.

No permit issued under the provisions contained herein shall be assignable.

(1981 Code, § 5.64, Subd. 16) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.15 EMERGENCY REPORTING SYSTEM; PROHIBITIONS.

It is unlawful for any permittee to install, or cause to be used, any automatic dialing service or attachment to any telephone that reproduces any taped or pre-recorded message to report a fire, burglary, robbery, or other emergency which utilizes public emergency call number 911.

(1981 Code, § 5.64, Subd. 17) (Ord. 128, 3rd Series, eff. 7-12-1991) Penalty, see § 10.99

§ 115.16 POSSESSION, DISPLAY, AND SURRENDER OF PERMITS.

The alarm business permits shall be conspicuously displayed at the principal place of business, and every alarm agent permit shall be carried by the alarm agent while he or she is working and shall be displayed upon request by any police officer. Any permit hereunder shall be surrendered to the Chief of Police upon suspension or revocation, and thereafter the suspended or revoked permit shall be delivered to the City Administrator.

(1981 Code, § 5.64, Subd. 18) (Ord. 128, 3rd Series, eff. 7-12-1991)

§ 115.17 PROHIBITIONS.

It is unlawful for any person to activate any police or fire alarm system except in the event of what is reasonably believed to be an emergency or unlawful act and/or an unauthorized entry on premises. Whenever a police or fire alarm system has been designed and commonly understood to alert others of an emergency or of the commission of a particular crime, it is unlawful for anyone to activate such an alarm system except in the event of what is reasonably believed to be an emergency or the commission of the particular crime. It is unlawful to install or use an alarm system which upon activation emits a sound similar to sirens in use on emergency vehicles or for civil defense purposes.

(1981 Code, § 5.64, Subd. 19) (Ord. 128, 3rd Series, eff. 7-12-1991) Penalty, see § 10.99

§ 115.18 LIMITATION OF LIABILITY.

The city shall be under no duty or obligation to a permittee or to any other person hereunder by reason of any provision of this chapter or the exercise of privileges of a permittee hereunder, including but not limited to any defects in an alarm system or any delays in transmission of response to any alarm, and the decision to respond to any alarm is declared to be a discretionary function or duty. The city is not responsible for any expansion of its existing facility and does reserve the right to reject applications.

(1981 Code, § 5.64, Subd. 20) (Ord. 128, 3rd Series, eff. 7-12-1991)

CHAPTER 116: TOBACCO PRODUCTS

Section

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§ 116.01 PURPOSE.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of both state and federal laws; and because studies, which are accepted and adopted, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.
(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research, and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

INDIVIDUALLY PACKAGED. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but are not limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this section shall not be considered individually packaged.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of 18 years.

MOVABLE PLACE OF BUSINESS. Any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

SALE. Any transfer of goods for money, trade, barter, or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flower; cavendish; shorts, plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such a manner as to be suitable for chewing, sniffing, or smoking of tobacco or tobacco products.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.03 LICENSE.

It is unlawful for any person to sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

(A) *Application.* An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the City Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(B) *Action.* The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the City Administrator shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

(C) *Term.* The term of all license issued under this chapter shall be from January 1 through December 31 of the year of issuance.

(D) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in the § 116.99.

(E) *Transfers*. All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.

(F) *Movable place of business*. No license shall be issued to a movable place of business. Only fixed locations businesses shall be eligible to be licensed under this chapter.

(G) *Displays*. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(H) *Renewals*. The renewal of a license issued under this chapter shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but not more than 60 days before the expiration of the current license.

(Ord. 263, 3rd Series, passed 1-7-2003) Penalty, see § 10.99

§ 116.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be set and may from time to time be amended by the Council by resolution.

(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.05 BASIS FOR DENIAL OF LICENSE.

The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter.

(A) The applicant is under the age of 18 years.

(B) The applicant has been convicted within the past 5 years of any violation of a federal, state or local law or City Code provision, or other regulation relating to tobacco or tobacco products or tobacco related devices.

(C) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application.

(D) The applicant fails to provide any information required on the application or provides false or misleading information.

(E) The applicant is prohibited by federal, state, or local law, City Code provision or other regulation from holding such a license.
(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.06 PROHIBITED SALES.

It is a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

(A) To any person under the age of 18 years;

(B) By means of any type of vending machine, except as may otherwise be provided in this section;

(C) By means of self-service methods whereby the customer does not need to make verbal or written request to any employee of the licensed premise in order to receive the tobacco, tobacco related product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or the licensee's employee and the customer;

(D) By means of loosies as defined herein;

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process;

(F) By any other means, or to any other person, or in any other manner or form prohibited by federal, state or other local law, city code provision, or other regulations.
(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.07 VENDING MACHINES.

It is unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

(Ord. 263, 3rd Series, passed 1-7-2003) Penalty, see § 116.99

§ 116.08 SELF-SERVICE SALES.

It is unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to the items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical

exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this chapter within 90 days following the effective date of this chapter.

(Ord. 263, 3rd Series, passed 1-7-2003) Penalty, see § 116.99

§ 116.09 RESPONSIBILITY.

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

(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.10 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city law enforcement or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated personnel. Minors used for compliance checks shall not be guilty of unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this chapter 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.

(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.98 VIOLATIONS.

(A) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(B) *Hearing.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(C) *Hearing officer.* A person(s) designated by the Council shall serve as the hearing officer.

