

TITLE XI: BUSINESS REGULATIONS

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

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TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.01 DEFINITIONS.

§ 110.01 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 delivery 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.

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

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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, or 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 one location for more than 14 consecutive days.

(Ord. 349, passed 10-3-2005)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.02 EXCEPTION.

§ 110.02 EXCEPTION.

(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.

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to be licensed or to register under this chapter.

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(Ord. 349, passed 10-3-2005)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS,
AND TRANSIENT MERCHANTS / § 110.03 LICENSING AND EXEMPTIONS.**

§ 110.03 LICENSING AND EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a 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, if the county issues a license for the activity.

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as a solicitor, peddler or a transient merchant without first having obtained a license from the city.

(C) *License exemptions.*

(1) 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 business when the activity is for the purpose of exercising that person's state or federal constitutional rights such as 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.

(2) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

(3) Members of organizations for charitable, religious, patriotic or philanthropic purposes shall be exempt from division (B) provided that they comply with § 110.08.

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

(Ord. 349, passed 10-3-2005) Penalty, see § 110.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS,
AND TRANSIENT MERCHANTS / § 110.04 APPLICATION.**

§ 110.04 APPLICATION.

(A) *Application.* Application for a city license to conduct business as a solicitor, 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 (each person that will be conducting business within the city).

(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) Local address or address of local contact.

(6) Telephone number of applicant's permanent residence and local contact.

(7) 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.

(8) Full address of applicant's regular place of business (if any).

(9) Any and all business related telephone numbers of the applicant.

(10) The type of business for which the applicant is applying for a license.

(11) Whether the applicant is applying for an annual or daily license.

(12) 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 of 14 consecutive days).

(13) 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.

(14) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state

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or federal statute or any local ordinance, other than traffic offenses.

(15) A list of the three most recent locations where the applicant has conducted business as a peddler or a transient merchant.

(16) Proof of any required county license.

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

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

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

(20) The applicants drivers license or other acceptable form of identification.

(21) 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.

(B) *Fee.* The application fee for a peddler or transient merchant shall be as set forth in the city's fee schedule. The application fee shall not be refunded whether or not the license sought is granted. The application fee is subject to change annually in accordance with the fee resolution adopted by the city. There shall be no license fee charged for a solicitor application.

(C) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, within three 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 Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk must issue the license unless there exist grounds for denying the license, in which case the Clerk must deny the license. If the City Clerk 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 the 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 writ of certiorari.

(Ord. 349, passed 10-3-2005)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.05 LICENSE INELIGIBILITY.

§ 110.05 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 the application.
- (C) The conviction of the applicant within the past five years from the date of the 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 five 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 three 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 three complaints filed against the applicant within the preceding five years.

(Ord. 349, passed 10-3-2005)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.06 LICENSE SUSPENSION AND REVOCATION.

§ 110.06 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 American Legal Publishing Corporation

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licensed activity.

(3) Conviction of any offense for which granting of a license could have been denied under § 110.05.

(4) Violations of any provisions of this chapter.

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

(C) *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 licensee 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 hearing is received by the City Clerk within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notice, service shall be considered completed as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three 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.

(Ord. 349, passed 10-3-2005)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.07 LICENSE TRANSFERABILITY.

§ 110.07 LICENSE TRANSFERABILITY.

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No license issued under this chapter shall be transferred to any person.

(Ord. 349, passed 10-3-2005) Penalty, see § 110.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.08 REGISTRATION.

§ 110.08 REGISTRATION.

Any person exempt from the licensing requirements of this chapter under § 110.03 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.

(Ord. 349, passed 10-3-2005)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.09 BADGES AND IDENTIFICATION.

§ 110.09 BADGES AND IDENTIFICATION.

All peddlers, transient merchants, or solicitors shall display a permit, issued in their name, containing a number to correspond to the number of the license, and the license expiration date issued by the City Clerk, which shall be worn in a conspicuous place on the person's outer garment or clothing. Transient merchants shall post conspicuously in his or her place of business the license issued hereunder which license shall be shown at the request of any citizen or police. The licensee shall also have on his or her person, a government issued identification containing a current photograph of the licensee.

(Ord. 349, passed 10-3-2005) Penalty, see § 110.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.10 PROHIBITED ACTIVITIES.

§ 110.10 PROHIBITED ACTIVITIES.

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

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(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) No more than one individual may approach the doorway of a private home or residence to conduct the business of peddling, soliciting or a transient merchant activity in the city.

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

(E) Conducting business before 9:00 a.m. and after 5:00 p.m.

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

(G) 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.

(H) 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.

(Ord. 349, passed 10-3-2005) Penalty, see § 110.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.11 ENTRY TO PREMISES RESTRICTED.

§ 110.11 ENTRY TO PREMISES RESTRICTED.

(A) Any resident of the city who wishes to exclude peddlers or solicitors from premises occupied by him or her may place upon or near the usual entrance to the premises, a printed placard or sign bearing the following notice: "Peddlers and Solicitors Prohibited." The placard shall be no larger than two square feet in size and the printing thereon shall not be smaller than 48 point type.

(B) No peddler or solicitor shall enter in or upon any premises or attempt to enter in

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or upon any premises, upon which such placard or sign is placed and maintained.

(C) No person other than the person occupying such premises shall remove, injure, or deface the placard or sign.

(Ord. 349, passed 10-3-2005) Penalty, see § 110.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / § 110.12 TRESPASS.

§ 110.12 TRESPASS.

It is hereby declared to be unlawful and shall constitute trespass for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of the residence for the purpose of securing an audience with the occupant and engage in soliciting or peddling in defiance of the notice exhibited at the main entrance of the residence pursuant to § 110.11.

(Ord. 349, passed 10-3-2005) Penalty, see § 110.99

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GARAGE SALES

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / GARAGE SALES / § 110.20 DEFINITIONS.

§ 110.20 DEFINITIONS.

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

GARAGE SALE. The infrequent temporary display and sale, by an occupant on his or her premises, of personal property, including general household rummage, used clothing, and appliances. The exchange or sale of merchandise must be conducted within the residence or accessory structure of the premises.

SALE OF HOUSEHOLD ITEMS. The sale of individual household items, for example,

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refrigerator or couch, by temporary display for sale on the premises by the occupant of the premises.

(1976 Code, § 71C.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / GARAGE SALES / § 110.21 REQUIREMENTS.

§ 110.21 REQUIREMENTS.

Garage sales or sales of household items are permitted without permit provided they meet the following standards:

- (A) Garage sales and sales of individual items last no longer than three days;
- (B) Sales are held no more than twice yearly;
- (C) Sales are conducted on the owner's or occupant's property. Multiple-family sales are permitted if they are held on the property of one of the participants;
- (D) No new retail goods or items purchased for retail may be offered for sale;
- (E) No consignment goods may be offered for sale;
- (F) All directional and advertising signs shall be free-standing and shall be removed within 24 hours of completion of the sale;
- (G) All directional and advertising signs shall be placed on private property and shall have the owner's permission;
- (H) No directional or advertising signs may be larger than two feet by three feet; and
- (I) Sales authorized under this subchapter are limited in time to the hours of 8:00 a.m. to 8:00 p.m.

(1976 Code, § 71C.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / GARAGE SALES / § 110.22 VIOLATIONS; ENFORCEMENT.

§ 110.22 VIOLATIONS; ENFORCEMENT.

(A) Violations of this subchapter may be enforced by the appropriate city official as an administrative code violation.