(D) *Decision.* If the hearing officer determines that violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under § 116.99 shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

(E) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the District Court for the jurisdiction of the city in which the alleged violation occurred.

(F) *Misdemeanor prosecution.* Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(G) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. 263, 3rd Series, passed 1-7-2003)

§ 116.99 PENALTY.

(A) *Licensees.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine in an amount set by City Council for a first violation of this chapter; a fine in an amount set by City Council for a second offense at the same licensed premises within a 2-month period; and a fine in an amount set by City Council for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than 7 days.

(B) *Other individuals.* Other individuals, other than minors regulated elsewhere in this code, found to be in violation of this chapter shall be charged an administrative fee in an amount set by City Council.

(C) *Misdemeanor.* Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(Ord. 263, 3rd Series, passed 1-7-2003)

CHAPTER 117: ALCOHOLIC BEVERAGES

Section

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GENERAL PROVISIONS AND REGULATIONS

§ 117.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

3.2% MALT LIQUOR. Malt liquor containing not less than 0.5% alcohol by volume nor more than 3.2% alcohol by weight. (This definition includes so called **MALT COOLERS** with the alcoholic content limits stated herein.)

ALCOHOLIC BEVERAGE. Any beverage containing more than 0.5% alcohol by volume.

APPLICANT. Any person making an application for a license under this chapter.

APPLICATION. A form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

BREWER. A person who manufactures malt liquor for sale.

CLUB. An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports or a congressionally chartered veterans' organization, which:

(1) Has more than 30 members;

(2) Has owned or rented a building or space in a building for more than 1 year that is suitable and adequate for the accommodation of its members;

(3) Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. The club or congressionally chartered veterans' organization must have been in existence for at least 3 years.

COMMISSIONER. The Minnesota Commissioner of Public Safety.

DESIGNATED AGENT. The manager or other designated individual appointed by the licensee to take full responsibility for the conduct of the licensed premises and for service of process relating to the license.

(Ord. 308, 3rd Series, passed 3-3-2009)

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of liquor except for the incidental sale of ice, tobacco, beer, beverages for mixing with liquor, and soft drinks may also be sold, and the establishment may offer recorded or live entertainment and make available coin-operated amusement devices. **EXCLUSIVE LIQUOR STORE** also includes an on-sale or combination on-sale and off-sale liquor establishment which sells food for on-premise consumption when authorized by the city issuing the license.

HOTEL. An establishment where food and lodging are regularly furnished to transients and which has:

(1) A resident proprietor or manager;

(2) A dining room serving the general public at tables and having facilities for seating at least 30 guests at 1 time; and

(3) At least 10 guest rooms.

LICENSE. A document, issued by the city, to an applicant permitting him or her to carry on and transact the business stated therein.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

LICENSED PREMISES. The space or structure described in the issued license. In the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, **LICENSED PREMISES** means the entire golf course except for areas where motor vehicles are regularly parked or operated.

LICENSEE. An applicant who, pursuant to his or her approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension from the city for carrying on the business stated therein.

INTOXICATING LIQUOR. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight. (This definition includes so called **WINE COOLERS** and **MALT COOLERS** with the alcoholic content limits stated herein.)

MALT LIQUOR. Any beer, ale, or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume.

MANUFACTURER. Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

MINOR. With respect to purchasing, possessing, consuming, selling, furnishing, and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's 21st birthday.

(Am. Ord. 287, 3rd Series, passed 8-16-2005; Am. Ord. 297, 3rd Series, passed 2-2-2007)

OFF-SALE. The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

ON-SALE. The sale of alcoholic beverages for consumption on the licensed premises only.

SALE, SELL and SOLD. All barter and all manners or means of furnishing 3.2% malt liquor, wine or intoxicating liquor to persons, including such furnishing in violation or evasion of law.

PACKAGE and ORIGINAL PACKAGE. Any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

RESTAURANT. An establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public and having seating capacity for at least 30 guests.

WHOLESALER. Any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

WINE. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. (This definition includes **WINE COOLERS** with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, **WINE** may contain up to 14% alcohol by volume for consumption with the sale of food. For all other purposes, **WINE** is a product containing not less than 0.5% nor more than 24% alcohol by volume for nonindustrial use.
(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.02 APPLICATIONS AND LICENSES; PROCEDURE AND ADMINISTRATION.

(A) *Application.* All applications shall be made at the office of the City Administrator upon forms prescribed by the city, or if by the Commissioner, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of a intoxicating liquor, 3.2% malt liquor, or wine license must include a copy of each summons and complaint received by the applicant during the preceding year under M.S. § 340A.802, as it may be amended from time to time.

(B) *False statements.* It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on the application form shall, upon discovery of the falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.

(C) *Application and investigation fees.* At the time of the initial application, an applicant for an on-sale or off-sale 3.2% malt liquor, intoxicating liquor license or on-sale wine license shall pay to the city the sum of \$50 if a natural person, and \$75 if a partnership, or \$150 if a corporation, which fee shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the city in processing the application and investigation thereof. No fee shall be required of an applicant for a temporary beer license.

(D) *Action.*

(1) *Granting.* The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this chapter. Prior to consideration of any application for a

license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before approval of the issuance by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

(2) *Issuing.* If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the city or the proper agency of the state, as the case may be. All licenses shall be on a fiscal year basis, July 1 to June 30. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at 1 location and on the premises therein described.