(1976 Code, § 71C.03)

(B) The violation of any section of this subchapter shall constitute a misdemeanor.

(1976 Code, § 71C.04)

Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / CHRISTMAS TREE SALES

CHRISTMAS TREE SALES

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / CHRISTMAS TREE SALES / § 110.35 LICENSE REQUIRED.

§ 110.35 LICENSE REQUIRED.

It shall be unlawful for any person, firm, association, or corporation to maintain and operate a Christmas tree lot without having first secured a license from the City Council and posting a cash bond therefor.

(1976 Code, § 47.01) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / CHRISTMAS TREE SALES / § 110.36 LICENSE APPLICATION AND FEE.

§ 110.36 LICENSE APPLICATION AND FEE.

Any person, firm, association, or corporation desiring to operate a Christmas tree lot may

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make application to the City Council for a license therefor. The application shall give the name and address of the applicant, a description of the land to be used, and either evidence of ownership in the application or written permission to so use the land. The application shall be accompanied by a license fee as set from time to time by Council resolution. The Council, at its discretion, may grant or deny the application. All licenses of this type shall be issued by the Administrator, Clerk/Treasurer and shall expire on the February 1 following the year of issuance.

(1976 Code, § 47.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / CHRISTMAS TREE SALES / § 110.37 BOND.

§ 110.37 BOND.

Upon Council approval that a license shall be issued to any person, firm, association, or corporation, the licensee shall deposit with the Administrator, Clerk/Treasurer a cash bond in the amount as established in the city's fee schedule, and the posting of the bond shall be a condition precedent to the issuance of a license by the Administrator, Clerk/Treasurer. This cash bond shall be held until that lot or parcel of land that the license has been issued for has been cleared and cleaned of all Christmas trees, Christmas tree debris, and all other Christmas paraphernalia. If, prior to the February 1 following the Christmas season that a license was applied for, the applicant has cleared and cleaned the lot or parcel of ground and the Building Inspector of the city has so certified this fact to the Administrator, Clerk/Treasurer, then in that event, the applicant's cash bond shall be returned. In the event that the Building Inspector has not certified to the Administrator, Clerk/Treasurer that the lot has been cleared or cleaned of all Christmas trees, Christmas tree debris, and all other Christmas paraphernalia, the applicant shall forfeit his or her cash bond and the city, at its discretion, with or without permission of the application owner, if he or she be not the applicant, may clear and clean the lot of all Christmas trees, Christmas tree debris, and Christmas paraphernalia.

(1976 Code, § 47.03)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 110: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS / CHRISTMAS TREE SALES / § 110.99 PENALTY.

§ 110.99 PENALTY.

Any person violating any of the provisions of this chapter shall be guilty of a

misdemeanor which is punishable by a fine of up to \$1,000 and 90 days in jail, or both.

(Ord. 349, passed 10-3-2005)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS

CHAPTER 111: LIQUOR REGULATIONS

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3.2% MALT LIQUOR

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.001 DEFINITIONS.

§ 111.001 DEFINITIONS.

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

BEER STORE. An establishment for the sale of 3.2% malt liquor, cigars, cigarettes, all forms of tobacco, beverages, and soft drinks at retail.

BONA FIDE CLUB. A club organized for social or business purposes or for intellectual improvement or for the promotion of sports, where the serving of 3.2% malt liquor is incidental to and not the major purpose of the club.

INTOXICATING LIQUOR. Any distilled, fermented, or vinous beverage containing more than 3.2% of alcohol by weight.

3.2% MALT LIQUOR. Any malt beverage with an alcoholic content of more than 0.5% of volume and not more than 3.2% by weight.

ORIGINAL PACKAGE. The bottle or sealed container in which the liquor is placed by the manufacturer.

PERSON. Includes a natural person of either sex, co-partnership, corporation, and association of persons, and the agent or manager of any of these. The singular number includes the plural, and the masculine pronoun includes the feminine and neuter.

RESTAURANT. A place of which the major business is preparing and serving lunches or meals to the public to be consumed on the premises.

(1976 Code, § 53.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.002 LICENSE REQUIRED.

§ 111.002 LICENSE REQUIRED.

(A) No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any 3.2% malt liquor within the city without first having received a license as hereinafter provided. Licenses shall be retail on-sale.

(B) On-sale licenses shall be granted only to bona fide clubs, beer stores, drug stores, restaurants, and hotels where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of 3.2% malt liquor for consumption on the premises only.

(C) The holder of an on-sale wine license, who is also licensed to sell 3.2% malt liquor on-sale and whose gross receipts are at least 60% attributable to the sale of food, may sell strong beer at on-sale without an additional license and without any additional fee.

(1976 Code, § 53.02) Penalty, see § 10.99

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§ 111.003 LICENSE APPLICATION.

Every application for a license to sell 3.2% malt liquor shall be made on a form supplied by the city and shall state the name of the applicant, his or her age, representations as to his or her character with such references as may be required, and his or her citizenship, whether the application is for on-sale or off-sale, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place, and other information as the Council may require from time to time. It shall be unlawful to make any false statement in an application. Applications shall be filed with the Administrator, Clerk/Treasurer.

(1976 Code, § 53.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.004 LICENSE FEES; TERM.

§ 111.004 LICENSE FEES; TERM.

(A) Each application for a license shall be accompanied by a receipt from the Administrator, Clerk/Treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license, the Administrator, Clerk/Treasurer shall refund the amount paid.

(B) All licenses shall expire on the last day in December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing that fee, any unexpired fraction of a month shall be counted as one month.

(C) The annual fees for an on-sale license shall be in the amounts as set from time to time by Council resolution. The minimum license fee for a temporary retail (on-sale) 3.2% malt liquor license shall be as set from time to time by Council resolution, and the annual on-sale license fee shall be prorated for each month for which the temporary license is requested and issued.

(D) No part of the fee paid for any license issued under this section shall be refunded except in the following instances, upon application to the Council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before the expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe;
- (2) The licensee's illness;
- (3) The licensee's death; or
- (4) A change in the legal status of the municipality making it unlawful for the licensed business to continue.

(1976 Code, § 53.04)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.005 GRANTING OF LICENSE.

§ 111.005 GRANTING OF LICENSE.

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(A) The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council shall grant or refuse the application at its discretion.

(B) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Council.

(1976 Code, § 53.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.006 INELIGIBLE PERSONS AND PLACES.

§ 111.006 INELIGIBLE PERSONS AND PLACES.

(A) *Persons ineligible for license.* No license shall be granted to any person:

- (1) Under 18 years of age;
- (2) Who has been convicted of a felony or of violating the National Prohibition Act or any law of this state or local ordinance relating to the manufacture or transportation of intoxicating liquors;
- (3) Who is a manufacturer of 3.2% malt liquor or who is interested in the control of any place where 3.2% malt liquor is manufactured;
- (4) Who is an alien;
- (5) Who is not of good moral character; or
- (6) Who is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquors at that place.

(1976 Code, § 53.06)

(B) *Places ineligible for license.*

- (1) No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this chapter or where any license hereunder has been revoked for cause until one year has elapsed after that conviction or revocation.
- (2) No license shall be granted for any place within 500 feet of any public

school or within 500 feet of any church.

(1976 Code, § 53.07)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.007 LICENSE CONDITIONS.

§ 111.007 LICENSE CONDITIONS.

(A) Every license shall be granted subject to the conditions in the following divisions and all other provisions of this section and of any other applicable section of the city or state law.