(3) *License refundment in certain cases.* In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee shall cease by reason of his or her illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under his or her license, except when the license is revoked, the city shall, upon the happening of any such event, refund to the licensee, or to his or her estate, such part of the license fee paid by him or her as corresponds to the time the license had yet to run. In the event of death of the licensee, his or her personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

(4) *Transfer.* Each license shall be issued only to the applicant and for the premises described in the license. No license may be transferred to another person or place without Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license. Any application for transfer of license, either to another person or place, or transfer of stock in corporate licensee, shall be accompanied by a payment of a fee of \$25. It is unlawful to make any transfer in violation of this subsection, and any such transfer shall also be grounds for revocation of the license.

(5) *Refusal and termination.* The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

(6) *Revocation or suspension.* For any license granted under the provisions of this chapter, the Council shall revoke or suspend, for a period not to exceed 60 days, impose a civil fine not to exceed \$2,000, or any combination of these sanctions, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of alcoholic beverages upon premises of the licensee or if the revocation is mandatory by statute. If it shall be made to appear at the hearing thereon that the violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third violation or offense. No suspension or revocation shall take effect until the licensee has

been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. The hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this chapter, and in addition to grounds for revocation or suspension stated in the City Code or statute, the following shall also be grounds for the action:

- (a) That the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of alcoholic beverages;
- (b) That the licensee had knowledge of the illegal acts upon licensed premises, but failed to report the same to police;
- (c) That the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts the licensed premises; or
- (d) That the activities of the licensee created a serious danger to public health, safety, or welfare.

(7) *Corporate applicants and licensees.* A corporate applicant, at the time of application, shall furnish the city with a list of all persons that have an interest in the corporation and the extent of the interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Administrator of any change in legal ownership or beneficial interest in the corporation or in the shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked 30 days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the changes in writing and has approved it by appropriate action. The Council, or any officer of the city designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no action shall be taken until after a hearing by the Council on notice to the licensee.

(E) *Duplicate licenses.* Duplicates of all original licenses under this chapter may be issued by the City Administrator, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee in an amount set by City Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

(F) *Posting.* All licensees shall conspicuously post their licenses in their places of business.

(G) *Designated agent.* The manager or other designated individual shall, by the terms of his or her written consent take full responsibility for the conduct of the licensed premises; and serve as designated agent for service of process relating to the license. The appointed individual must be a person who, by reason of age, character, reputation and other attributes, could qualify individually as a licensee. If the appointed designated agent ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to the appointment shall be subject to revocation or suspension.

(H) *Persons disqualified.*

(1) No license under this chapter may be issued or renewed to:

(a) A person who within 5 years of the license application has been convicted of any felony or a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages;

(b) A person who has had an alcoholic beverage license revoked within 5 years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than 5% of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; or

(c) A person under the age of 21 years; or

(d) A person not of good moral character and repute.

(2) No person holding a license from the Commissioner as a manufacturer, brewer or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the city.

(Ord. 278, 3rd Series, passed 2-17-2004; Am. Ord. 308, 3rd Series, passed 3-3-2009) Penalty, see § 117.99

§ 117.03 LICENSE RESTRICTIONS.

(A) *Renewal of licenses.* Applications for renewal of all licenses under this chapter shall be made at least 45 days prior to the date of expiration of the license and shall contain such information as is required by the city. This time requirement may be waived by the Council for good and sufficient cause.

(B) *Delinquent taxes and charges.* No license under this chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the city are owed by the applicant and are delinquent and unpaid. For the purpose of this section **APPLICANT** includes persons, and related persons:

(1) Owning at least a 50% beneficial interest in the proposed license or in the entity making the application; and

(2) At least an undivided 1/2 interest in the premises proposed to be licensed or at least a 50% beneficial interest in the entity owning the premises.

(C) *Limitation on ownership.* No person shall be granted intoxicating liquor, 3.2% malt liquor or wine licenses at more than 1 location, with the exception that a person may be granted up to 2 on-sale liquor licenses for 2 separate locations. For the purpose of this division, any person owning an interest of 10%, or more, of the entity to which the license is issued, or such ownership by a member of his or her immediate family, shall be deemed to be a licensee.

(D) *Conditional licenses.* Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place special conditions and restrictions, in addition to those stated in this chapter, upon any license as it, in its discretion, may deem reasonable and justified.

(E) *Premises licensed.* A license issued under the provisions of this chapter shall be valid only for the premises described in the license, and all transactions relating to a sale under the license must take place within the space or structure.

(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.04 UNLAWFUL ACTS.

(A) *Consumption.* It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than 30 minutes after the hour when a sale thereof can legally be made.

(B) *Removal of containers.* It is unlawful for any on sale licensee to permit any glass, bottle or other container, containing alcoholic beverages in any quantity, to remain upon any table, bar, stool or other place where customers are served more than 30 minutes after the hour when a sale thereof can legally be made.

(C) *Closing*. It is unlawful for any person, other than an on-sale licensee’s bona fide employee actually engaged in the performance of his or her duties, to be on premises licensed under this chapter more than 30 minutes after the legal time for making licensed sales; provided, however, that this division shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than alcoholic beverages.
(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.05 CONDUCT ON LICENSED PREMISES.

Except as herein provided, every licensee under this chapter shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order therein.
(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.06 SALE BY EMPLOYEE.