(B) All licensed premises shall have the license posted in a conspicuous place at all times.

(C) No 3.2% malt liquor shall be sold or served to any intoxicated person or to any person under 18 years of age.

(D) No minor under 18 shall be employed on the premises of a beer store or be permitted to sell or serve 3.2% malt liquor in any on-sale establishment.

(E) No gambling or any gambling device shall be permitted on any licensed premises.

(F) No manufacturer or wholesaler of 3.2% malt liquor shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S. Ch. 340A, as may be amended from time to time. No retail licensee and manufacturer or wholesaler of 3.2% malt liquor shall be parties to any exclusive purchase contract and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(G) No licensee shall sell 3.2% malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of this state to sell intoxicating liquors.

(H) No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale, and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this section.

(I) Any peace officer shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours without a search and seizure warrant and may seize

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all intoxicating liquors found on the licensed premises.

(J) Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order. The act of any employee on the licensed premises authorized to sell or serve 3.2% malt liquor shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter equally with the employee.

(1976 Code, § 53.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.008 HOURS OF OPERATION.

§ 111.008 HOURS OF OPERATION.

No sale of 3.2% malt liquor shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon. No sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any other day.

(1976 Code, § 53.09) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.009 ON-SALE ESTABLISHMENTS; BARS; PARTITIONS, SCREENS, AND THE LIKE.

§ 111.009 ON-SALE ESTABLISHMENTS; BARS; PARTITIONS, SCREENS, AND THE LIKE.

(A) In any place licensed for on-sale, the 3.2% malt liquor sold shall be served and consumed at tables in the dining or refreshment room of the place and shall not be consumed or served at bars, except that 3.2% malt liquor may be served at counters where food is regularly served and consumed. All windows in the front of any such place shall be of clear glass, and the view of the whole interior shall be unobstructed by screens, curtains, or partitions. There shall be no partition, box, stall, screen, curtain, or other device which obstructs the view of any part of the room from the general observation of persons in the room; but partitions, subdivisions, or panels not higher than 48 inches from the floor shall not be considered obstructions.

(B) An on-sale license shall entitle the holder to serve 3.2% malt liquor in a separate room of the licensed premises for banquets or dinners at which are present not less than ten

persons.

(1976 Code, § 53.10) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.010 CLUBS.

§ 111.010 CLUBS.

No club shall sell 3.2% malt liquor except to members and to guests in the company of members.

(1976 Code, § 53.11) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.011 UNLAWFUL PURCHASE, CONSUMPTION, AND POSSESSION.

§ 111.011 UNLAWFUL PURCHASE, CONSUMPTION, AND POSSESSION.

(A) No minor shall misrepresent his or her age for the purpose of obtaining intoxicating beverages or 3.2% malt liquor.

(B) No person shall induce a minor to purchase or procure intoxicating beverages or 3.2% malt liquor.

(C) No person other than the parent or legal guardian shall procure intoxicating beverages or 3.2% malt liquor for any minor.

(D) No person shall consume or possess intoxicating beverages or 3.2% malt liquor in any city park, theater, recreation hall or center, dance hall, ball park, or other place of public gathering for the purpose of entertainment, amusement, or playing of games, unless specifically approved by the City Council. This prohibition shall include parking areas connected with any of the above referenced areas.

(E) No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors.

(1976 Code, § 53.12) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / 3.2% MALT LIQUOR / § 111.012 REVOCATION AND SUSPENSION.

§ 111.012 REVOCATION AND SUSPENSION.

The violation of any provision or condition of this subchapter by a 3.2% malt liquor licensee or his or her agent shall be grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at that place shall be revoked without notice and without hearing. In all other cases, a license granted under this subchapter may be revoked or suspended by the Council after written notice to the grantee and a public hearing. The notice shall give at least eight days' notice of the charges against the licensee. The Council may suspend any license pending a hearing.

(1976 Code, § 53.13) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY

MUNICIPAL LIQUOR DISPENSARY

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY / § 111.025 DEFINITIONS.

§ 111.025 DEFINITIONS.

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

INTOXICATING LIQUOR and ***LIQUOR***. Distilled vinous and fermented beverages containing more than 3.2% of alcohol by weight.

3.2% MALT LIQUOR. Any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

MINOR. Any person under 18 years of age.

OFF-SALE. Retail sale in the original package for consumption away from the

dispensary.

SELL. Includes all barter, gifts, and other means of furnishing intoxicating liquor or 3.2% malt liquor in violation or evasion of this subchapter.

(1976 Code, § 54.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY / § 111.026 ESTABLISHMENT.

§ 111.026 ESTABLISHMENT.

There is hereby established a Municipal Liquor Dispensary for the sale at off-sale of intoxicating liquor. No intoxicating liquor may be sold elsewhere in the city or by anyone not employed in the Municipal Liquor Dispensary.

(1976 Code, § 54.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY / § 111.027 LOCATION AND OPERATION.

§ 111.027 LOCATION AND OPERATION.

(A) The Municipal Liquor Dispensary shall be located at suitable places in the city as the Council may determine, except that no premises shall be leased for the operation of a Municipal Liquor Dispensary upon which the taxes or other special levies are delinquent.

(B) The Municipal Liquor Dispensary shall be in the immediate charge of a liquor dispensary manager selected by the Council and paid compensation as the Council may determine. He or she shall, at the option of the Council, furnish a surety bond to the municipality, in the sum as the Council specifies, conditioned upon the faithful discharge of his or her duties. The premium on the bond shall be, at the discretion of the Council, paid by the city or by the manager personally. The manager shall manage and operate the Municipal Liquor Dispensary under the direct supervision and direction of the Council and shall perform those duties in connection therewith as the Council may impose upon him or her. He or she shall be directly responsible to the Council for the conduct of the Municipal Liquor Dispensary in full compliance with the regulations and ordinances of the city and all state and federal laws and regulations.

(C) The Council shall provide and fix the salaries of any additional help and

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employees as in its judgment are necessary for the operation of the Municipal Liquor Dispensary. All help and employees, including the manager, shall hold their positions at the pleasure of the Council, provided, however, that no one under the age of 19 years shall be employed at any time.

(1976 Code, § 54.03)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY / § 111.028 MUNICIPAL LIQUOR DISPENSARY FUND.

§ 111.028 MUNICIPAL LIQUOR DISPENSARY FUND.

A Municipal Liquor Dispensary Revenue Fund is hereby created, into which fund shall be paid and deposited all receipts and revenues from the operation of the Municipal Liquor Dispensary and from which fund shall first be paid expenses of operation and maintenance of the Municipal Liquor Dispensary. The balance of the fund shall be used exclusively for the retirement and the payment of interest upon those municipal building revenue certificates as may be issued to defray the costs and expenses of establishing the Dispensary. When these certificates have been wholly retired and interest thereon fully paid, the balance may be transferred to the general fund of the city or to another appropriate fund as the Council by resolution may determine.

(1976 Code, § 54.04)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY / § 111.029 HOURS OF SALE.

§ 111.029 HOURS OF SALE.

No off-sale shall be made:

- (A) On Sundays;
- (B) Before 8:00 a.m. on Monday through Saturday;
- (C) After 10:00 p.m. on Monday through Saturday;
- (D) On Thanksgiving Day;

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- (E) On Christmas Day, December 25; or
- (F) After 8:00 p.m. on Christmas Eve, December 24.

(1976 Code, § 54.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / MUNICIPAL LIQUOR DISPENSARY / § 111.030 OPERATING RESTRICTIONS.