(A) Any sale of an alcoholic beverage in or from any premises licensed under this chapter by any employee authorized to make the sale in or from the place is the act of the employer as well as of the person actually making the sale; and every employer is liable to all of the penalties, except criminal penalties, provided by law for the sale, equally with the person actually making the sale.
(Ord. 278, 3rd Series, passed 2-17-2004)

(B) A police officer may charge any licensee's employee who makes an illegal sale of an alcoholic beverage with a crime, and/or in the charging police officer's discretion may levy a civil monetary penalty against the offending employee according to the following schedule:

- (1) First offense. \$75
- (2) Second offense within a 12-month period. \$150
- (3) Third offense within a 12-month period. \$300
- (4) Every subsequent offense within a 12-month period. \$300

§ 117.07 LICENSE CONDITION AND UNLAWFUL ACT.

(A) All premises licensed under this chapter shall at all times be open to inspection by any police officer to determine whether or not this chapter and all other laws are being observed. All persons, as a condition to being issued the license, consent to the inspection by the officers and without a warrant for searches or seizures.

(B) It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making the inspection.
(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.08 INSURANCE CERTIFICATE REQUIREMENTS.

(A) Whenever an insurance certificate is required by this chapter the applicant shall file with the City Administrator a certificate of insurance showing:

- (1) That the limits are at least as high as required;
- (2) That coverage is effective for at least the license term approved; and
- (3) That the insurance will not be cancelled or terminated without 30-days' written notice served upon the City Administrator.

(B) Cancellation or termination of the coverage shall be grounds for license revocation.
(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.09 FINANCIAL RESPONSIBILITY OF LICENSEES.

(A) *Proof.* No 3.2% malt liquor, wine or intoxicating liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by Minnesota Statutes, by filing with the city:

- (1) A certificate that there is in effect an insurance policy or pool providing minimum coverage of:
 - (a) Fifty thousand dollars because of bodily injury to any 1 person in any 1 occurrence, and, subject to the limit for 1 person, in the amount of \$100,000 because of bodily injury to 2 or more persons in any 1 occurrence, and in the amount of \$10,000 because of injury to or destruction of property of others in any occurrence; and
 - (b) Fifty thousand dollars for loss of means of support of any 1 person in any 1 occurrence, and, subject to the limit for 1 person, \$100,000 for loss of means of support of 2 or more persons in any 1 occurrence; an annual aggregate of \$300,000 may be included in the insurance coverage; or
 - (2) A bond of a surety company with minimum coverage as provided in subsection (1) above;
- or

(3) A certificate of the State Treasurer that the licensee has deposited with him or her \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

(B) *Exception.* This section does not apply to on-sale 3.2% malt liquor licensees with sales of 3.2% malt liquor of less than \$25,000 for the preceding year, nor to off-sale 3.2% malt liquor licensees with sales of 3.2% malt liquor of less than \$50,000 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$25,000 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this division.

(C) *Documents submitted to Commissioner.* All proofs of financial responsibility and exemption affidavits filed with the city under this section shall be submitted by the city to the Minnesota Commissioner of Public Safety.

(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.10 GAMBLING PROHIBITED.

It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except as are licensed by the Charitable Gambling Control Board and then only except as it complies with the established policy of the city, statute or the City Code.

(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.11 UNLAWFUL ACTS OF MINORS.

(A) *Consumption.* It is unlawful for any:

(1) Licensee to permit any minor to consume alcoholic beverages on licensed premises;

(2) Minor to consume alcoholic beverages except in the household of the minor's parent or guardian and then only with the consent of the parent or guardian.

(B) *Purchasing.* It is unlawful for any person:

(1) To sell, barter, furnish, or give alcoholic beverages to a minor unless the person is the parent or guardian of the minor and then only for consumption in the household of the parent or guardian;

(2) Minor to purchase or attempt to purchase any alcoholic beverage;

(3) To induce a minor to purchase or procure any alcoholic beverage.

(C) *Possession.* It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his or her parent or guardian.

(D) *Entering licensed premises.*

(1) It is unlawful for any minor, as defined in this chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of 18 years to enter licensed premises for the following purposes:

(a) To perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute;

(b) To consume meals; and

(c) To attend social functions that are held in a portion of the establishment where liquor is not sold.

(2) It is unlawful for a licensee to permit a person under the age of 18 years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

(E) *Misrepresentation of age.* It is unlawful for a minor to misrepresent his or her age for the purpose of purchasing an alcoholic beverage.

(F) *Proof of age.* Proof of age for purchasing or consuming alcoholic beverages 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; or by 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, by a valid passport.

(G) *Qualification for license.* No minor shall qualify for a license.
(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.12 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.

(A) It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage, as that term is defined in this chapter, on any:

- (1) City park;
- (2) Street;
- (3) Public property; or

(4) Private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council.

(B) Provided, that this section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of the vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk.

(C) For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.13 ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.

It is unlawful for any person to introduce upon, or have in his or her possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.

(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.14 SPORTS OR CONVENTION FACILITIES LICENSE.

The Council may authorize any holder of an on-sale intoxicating liquor license issued by the city to sell intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports or convention facility owned by the city, or instrumentality thereof having independent policy-making and appropriating authority and located within the city. The licensee must

be engaged to sell intoxicating liquor at such an event by the person or organization permitted to use the premises and may sell intoxicating liquor only to persons attending the event. The licensee shall not sell intoxicating liquor to any person attending or participating in any amateur athletic event. The sales may be limited to designated areas of the facility. All such sales shall be subject to all laws relating thereto. (Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.15 TEMPORARY INTOXICATING LIQUOR LICENSE.