§ 111.030 OPERATING RESTRICTIONS.

(A) No business other than the sale of liquor shall be carried on in the Municipal Liquor Dispensary, except the retail sale of cigars, cigarettes, all forms of tobacco, and other retail items that are incidental to the sale of liquor as determined by the Council from time to time.

(B) No liquor or 3.2% malt liquor shall be sold on credit.

(C) No liquor or 3.2% malt liquor shall be sold to a minor directly or indirectly.

(D) No minor shall misrepresent his or her age for the purpose of obtaining liquor or 3.2% malt liquor.

(E) No person shall be permitted to loiter upon the premises of the Municipal Liquor Dispensary habitually.

(F) No person of a known immoral character and no disorderly person shall be permitted on the Municipal Liquor Dispensary premises.

(G) No liquor or 3.2% malt liquor shall be sold or served to intoxicated persons.

(1976 Code, § 54.06) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR

INTOXICATING LIQUOR

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.040 DEFINITIONS.

§ 111.040 DEFINITIONS.

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

CLUB. Includes any corporation duly organized under the laws of the state, for civic, fraternal, social, or business purposes or for intellectual improvement, or for promotion of sports, or a congressionally chartered veterans' organization, as defined in M.S. § 348A.101(7), as it may be amended from time to time.

HOTEL. Includes any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than 50 guest rooms with bedding and other usual, suitable, and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk, and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities seating not less than 50 guests at one time, where the general public are, in consideration of payment therefor, served with meals at tables.

INTOXICATING LIQUOR and LIQUOR. Distilled, fermented, spiritous, vinous, and malt beverages containing in excess of 3.2% of alcohol by weight.

MANUFACTURER. Includes every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or the combination of different materials, prepares or produces intoxicating liquors for sale.

OFF-SALE. The sale of intoxicating liquor in the original package in retail stores for consumption off or away from the premises where sold.

ON-SALE. The sale of intoxicating liquor by the glass or by the drink for consumption on the premises only.

PACKAGE or ORIGINAL PACKAGE. Any corked or sealed container or receptacle holding intoxicating liquor.

PERSON. Includes a natural person of either sex, partnership, corporation, and association of persons, and the agent or manager of any of these. The singular number includes the plural and the masculine pronoun includes the feminine and neuter.

RESTAURANT. Any establishment other than a hotel under the control of a single proprietor or manager, having appropriate facilities to serve meals and for seating not less than 100 guests at one time, and where, in consideration for payment therefor, meals are regularly

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served at tables to the general public, and which employs an adequate staff to provide them usual and suitable services to its guests, and a significant part of the business of which is the serving of food.

SALE or **SELL**. Includes all barter and all manners or means of furnishing intoxicating liquor or liquors as defined in this section.

WHOLESALE. Includes any sale for purposes of resale.

WHOLESALER. Any person engaged in the business of selling intoxicating liquor to retail dealers.

(1976 Code, § 54A.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.041 LICENSE REQUIRED.

§ 111.041 LICENSE REQUIRED.

(A) No person, except wholesalers or manufacturers to the extent authorized under state license, and except the Municipal Liquor Dispensary, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this subchapter.

(B) (1) On-sale liquor licenses shall be issued only to restaurants which are conducted in such a manner that the business of serving food for a license year must be a minimum of 40% of the total business of serving food and intoxicating liquors.

(2) On-sale liquor licenses shall be issued only to hotels which are conducted in such a manner that, that part of the total business attributable or derived from the serving of foods and liquor, 40% of the total business must be the serving of food.

(3) The following license classifications are established:

(a) Class A: for restaurants and hotels which are conducted in such a manner that the business of serving food for a license year is a minimum of 55% of the total business of serving food and intoxicating liquor; and

(b) Class B: for restaurants and hotels which are conducted in such a manner that the business of serving food for a license year is a minimum of 40% of the total business of serving food and intoxicating liquor.

(1976 Code, § 54A.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.042 NUMBER OF LICENSES AVAILABLE.

§ 111.042 NUMBER OF LICENSES AVAILABLE.

The number of private, on-sale liquor licenses, Class A or Class B, issued by the city shall be limited to five.

(1976 Code, § 54A.03)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.043 LICENSE APPLICATION.

§ 111.043 LICENSE APPLICATION.

(A) Every application for a license to sell intoxicating liquor shall be verified and filed with the City Administrator, Clerk/Treasurer.

(B) In addition to the information which may be required by the State Commissioner of Public Safety, the application shall contain the following:

(1) Whether the applicant is a natural person, corporation, partnership, or other form of organization;

(2) The type of license the applicant is seeking;

(3) If the applicant is a natural person, the following information:

(a) The true name, place and date of birth, and street residence address of the applicant;

(b) Whether the applicant has ever used or been known by a name other than his or her true name and, if so, what was the name or names, and information concerning dates and places where used;

(c) The name of the business that is to be conducted under a designation or name other than the full individual name of the applicant; in this case, a copy of the certification as required by M.S. Ch. 333, as it may be amended from time to time, shall be attached to the application;

(d) Whether the applicant is married or single; if married, the true

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name, place and date of birth, and street residence address of the applicant's present spouse;

(e) Whether the applicant and present spouse are registered voters and, if so, where;

(f) The street address at which the applicant and present spouse have lived during the preceding ten years;

(g) The kind, name, and location of every business or occupation the applicant or present spouse have been engaged in during the preceding ten years;

(h) The names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;

(i) Whether the applicant or his or her spouse, or a parent, brother, sister, or child of either of them, has ever been convicted of any felony, crime, or violation of any ordinance, other than traffic. If so, the applicant shall furnish information as to the time, place, and offense for which conviction was had;

(j) Whether the applicant or his or her spouse, or a parent, brother, sister, or child of either of them, has ever been engaged as employee or in operating a saloon, hotel, restaurant, café, tavern, or other business of a similar nature. If so, the applicant shall furnish information as to the time, place, and length of time;

(k) Whether the applicant has ever been in the military service; if so, the applicant shall, upon request, exhibit all discharges; and

(l) The name, address, and business address of each person who is engaged in this state in the business of selling, manufacturing, or distributing intoxicating liquor and who is nearer of kin to the applicant or his or her spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law, or who is a brother-in-law or sister-in-law of the applicant or his or her spouse.

(4) If the applicant is a partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant above. A managing partner, or partners, shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application and if the partnership is required to file a certificate as to a trade name under the provisions of M.S. Ch. 333, as it may be amended from time to time, a copy of that certificate shall be attached to the application;

(5) If the applicant is a corporation or other organization and is applying for an on-sale liquor license, the following:

(a) The name, and if incorporated, the state of incorporation;

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(b) A true copy of certificate of incorporation, articles of incorporation, or association agreement and bylaws if a foreign corporation, a certificate of authority as described in M.S. Ch. 303, as it may be amended from time to time; and

(c) The name of the manager or proprietor or other agent in charge of the premises to be licensed, giving all the information about that person as is required of a single applicant above. The application shall contain a list of all persons who, singly or together with their spouse or a parent, brother, sister, or child, or either of them, own or control an interest in the corporation or association in excess of 5% or who are officers or directors of the corporation or association, together with their addresses and all information as is required of a single applicant above.

(6) The exact legal description of the premises to be licensed together with a plot plan of the area showing dimensions and location of buildings;

(7) An applicant for an on-sale liquor license shall submit a floor plan of the dining room or dining rooms, which shall be open to the public, shall show dimensions, and shall indicate the number of persons intended to be served in each of the rooms;

(8) If a permit from the federal government is required by federal law, indicate whether or not the permit has been issued, and if so, in what name is it issued and what is the nature of the permit;

(9) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture, stock in trade, and the like, and proof of the source of that money;

(10) The names and addresses of all persons, other than the applicant, who have any financial interest in the business, buildings, premises, fixtures, furniture, and stock in trade; the nature of that interest, amount thereof, and terms for payment or other reimbursement. This shall include but not be limited to any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors, and persons who have cosigned notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant, but shall not include persons owning or controlling less than a 5% interest in the business, if a corporation;

(11) The names, residences, and business addresses of three persons, residents of this state, of good moral character, not related to the applicant or financially interested in the premises or business, who may be referred to as to the applicant's character or, in the case where information is required of a manager, the manager's character;

(12) Whether or not all real estate and personal property taxes for the premises to be licensed which are due and payable have been paid, and if not paid, the years and amounts which are unpaid; and

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(13) Other information as the City Council or Police Chief shall require.

(1976 Code, § 54A.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.044 RENEWAL APPLICATION.

§ 111.044 RENEWAL APPLICATION.

(A) Applications for the renewal of an existing license shall be made at least 60 days prior to the date of expiration of the license. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for his or her failure to file for a renewal within the time provided, the City Council may, if the other provisions of this subchapter are complied with, grant the application.

(B) At the earliest practical time after application is made for a renewal of an on-sale liquor license, and in any event prior to the time that the application is considered by the City Council, the applicant shall file with the Administrator, Clerk/Treasurer a statement prepared by a certified public accountant that shows the total gross sales and the total food sales of the restaurant for the 12-month period immediately preceding the date for filing renewal applications.

(1976 Code, § 54A.05)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.045 EXECUTION OF APPLICATION.

§ 111.045 EXECUTION OF APPLICATION.

If the application is by a natural person, it shall be signed and sworn to by that person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; and if by an unincorporated association, by the manager or managing officer thereof.

(1976 Code, § 54A.06)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.046 LICENSE FEES; TERM.

§ 111.046 LICENSE FEES; TERM.

(A) The annual license fee for an on-sale liquor license, for Class A or Class B, shall be in amounts as set from time to time by Council resolution.

(B) The initial license fee shall be paid in full before the application for a license is accepted. Renewal license applications shall be filed by November 1 preceding each license year. Renewal license fees shall be paid in full by December 15 preceding each license year. All fees shall be paid into the general fund of the city. All licenses shall expire on the last day of December of each year. Upon rejection of any application for a license, or upon withdrawal of application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant.

(C) The fee for an on-sale liquor license granted after commencement of the license year shall be prorated on a daily basis.

(D) No transfer of a license shall be permitted from place to place or person to person without complying with the requirements of an original application except where a new application is filed as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged. For purposes of this division, a change in the controlling interests of the licensee is deemed a transfer of the license.

(E) No part of the fee paid for any license issued under this subchapter shall be refunded except in the following instances upon application to the Council within 30 days from the happening of the event. The Council may in its judgment refund a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe;
- (2) The licensee's illness;
- (3) The licensee's death; or
- (4) A change in the legal status of the municipality making it unlawful for a licensed business to continue.

(1976 Code, § 54A.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.047 INVESTIGATION; FEE.

§ 111.047 INVESTIGATION; FEE.

(A) *Investigation fee.* At the time of each original application for a license, the applicant shall pay in full an investigation fee equal to the actual cost of investigation as estimated by the Police Chief and City Council. Any portion of the fee for investigation which exceeds the actual expenses shall be returned to the applicant, provided that the minimum fee for investigation shall be as set from time to time by Council resolution. At any time that an additional investigation is required because of a license renewal, a change in the ownership or control of the licensee, or because of an enlargement, alteration, or extension of premises previously licensed, the licensee shall pay an investigation fee as set forth above. The investigation fee shall accompany the application for license.

(1976 Code, § 54A.08)

(B) *Investigation of applications.* All applications for a license shall be referred to the Police Chief, and to other city departments as the Administrator, Clerk/Treasurer or City Council shall deem necessary, for verification and investigation of the facts set forth in the application. The Police Chief shall cause to be made an investigation of the information required and shall make a written recommendation and report to the City Council. The City Council may authorize additional investigation as it shall deem necessary.

(1976 Code, § 54A.09)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.048 INELIGIBLE PERSONS AND PLACES.

§ 111.048 INELIGIBLE PERSONS AND PLACES.

(A) *Persons ineligible for license.*

(1) No license shall be granted or held by any of the following persons. The characteristics of any owners, officers, managers, employees, or others who require investigation under this subchapter shall be attributed to the licensee:

- (a) Under 21 years of age;
- (b) Who is not of good moral character and repute;
- (c) Who, if an individual, is an alien, or upon whom it is impractical to conduct a background and financial investigation due to the unavailability of information;

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(d) Who has been convicted of any willful violation of any federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor within five years of the license application, or who has been convicted of any willful violation of any federal or state law or local ordinance regarding drugs or prohibited substances, or whose liquor license has been revoked for any willful violation of any law or ordinance;

(e) Who is a manufacturer or wholesaler of intoxicating liquor; and no manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor;

(f) Who is directly or indirectly interested in any other establishment in the city to which an on-sale liquor license has been issued under this subchapter;

(g) Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of this section; or

(h) Who is the spouse of a person ineligible for a license pursuant to this section or who, in the judgment of the City Council, is not a real party in interest or beneficial owner of the business operated, or to be operated, under the license.

(2) No person shall own an interest in more than one establishment or business within the city for which an on-sale liquor license has been granted.

(3) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

INTEREST. Includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, but does not include bona fide loans, bona fide rental agreements, bona fide open accounts, or other obligations arising out of the ordinary and regular course of the business of selling or leasing merchandise, fixtures, or supplies to the establishment.

(1976 Code, § 54A.10)

(B) *Places ineligible for license.*

(1) No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the city, county, or of the state are due, delinquent, and unpaid. These taxes and other financial claims include, but are not limited to, all state, federal, county, or city sales, employment, and real estate taxes. In the event an action has been commenced pursuant to the provisions of M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming

due.

(2) No license shall be issued for the premises owned by a person to whom a license may not be granted under this subchapter.

(1976 Code, § 54A.11)

Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.049 LICENSE CONDITIONS.

§ 111.049 LICENSE CONDITIONS.

(A) Every license shall be granted subject to the conditions of the following divisions and all other provisions of this subchapter and of any other applicable ordinance of the city or state law.

(B) The license shall be posted in a conspicuous place in the licensed establishment at all times.

(C) Any police officers, building inspector, or any employee so designated by the Administrator, Clerk/Treasurer shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a warrant.

(D) Every licensee shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order in the place of business and on the premises.

(E) No on-sale liquor licensees shall sell intoxicating liquor off-sale.

(F) No license shall be effective beyond the space named in the license for which it was granted.

(G) No intoxicating liquor shall be sold or furnished or delivered to any intoxicated person, to any habitual drunkard, to any person under 21 years of age, or to any person to whom sale is prohibited by state law.

(H) No person under 19 years of age shall be employed in any rooms constituting the place in which on-sale liquor is sold at retail except that persons under 19 years of age may be employed to perform the duties of a busboy or dishwashing services in places defined as a restaurant or hotel or motel serving food in rooms in which on-sale liquor is sold at retail.