(A) *License authorized.* Notwithstanding any provision of the City Code to the contrary, the Council may issue a license for the temporary on-sale of intoxicating liquor in connection with a social event sponsored by the licensee. The license may provide that the licensee may contract with the holder of a full year on-sale license, issued by the city, for intoxicating liquor catering services.

(B) *Applicant.* The applicant for a license under this section must be a club or charitable, religious, or other non-profit organization in existence for at least 3 years.

(C) *Terms and conditions of license.*

(1) No license is valid until approved by the Commissioner.

(2) No license shall be issued for more than 3 consecutive days.

(3) All licenses and licensees are subject to all provisions of statutes and the City Code relating to intoxicating liquor sale and licensing except those relating to financial responsibility and insurance, and except those which by their nature are not applicable.

(4) Licenses may authorize sales on-premises other than those owned or permanently occupied by the licensee.

(5) Not more than 3 temporary licenses for the sale of alcoholic beverages may be issued to any 1 organization or for any 1 location within a 12-month period.

(D) *Insurance required.* The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000 for injury to any 1 person, \$100,000 for injury to more than 1 person, and \$10,000 for property damage, naming the city as an insured during the license period.

(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.16 CONSUMPTION AND DISPLAY.**(A) Generally.**

(1) *State permit required.* It is unlawful for any person or business establishment, directly or indirectly, or upon any pretense or by any device, to allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing of intoxicating liquor without first having obtained a permit therefor from the state. The state permit shall expire on March 31 of each year.

(2) *Special conditions.* The following special conditions, limitations, and restrictions shall apply to and shall be met prior to the city's approving the issuance by the state of a permit hereunder.

(a) The premises wherein the permit is used shall have a minimum seating capacity for 600 people; and

(b) The premises shall have a restaurant serving steak, seafood or similarly menued items and having a seating capacity for at least 150 or more people.

(3) *Right to charge for 'mixes' brought onto premises.* Any person, firm or corporation meeting the requirements and criteria as set forth herein shall be allowed to sell and serve soft drinks, mixes and ice, or otherwise charge patrons for the bringing of soft drinks, mixes and ice onto the premises.

(4) *Fee.* In addition to the state permit fee, the annual license fee payable to the city is \$300 in accordance with M.S. § 340A.414, as it may be amended from time to time.

(5) *Hours and days.* It is unlawful to consume or allow consumption or display of liquor in any bottle club or business establishment between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Saturday, nor between 2:00 a.m. and 12:00 noon on Sunday.

(Am. Ord. 287, 3rd Series, passed 8-16-2005; Am. Ord. 297, 3rd Series, passed 1-2-2007)

(B) One-day license.

(1) *License required.* Any non-profit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it shall first obtain a license therefor from the city. It is unlawful for any such organization to fail to obtain the license.

(2) *Term.* The term of the license shall be 1 day only.

(3) *Limitation on number.* No more than 10 licenses shall be issued in any calendar year.

(4) *License fee.* The fee for such 1-day license is \$25 in accordance with M.S. § 340A.414, as it may be amended from time to time.

(5) *Approval.* In addition to Council approval, the license must be approved by the Commissioner of Public Safety.
(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.17 NUDITY OR OBSCENITY PROHIBITED.

(A) *Definitions.* For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NUDITY. Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human breast below a point immediately above the top of the areola, or the covered human male genital in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

(B) *Unlawful act.* It is unlawful for any licensee issued a license provided for in this chapter to permit upon licensed premises any nudity or deviate sexual conduct by any agent, employee, patron or other person.
(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

3.2% MALT LIQUOR LICENSE

§ 117.30 LICENSE REQUIRED.

It is unlawful for any person to sell, or keep or offer for sale, any 3.2% malt liquor without a license therefor from the city. This subchapter shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding on sale or off-sale 3.2% malt liquor licenses from the city.
(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.31 LICENSE FEES.

(A) The annual on-sale 3.2% malt liquor license fee is \$275.

(B) The annual off-sale 3.2% malt liquor license fee is \$137.50.

(C) The daily temporary on-sale 3.2% malt liquor license fee is \$25 per day.
(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.32 TEMPORARY 3.2% MALT LIQUOR LICENSE.

(A) *Applicant.* A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the state, and having its registered office and principal place of activity within the city shall qualify for a temporary on-sale malt liquor license for serving 3.2% malt liquor on and off school grounds and in and out of school buildings.

(B) *Conditions.*

(1) An application for a temporary license shall state the exact dates and place of proposed temporary sale.

(2) Not more than 3 temporary licenses shall be issued to any 1 organization or for any 1 location in a 12-month period, nor shall the licenses for any organization total more than 7 days in any calendar year.

(3) The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary 3.2% malt liquor license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$10,000 for injury to any 1 person and \$20,000 for injury to more than 1 person, naming the city as an insured during the license period.
(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.33 RESTRICTIONS AND REGULATIONS.

(A) No licensee shall, during the effective period of the license, be the owner or holder of a federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, unless the owner or holder also holds a liquor license from the city and ownership or holding thereof shall be grounds for immediate revocation without a hearing.

(B) No license shall be granted to a wholesaler or manufacturer of malt liquor or to anyone holding a financial interest in such manufacture or wholesaling, unless otherwise authorized by Minnesota law.