(I) No licensee shall apply for or possess a federal wholesale liquor dealer's special

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tax stamp or federal gambling stamp.

(J) The business records of the licensee, including federal and state tax returns, shall be available for inspection by the Administrator, Clerk/Treasurer or other duly authorized representative of the city at all reasonable times. Business records for accounting functions required to demonstrate compliance with the provisions of this subchapter shall be prepared in accordance with standard accounting practices as determined by the Administrator, Clerk/Treasurer or his or her designee.

(K) Changes in the corporate or association officers, corporate charter, articles of incorporation, bylaws, or partnership agreement, as the case may be, shall be submitted to the Police Chief within 30 days after the changes are made. In the case of a corporation, the licensee shall notify the Police Chief when a person not listed in the application acquires an interest which, together with that of his or her spouse, parent, brother, sister, or child, exceeds 5%, and shall give all information about that person as is required of a person pursuant to the provisions of this subchapter.

(L) No licensee shall keep, possess, or operate, or permit the keeping, possession, or operation of any gambling device or apparatus on the licensed premises, and he or she shall not permit any gambling therein.

(1976 Code, § 54A.12) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.050 HOURS OF OPERATION.

§ 111.050 HOURS OF OPERATION.

(A) *On-sale.* No sale of intoxicating liquor shall be made:

(1) Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday; or

(2) After 2:00 a.m. on Sundays, except as provided by § 111.053 regarding Sunday sales.

(B) *Closing hours.* It shall be unlawful for any persons or customers, other than the licensees or their employees, to remain on the premises after 2:30 a.m.

(1976 Code, § 54A.13) (Am. Ord. 340, passed 8-4-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS /

INTOXICATING LIQUOR / § 111.051 LIABILITY INSURANCE.

§ 111.051 LIABILITY INSURANCE.

(A) *Insurance required.* At the time of filing an application for any on-sale liquor license, the applicant shall file with the Administrator, Clerk/Treasurer proof of financial responsibility for liability imposed by M.S. § 340A.801, as it may be amended from time to time, which shall be subject to the approval of the City Council. The issuer or surety on any liability insurance policy or bond shall be duly licensed to do business in this state, and all documents shall be approved as to content, form, and execution by the City Attorney. The licensee and the city shall be named as joint insured on the liability insurance policy.

(B) *Proof of financial responsibility.* Proof of financial responsibility may be provided by supplying to the Administrator, Clerk/Treasurer the following: a certificate that there is in effect an insurance policy or pool providing the minimum coverages as set forth in the insurance limits schedule.

(1976 Code, § 54A.14) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.052 REVOCATION OR SUSPENSION.

§ 111.052 REVOCATION OR SUSPENSION.

(A) The City Council may suspend or revoke any intoxicating liquor license for the violation of any provision or condition of this subchapter or of any state or federal law regulating the sale of intoxicating liquor, and shall revoke the license for any willful violation which, under the laws of the state, is grounds for mandatory revocation, and shall revoke for failure to keep insurance required by this subchapter in full force and effect.

(B) Except in the case of suspension pending a hearing or immediate revocation for failure to have on file at all times with the city a liability insurance policy or other evidence of financial responsibility required under this subchapter, a revocation or suspension by the Council shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. This notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof. No suspension shall exceed 60 days.

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(1976 Code, § 54A.15) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.053 SUNDAY SALES.

§ 111.053 SUNDAY SALES.

Establishments to which on-sale liquor licenses have been issued for the sale of intoxicating liquors may, upon obtaining a special license, serve intoxicating liquor between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays in conjunction with the serving of food. The annual license fee for Sunday liquor sales shall be set from time to time by Council resolution, and is in addition to the fee charged for an on-sale liquor license. All provisions and conditions of this chapter pertaining to the on- sale license shall apply to the Sunday liquor sales license insofar as practicable.

(1976 Code, §§ 54A.13 and 54A.16) (Am. Ord. 340, passed 8-4-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / INTOXICATING LIQUOR / § 111.054 VIOLATIONS.

§ 111.054 VIOLATIONS.

Any person violating any provision of this subchapter shall be guilty of a misdemeanor.

(1976 Code, § 54A.17) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE

WINE

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.065 STATE STATUTES ADOPTED.

§ 111.065 STATE STATUTES ADOPTED.

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The provisions of M.S. Ch. 340, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor insofar as they are applicable to wine licenses authorizing the sale of wine not exceeding 14% alcohol by volume for consumption on the licensed premises only, in conjunction with the sale of food, are adopted and made a part of this subchapter as if set out in full.

(1976 Code, § 57B.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.066 LICENSE REQUIRED.

§ 111.066 LICENSE REQUIRED.

(A) No person shall directly or indirectly deal in, sell, or keep for sale in the city any wine, not exceeding 14% alcohol by volume, without an on-sale wine license. An on-sale wine license authorizes the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time.

(B) For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RESTAURANT. An establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and where in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable services to its guests.

(C) The holder of an on-sale wine license, who is also licensed to sell 3.2% malt liquor on-sale and whose gross receipts are at least 60% attributable to the sale of food, may sell strong beer at on-sale without an additional license and without any additional fee.

(1976 Code, § 57B.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.067 LICENSE APPLICATION.

§ 111.067 LICENSE APPLICATION.

Every application for an on-sale wine license shall state the name of the applicant, his or

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her age, representations as to his or her character, with references as the Council may require, his or her citizenship, the restaurant in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the restaurant, how long he or she has been in the restaurant business at that place, and other information as the Council may require from time to time. In addition to containing this information, the application shall be in the form prescribed by the Department of Public Safety and shall be verified and filed with the Administrator, Clerk/Treasurer. No person shall make a false statement in an application.

(1976 Code, § 57B.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.068 BOND; LIABILITY INSURANCE; SECURITY APPROVAL.

§ 111.068 BOND; LIABILITY INSURANCE; SECURITY APPROVAL.

(A) *Bond.* Each application for a license shall be accompanied by a security bond or, in lieu thereof, cash or U.S. government bonds of equivalent market value as provided in M.S. § 340.12, as it may be amended from time to time. This surety bond or other security shall be in the sum as set forth in the insurance limits schedule for an applicant for an on-sale wine license.

(1976 Code, § 57B.04)

(B) *Liability insurance.* Prior to the issuance of a wine license, the applicant shall file with the Administrator, Clerk/Treasurer a liability insurance policy in the amount as set forth in the insurance limits schedule and shall comply with the provisions of M.S. § 340.12, as it may be amended from time to time, relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under that statute, the policy may be accepted by the Council in lieu of the bond requirement under division (A) above.

(1976 Code, § 57B.05)

(C) *Approval of security.* The security offered under divisions (A) and (B) above shall be approved by the City Council and the Department of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in divisions (A) and (B) above is a cause for revocation of license.

(1976 Code, § 57B.06)

Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS /

WINE / § 111.069 LICENSE FEES; TERM.

§ 111.069 LICENSE FEES; TERM.

The annual fee for a wine license is as set from time to time by Council resolution. Each application for a wine license shall be accompanied by a receipt from the Administrator, Clerk/Treasurer for payment in full of the license fee. If an application for a license is rejected, the Administrator, Clerk/Treasurer shall refund the amount paid. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, at the option of the City Council. Every license shall expire on the last day of December. No refund of any fee shall be made except as authorized by M.S. § 340.112, as it may be amended from time to time.

(1976 Code, § 57B.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.070 ISSUANCE OF LICENSE.

§ 111.070 ISSUANCE OF LICENSE.

The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the Department of Public Safety. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without Council approval. Any transfer of a majority interest of stock of a corporate licensee is deemed a transfer of the license and such a stock transfer without prior Council approval is a ground for revocation of the license. No wine license shall be granted to any person made ineligible for this license by state law. No wine license shall be issued for a restaurant ineligible for this license under state law.

(1976 Code, § 57B.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.071 LICENSE CONDITIONS.

§ 111.071 LICENSE CONDITIONS.

Every license is subject to the conditions in the following divisions and all other provisions of this subchapter and of any other applicable ordinance, state law, or regulation.

(A) No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(B) Every licensee is responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter and inspect the premises of the licensee during business hours without a warrant.

(D) No licensee shall display wine to the public during hours when the sale of wine is prohibited.

(1976 Code, § 57B.09) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / WINE / § 111.072 REVOCATION AND SUSPENSION.

§ 111.072 REVOCATION AND SUSPENSION.

The Council may either suspend for a period of time not to exceed 60 days or revoke any on-sale license upon a finding that the licensee has failed to comply with any applicable statutes, regulations, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 - 14.70, as they may be amended from time to time.

(1976 Code, § 57B.10) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / DELIVERY OF LIQUOR

DELIVERY OF LIQUOR

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / DELIVERY OF LIQUOR / § 111.085 DEFINITION.

§ 111.085 DEFINITION.

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

INTOXICATING LIQUOR. Includes ethyl alcohol and includes distilled, fermented, spiritous, vinous, and malt beverages containing in excess of 3.2% alcohol by weight.

(1976 Code, § 55.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / DELIVERY OF LIQUOR / § 111.086 UNLAWFUL ACTS.

§ 111.086 UNLAWFUL ACTS.

Intoxicating liquor shall not be transported or be delivered by any means whatsoever by any person, firm, or corporation into or within the city except as may be permitted by § 111.087 below.

(1976 Code, § 55.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / DELIVERY OF LIQUOR / § 111.087 EXCEPTIONS.

§ 111.087 EXCEPTIONS.

(A) Delivery or transportation of intoxicating liquor by persons, firms, or corporations licensed to engage in the sale and delivery of intoxicating liquor at wholesale is hereby allowed and permitted within the city, provided that these deliveries are made only to those persons, firms, or corporations which are licensed to engage in the sale of intoxicating liquors and have

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been issued a retailer's identification card by the Department of Public Safety.

(B) Nothing in this subchapter shall prohibit the delivery of sacramental wines to churches within the city.

(C) Nothing in this subchapter shall prohibit the delivery of those products defined as intoxicating liquors in this subchapter to drug stores for the use of those products in the preparation of drugs and medicines.

(D) This subchapter shall not be construed to prohibit or prevent an individual from transporting liquor for his or her own use, provided that the individual has obtained and is transporting the liquor as is otherwise permitted by law.

(1976 Code, § 55.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / BOTTLE CLUBS

BOTTLE CLUBS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / BOTTLE CLUBS / § 111.100 HOURS OF OPERATION.

§ 111.100 HOURS OF OPERATION.

No person shall consume or display or allow consumption or display of intoxicating liquor on any premises of a private club or public place between the hours of 1:00 a.m. and 8:00 a.m.; or between the hours of 1:00 a.m. and 3:00 p.m. on Memorial Day; or between the hours of 1:00 a.m. and 8:00 p.m. on any primary, special, or general election day.

(1976 Code, § 56.01) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / BOTTLE CLUBS / § 111.101 LOCKERS.

§ 111.101 LOCKERS.

Any private club, as defined in M.S. § 340.07(7), or any unincorporated society which shall have more than 50 members and which shall have, for more than a year, owned, hired, or

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leased space in a building of an extent and character as may be suitable and adequate for reasonable and comfortable accommodations for its members, may allow members to have and keep personal supply of intoxicating liquor in lockers assigned to those members. Every bottle, container, or other receptacle containing intoxicating liquor stored by members shall have attached to it a label signed by the member of the club. All liquor on the premises of the club shall be labeled as herein required, and any not being actually used or consumed by the owner thereof shall be kept in a locker designated to the use of that member. It shall be unlawful for any club member under 18 years of age to be assigned a locker for the storage of intoxicating liquor, or to consume or display, or be permitted to consume or display, intoxicating liquor on any premises owned or controlled by the private club.

(1976 Code, § 56.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / BOTTLE CLUBS / § 111.102 PERMIT REQUIRED.

§ 111.102 PERMIT REQUIRED.

It shall be unlawful for any private club or public place, directly or indirectly, or upon any pretense or by any device to allow the consumption or display of intoxicating liquor or the service of any liquid for the purpose of mixing with intoxicating liquor without having first obtained a permit therefor. The permit shall be issued by the City Council for a period of one year to expire on December 31 next following issuance of the license, upon the payment of the fee as set from time to time by Council resolution, and must be renewed annually on January 1. Application for the permit shall be made to the office of the Administrator, Clerk/Treasurer. The Council shall issue only those permits as in its sole judgment and discretion are in the best interest of the city. The permit and fee provided for herein are in addition to any other permit which the applicant is required to obtain from the Department of Public Safety or any other governmental agency.

(1976 Code, § 56.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / BOTTLE CLUBS / § 111.103 INSPECTION; RIGHT OF ENTRY.

§ 111.103 INSPECTION; RIGHT OF ENTRY.

Any private club or public place allowing the consumption or display of intoxicating liquor shall be open for inspection at all times by the city police officers, by the Department of

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Public Safety and its designated agents, and other duly authorized peace officers.

(1976 Code, § 56.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / BOTTLE CLUBS / § 111.104 INELIGIBLE PERSONS AND PLACES.

§ 111.104 INELIGIBLE PERSONS AND PLACES.

No permit provided by this subchapter shall be issued to any private club or public place when the owner, members of the board, management, executive committee, or other similar body chosen by the members, shall have been issued, or hereafter be issued, a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquors.

(1976 Code, § 56.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR POSSESSION BY MINORS

CONSUMPTION OR POSSESSION BY MINORS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR POSSESSION BY MINORS / § 111.115 UNLAWFUL ACTS BY MINORS.

§ 111.115 UNLAWFUL ACTS BY MINORS.

It shall be unlawful for:

(A) A minor to enter any premises licensed for retail sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverages containing more than 0.5% of alcohol by volume;

(B) A minor to consume any alcoholic beverage, on premises licensed for the retail sale of alcoholic beverages, or any municipal liquor store, or to purchase, attempt to purchase, or have another purchase for him or her any alcoholic beverage;

(C) Any person to misrepresent or misstate his or her age, or the age of any other person, for the purpose of inducing any licensee or any employee of any licensee, or any

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employee of any municipal liquor store, to sell, serve, or deliver any alcoholic beverage to a minor; or

(D) A minor to have in his or her possession any intoxicating liquor or 3.2% malt liquor with intent to consume same at a place other than the household of his or her parent or guardian.

(1976 Code, § 57.01) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR POSSESSION BY MINORS / § 111.116 PURCHASE FOR MINORS PROHIBITED.

§ 111.116 PURCHASE FOR MINORS PROHIBITED.

It shall be unlawful for any person to procure or purchase any alcoholic beverage containing more than 0.5% alcohol by volume for any minor person or other person to whom the sale of intoxicating liquors is by law forbidden.