(C) No person under 18 years of age may sell or serve alcoholic beverages on licensed premises.

(D) On-sale licenses shall be granted only to bona fide clubs, exclusive liquor stores, drug stores, restaurants, bowling centers and hotels.

(E) Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the City Code and other laws relating to the operation of the licensee's business. (Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.34 HOURS AND DAYS OF SALES.

No sale of 3.2% malt liquor shall be made between the hours of 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 2:00 a.m. and 10:00 a.m. on Sunday. (Ord. 278, 3rd Series, passed 2-17-2004; Am. Ord. 287, 3rd Series, passed 8-16-2005; Am. Ord. 297, 3rd Series, passed 2-2-2007)

§ 117.35 UNLAWFUL ACTS.

It is unlawful for any:

(A) Person to knowingly induce another to make an illegal sale or purchase of 3.2% malt liquor;

(B) Licensee to sell or serve 3.2% malt liquor to any person who is obviously intoxicated;

(C) Licensee to sell a 3.2% malt liquor any day, or during any hour, when such sales are not permitted by law;

(D) Licensee to allow consumption of a 3.2% malt liquor on licensed premises on any day when sales are not permitted by law;

(E) Person to purchase a 3.2% malt liquor on any day, or during any hour, when sales of alcoholic beverages are not permitted by law.

(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

INTOXICATING LIQUOR

§ 117.45 LICENSE REQUIRED.

(A) It is unlawful for any person to sell, or keep or offer for sale, any intoxicating liquor without a license therefor from the city.

(B) This subchapter shall not apply:

(1) To possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony;

(2) To such potable liquors as are prescribed by licensed physicians and dentists for therapeutic purposes;

(3) To industrial alcohol and its compounds not prepared or used for beverage purposes;

(4) To wine in the possession of a person duly licensed under this chapter as an on-sale wine licensee; or

(5) To sales by manufacturers to wholesalers duly licensed as such by the state and to sales by wholesalers to persons holding on sale or off sale licenses from the city.

(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.46 LICENSE FEES.

(A) The annual on-sale intoxicating liquor license fee is \$3,800.

(B) The annual off-sale intoxicating liquor license fee is \$150.

(C) The annual Sunday intoxicating liquor license fee is \$200.

(D) The annual fraternal club on-sale liquor license fee is \$300 for a club with a membership of 200 or less; \$500 for a club with a membership of between 201 and 500; \$650 for a club with a membership of between 501 and 1,000; \$800 for a club with a membership of between 1,001 and 2,000; \$1,000 for a club with a membership of between 2,001 and 4,000; \$2,000 for a club with a membership of between 4,001 and 6,000; and \$3,000 for a club with a membership of more than 6,000.

(E) The daily sports or convention facilities intoxicating liquor license fee is \$75.

(F) The temporary intoxicating liquor license fee is \$100 per day.

(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.47 RESTRICTIONS AND REGULATIONS.

(A) No license shall be granted to a wholesaler or manufacturer of liquor, or to anyone holding a financial interest in manufacture or wholesaling, unless otherwise permitted by Minnesota law.

(B) No license shall be effective until a permit shall be issued to a licensee under the laws of the United States, if the permit be required under the laws or the state.

(C) Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the City Code and other laws relating to the operation of the licensed business.

(D) No person under 18 years of age may sell or serve liquor on licensed premises.

(E) No licensee shall sell, offer for sale, or keep for sale liquor in any original package which has been refilled or partly refilled.

(F) No licensee shall display intoxicating liquor to the public during hours when the sale of liquor is prohibited.

(G) On-sale licenses shall be granted only to exclusive liquor stores, hotels, restaurants, bowling centers and bona fide clubs.

(H) It is lawful for an off-sale licensee to provide samples of wine, liqueurs, and cordials which the licensee currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, and cordial samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial per variety per customer.

(Ord. 278, 3rd Series, passed 2-17-2004)

§ 117.48 HOURS AND DAYS OF SALES.

No sale of an intoxicating liquor may be made between the hours of 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 2:00 a.m. and 10:00 a.m. on Sunday, nor between the hours of 8:00 p.m. on December 24 and 8:00 a.m. on December 25. No off-sale shall be made on Sundays, nor before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday, nor on Thanksgiving Day or Christmas Day, December 25. (Note: this section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in § 117.49.)

(Ord. 278, 3rd Series, passed 2-17-2004; Am. Ord. 287, 3rd Series, passed 8-16-2005; Am. Ord. 297, 3rd Series, passed 1-2-2007)

§ 117.49 SUNDAY SALES.

Notwithstanding anything herein to the contrary, a Sunday on-sale intoxicating liquor license may be issued to hotels, motels, restaurants, bowling centers, or clubs, as herein defined, which have been

issued on-sale licenses and which also have a seating capacity and facilities for serving not less than 30 persons at 1 time. Such establishments may sell intoxicating liquor for consumption on the premises in conjunction with the sale and serving of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays.

(Ord. 278, 3rd Series, passed 2-17-2004; Am. Ord. 287, 3rd Series, passed 8-16-2005; Am. Ord. 297, 3rd Series, passed 1-2-2007)

§ 117.50 UNLAWFUL ACTS.

It is unlawful for any:

(A) Person to knowingly induce another to make an illegal sale or purchase of intoxicating liquor;

(B) Licensee to sell an alcoholic beverage on any day, or during any hour, when sales of liquor are not permitted by law;

(C) Person to purchase liquor on any day, or during any hour, when sales of liquor are not permitted by law;

(D) Licensee to sell or serve intoxicating liquor to any person who is obviously intoxicated.
(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

ON-SALE WINE

§ 117.65 ON-SALE WINE.

(A) *On-sale wine license required.* It is unlawful for any person to sell, or keep or offer for sale, any wine without a license therefor from the city. This subchapter shall not apply:

(1) To possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony;

(2) To sales by manufacturers to wholesalers duly licensed as such by the state;

(3) To sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the city;

or

(4) To sales by wholesalers to persons holding on-sale wine licenses from the city.

(B) *On-sale wine license fee.* The annual on sale wine license fee is \$550.

(C) *On-sale wine license restrictions and regulations.*

(1) No license shall be granted to a wholesaler or manufacturer of wine, or to anyone holding a financial interest in such manufacture or wholesaling, unless otherwise authorized by Minnesota law.

(2) No license shall be effective until a permit shall be issued to a licensee under the laws of the United States, if the permit be required under the laws or the state.

(3) Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the City Code and other laws relating to the operation of the licensed business.

(4) No person under 18 years of age may sell or serve wine on licensed premises.

(5) No licensee shall display wine to the public on days or during hours when the sale of wine is prohibited.

(6) On-sale wine licenses may be granted only to restaurants as defined in this chapter; provided, however, for purposes of this subchapter, the restaurant shall have appropriate facilities for seating not less than 30 guests at 1 time.

(7) The city may authorize a holder of an on-sale wine license who also is licensed to sell 3.2% malt liquor at on-sale and whose gross receipts are at least 60% attributable to the sale of food to sell intoxicating malt liquor at on-sale without an additional licenses.

(Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

§ 117.66 HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSES.

No sale of wine shall be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 2:00 a.m. and 12:00 noon on Sunday, nor between the hours of 8:00 p.m. on December 24 and 8:00 a.m. on December 25.

(Ord. 278, 3rd Series, passed 2-17-2004; Am. Ord. 287, 3rd Series, passed 8-16-2005; Am. Ord. 297, 3rd Series, passed 1-2-2007)

§ 117.67 UNLAWFUL ACTS.

It is unlawful for any:

- (A) Person to knowingly induce another to make an illegal sale or purchase of wine;
 - (B) Licensee to sell wine on any day, or during any hour, when sales of wine are not permitted by law;
 - (C) Person to purchase wine on any day, or during any hour, when sales of wine are not permitted by law;
 - (D) Licensee to sell or serve wine to any person who is obviously intoxicated;
 - (E) Licensee to sell wine except in conjunction with the sale of food.
- (Ord. 278, 3rd Series, passed 2-17-2004) Penalty, see § 117.99

MANDATORY ALCOHOL SERVER TRAINING**§ 117.80 EMPLOYEE REQUIREMENTS; ALCOHOL SERVER TRAINING REQUIRED; RENEWAL; GRANDFATHER CLAUSE.**

(A) No person shall work in any premise licensed under this chapter for the sale of alcoholic beverages, whether on or off-sale, as a manager, bartender, waiter, waitress, or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed under this chapter or whose job description entails the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premise unless such person shall either:

- (1) Possess a certificate of training issued by the East Grand Forks Police Department; or
- (2) Successfully complete server training presented by the East Grand Forks Police Department or a trainer approved by the East Grand Forks Police Department and obtain a certificate of training within 45 days after the first day of active employment.

(B) All certificates of training issued under this chapter shall be valid for 3 years from the date of issuance. The certificate of training may be renewed by its holder prior to its expiration as provided herein.

(C) Persons having completed an alcohol serving training program sponsored by the East Grand Forks Police Department prior to December 31, 2005 shall be exempt from certification requirements hereunder provided, however, that such persons shall renew such training and certification no later than December 31, 2008 and every 3 years thereafter.

(Ord. 291, 3rd Series, passed 6-20-2006)

§ 117.81 EMPLOYER REQUIREMENTS; HIRING OF CERTIFIED EMPLOYEES; RECORD KEEPING.

(A) All persons licensed under this chapter for the sale of alcoholic beverages, whether on or off-sale, shall require all employees engaged in the sale, service, delivery, or management of the sale or service of alcoholic beverages, or the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premise to possess or timely obtain certification required hereunder.

(B) Each licensee under this chapter shall maintain on file at its licensed premises a listing of each person employed by the licensee, identifying all employees required to obtain training under this chapter, and those employees that have successfully completed the training required hereunder.

(Ord. 291, 3rd Series, passed 6-20-2006)

§ 117.82 APPLICATION.

Application for certificate of server training shall be submitted to the East Grand Forks or Grand Forks Police Department upon forms provided by the Police Department and such application shall be verified under oath and shall contain such information as determined to be reasonably required for the purposes of determining competency and eligibility.

(Ord. 291, 3rd Series, passed 6-20-2006)

§ 117.83 TRAINING PROGRAMS; TESTS.

(A) All training programs and instructors must be approved by the East Grand Forks Police Department.

(B) All training programs shall minimally include the following topics:

- (1) Laws and ordinances regarding the sale of alcohol;
- (2) Verification of age, forms of false or misleading age identification;

- (3) The effect of alcohol in humans and the physiology of alcohol intoxication;
- (4) Recognition of the signs of intoxication;
- (5) Strategies for intervention to prevent intoxicated persons from consuming further alcohol;
- (6) Alcoholic beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premise or off-premise consumption, hours of operation and penalties for violation of alcoholic beverage laws;
- (7) Driving under the influence laws.

(C) The East Grand Forks Police Department or an approved trainer shall establish and administer a test for those persons completing the training program and for those seeking to renew a certificate of training.

(D) Any person having completed the approved training must attain a minimum score of 75% on a test administered by or under the direction of the East Grand Forks Police Department in order to successfully complete the training and obtain or renew a certificate.
(Ord. 291, 3rd Series, passed 6-20-2006)

§ 117.84 ISSUANCE OF CERTIFICATES.

(A) Each person successfully completing the training and test will be issued a certificate establishing the date of successful completion of training.

(B) Each certificate shall expire three years from the date of issuance.
(Ord. 291, 3rd Series, passed 6-20-2006)

§ 117.85 FEES.

Each applicant for training provided by the East Grand Forks Police Department or approved trainer shall pay, in advance, all fees established by the Police Department for the provision of training and issuance of a certificate upon successful completion.
(Ord. 291, 3rd Series, passed 6-20-2006)

§ 117.98 ADMINISTRATIVE OFFENSES, SUSPENSION OR REVOCATION OF LICENSE.

(A) *Administrative offense defined.* An administrative offense is any 1 of the offenses listed and identified in division (I) of this section.

(B) *Event defined.* An **EVENT** is a determination that a licensee has committed an administrative offense. A licensee can never be found to have committed more than 1 event per business day, regardless of the number of administrative offenses committed. However, the number of administrative offenses committed within an event may be taken into consideration when determining the appropriate penalty.

(C) *Administrative penalties for non-compliance.* For any license granted under the provisions of this chapter, the City Council may suspend such a license for up to 60 days, may revoke such a license, and/or may impose on a licensee a civil fine not to exceed \$2,000 for each event on a finding that the licensee or its employee has failed to comply with a statute, regulation, or provision of the City Code relating to alcoholic beverages.

(D) *Notice.* Any officer of the Police Department or any other person authorized to enforce this code, upon making a determination that an event has occurred, shall so notify the offender. The notice shall set forth the nature, date and time of offense, and the amount of the scheduled penalty.

(E) *Payment of civil monetary penalty without suspension or revocation.* Once such notice is given, the alleged offender may, within 7 days of the time of issuance of the notice, pay the amount set forth in the notice or may request in writing a hearing, as provided for in division (F) of this section. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the offense.

(F) *Hearing prior to imposition of civil monetary penalty.* Any person contesting the determination of an event pursuant to this section may, within 7 days of the time of issuance of the notice, request in writing a hearing by the Public Safety Committee which shall forthwith conduct an informal hearing to determine if a violation has occurred. The Public Safety Committee shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the Public Safety Committee, the violator shall pay the penalty imposed.

(G) *Failure to pay.*

(1) In the event a party charged with an event fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the event by the Public Safety Committee, no such charge may be brought by the city for the same violation.

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(2) In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the city may seek to collect the costs of the administrative offense procedures as part of the subsequent criminal sentence in the event the party is charged and is convicted of the criminal violation.

(H) *Disposition of penalties.* All penalties collected pursuant to this section shall be paid to the Clerk-Treasurer.

(I) *Minimum penalty.* In no event shall a penalty be less than the following:

<i>Administrative Offense</i>	<i>Events Within a 12-Month Period</i>			
	<i>1st Event</i>	<i>2nd Event</i>	<i>3rd Event</i>	<i>4th Event</i>
1. Commission of a felony related to the licensed activity	Revocation	NA	NA	NA
2. Sale of alcoholic beverages while license is under suspension.	Revocation	NA	NA	NA
3. Sale/purchase of alcoholic beverages to/by under age person	\$250	\$500 and 3-day suspension	\$750 and 18-day suspension	Revocation
4. Sale of alcoholic beverages to obviously intoxicated person	\$250	\$500 and 3-day suspension	\$750 and 18-day suspension	Revocation
5. After hours sale of alcoholic beverages	\$250	\$500 and 3-day suspension	\$750 and 18-day suspension	Revocation
6. After hours display or consumption of alcoholic beverages	\$250	\$500 and 3-day suspension	\$750 and 18-day suspension	Revocation
7. Refusal to allow city inspectors or police admission to inspect premises	\$250	\$500 and 3-day suspension	Revocation	NA
8. Illegal gambling on premises	\$250	\$500 and 3-day suspension	\$750 and 18-day suspension	Revocation
9. Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages	\$250	\$500 and 3-day suspension	\$750 and 18-day suspension	Revocation
Note: A day shall be defined as a business day.				

(J) *Hearing prior to suspension or revocation.* No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council

in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof.

(1981 Code, § 3.02)

§ 117.99 PENALTY.

(A) Every person violates a section, division, subsection or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

(Ord. 278, 3rd Series, passed 2-17-2004)

(B) (1) Any person violating the provisions of § 117.80 shall be subject to a fine as follows:

- (a) A fine not exceeding \$50 for a first violation;
- (b) A fine not exceeding \$100 for a second violation within 1 year of the first violation;
- (c) A fine not exceeding \$200 for each violation within 1 year of the second violation.

(2) Any person violating the provisions of § 117.91 shall be subject to a fine not exceeding \$500 for each violation.

(Ord. 291, 3rd Series, passed 6-20-2006)