(1976 Code, § 57.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR DISPLAY OF INTOXICATING LIQUOR

CONSUMPTION OR DISPLAY OF INTOXICATING LIQUOR

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR DISPLAY OF INTOXICATING LIQUOR / § 111.130 CONSUMPTION OR USE; PROHIBITED LOCATIONS.

§ 111.130 CONSUMPTION OR USE; PROHIBITED LOCATIONS.

(A) No person shall consume or use intoxicating liquor or 3.2% malt liquor in any parking area connected with or a part of the land area of the premises which have been issued an intoxicating liquor license, wine license, or a license to sell 3.2% malt liquor, including any parking area connected with or a part of the land area of the premises of any private bottle club, fraternal organization, or other private club located within the city.

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(1976 Code, § 57A.01)

(B) No person shall consume or use intoxicating liquor or 3.2% malt liquor in any parking area connected with or a part of the land area of the premises of any other public or private commercial or industrial business establishment located within the city. This prohibition shall include parking areas connected with schools or any other institution of training or education. This division may be modified by § 111.132 of this code.

(1976 Code, § 57A.02)

Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR DISPLAY OF INTOXICATING LIQUOR / § 111.131 REMOVAL OF OPEN RECEPTACLE PROHIBITED.

§ 111.131 REMOVAL OF OPEN RECEPTACLE PROHIBITED.

No person shall carry any open receptacle, including a glass, bottle, or other device used for the consumption of intoxicating liquor or 3.2% malt liquor, from the licensed premises.

(1976 Code, § 57A.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 111: LIQUOR REGULATIONS / CONSUMPTION OR DISPLAY OF INTOXICATING LIQUOR / § 111.132 EXCEPTION; SPECIAL TEMPORARY PERMIT.

§ 111.132 EXCEPTION; SPECIAL TEMPORARY PERMIT.

Nothing in this subchapter shall prohibit the temporary display or consumption of intoxicating liquor or 3.2% malt liquor in locations or areas specifically approved by action of the City Council. Any request of this type shall be accompanied by proof of appropriate liability insurance coverage. If approved, the city shall issue a special temporary permit to the applicant.

(1976 Code, § 57A.04)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS

CHAPTER 112: TOBACCO REGULATIONS

Section

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TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS / § 112.01 PURPOSE.

§ 112.01 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 those sales, possession, and use are violations of both state and federal laws; and because studies, which are hereby 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.

(1976 Code, § 40.01)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.02 DEFINITIONS AND INTERPRETATIONS.**

§ 112.02 DEFINITIONS AND INTERPRETATIONS.

(A) Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa.

(B) 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 not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered **INDIVIDUALLY PACKAGED**.

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

MAY. The act referred to is permissive.

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

MOVEABLE PLACE OF BUSINESS. Any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address

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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** include, but are not 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.

SHALL. The act referred to is mandatory.

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 flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in manner so as to be suitable for chewing, sniffing, or smoking.

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.

(1976 Code, § 40.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS / § 112.03 LICENSE.

§ 112.03 LICENSE.

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(A) *License required.* No person shall 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.

(B) *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, Clerk/Treasurer shall forward the application to the Police Department for the purpose of conducting a background check on the applicant. The Police Department shall have ten days to complete the background check, and upon its completion shall forward the application and investigation results to the City Council for action at its next regularly scheduled Council meeting. If the Administrator, Clerk/Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

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

(D) *Term.* All licenses issued under this chapter shall expire on December 31 of each year.

(E) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in §§ 112.12 and 112.99 of this code.

(F) *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 City Council.

(G) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(H) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

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

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(1976 Code, § 40.03) Penalty, see § 112.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.04 LICENSE FEES.**

§ 112.04 LICENSE FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The annual fee for a license under this chapter shall be set from time to time by Council resolution. Initial license applications covering a period of less than one year shall be charged a fee calculated on a monthly pro rata basis.

(1976 Code, § 40.04)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.05 BASIS FOR DENIAL OF LICENSE.**

§ 112.05 BASIS FOR DENIAL OF LICENSE.

(A) 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:

- (1) The applicant is under the age of 18 years;
- (2) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco, tobacco products, or tobacco-related devices;
- (3) 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 the application;
- (4) The applicant fails to provide any information required on the application, or provides false or misleading information; or
- (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding this type of license.

(B) 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 section.

(1976 Code, § 40.05)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.06 UNLAWFUL SALES.**

§ 112.06 UNLAWFUL SALES.

It shall be a violation of this chapter for any person 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 chapter;
- (C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco 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, except as may otherwise be provided in this chapter;
- (D) By means of loosies as defined in § 112.02 of this code;
- (E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or other controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; or
- (F) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

(1976 Code, § 40.06) Penalty, see § 112.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.07 VENDING MACHINES RESTRICTED.**

§ 112.07 VENDING MACHINES RESTRICTED.

It shall be 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 self-service vending

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machine unless minors are at all times prohibited from entering the licensed establishment.

(1976 Code, § 40.07) Penalty, see § 112.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS / § 112.08 SELF-SERVICE MERCHANDISING PROHIBITED.

§ 112.08 SELF-SERVICE MERCHANDISING PROHIBITED.

It shall be 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 those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or 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 section within 90 days. This section shall not apply to retail stores which derive at least 90% of their revenue from tobacco, tobacco products, or tobacco-related devices and which cannot be entered at any time by persons younger than 18 years of age.

(1976 Code, § 40.08) Penalty, see § 112.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS / § 112.09 LICENSEE RESPONSIBILITY.

§ 112.09 LICENSEE 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 section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this code, state or federal law, or other applicable law or regulation.

(1976 Code, § 40.09) Penalty, see § 112.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.10 COMPLIANCE CHECKS; INSPECTIONS.**

§ 112.10 COMPLIANCE CHECKS; INSPECTIONS.

All licensed premises shall be open to inspection by the City Police Department 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 parent or guardian, minors over the age of 15 years but less than 18 years, to enter the licensed premises 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 city personnel. Minors used for compliance checks shall not be guilty of an unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco-related devices when those 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 section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(1976 Code, § 40.10) Penalty, see § 112.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS
/ § 112.11 UNLAWFUL ACTS INVOLVING MINORS.**

§ 112.11 UNLAWFUL ACTS INVOLVING MINORS.

Unless otherwise provided, the following acts shall be a violation of this chapter.

(A) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco-related device to any minor.

(B) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This division shall not apply to minors lawfully involved in a compliance check.

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew,

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sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.

(D) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain items of this type on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This division shall not apply to minors lawfully involved in a compliance check.

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

(1976 Code, § 40.11) Penalty, see § 112.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS / § 112.12 VIOLATIONS; ENFORCEMENT.

§ 112.12 VIOLATIONS; ENFORCEMENT.

(A) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, an administrative offense citation pursuant to Ch. 34 of this code, setting forth the alleged violation and the alleged violator's right to be heard on the accusation.

(B) *Hearing.* The person accused of violating this chapter may request a hearing in writing within 14 days of receipt of the notice of violation, and a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.

(C) *Hearing officer.* The Administrator, Clerk/Treasurer or his or her designee shall serve as the hearing officer.

(D) *Decision.* If the hearing officer determines that a 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 § 112.99 of this code, 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, those findings shall be recorded and a copy provided to the acquitted accused violator.

(E) *Appeal.* Appeals of any decision made by the hearing officer shall be made to the

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City Council in writing within seven days of receipt of the hearing officer's decision. The decision of the City Council shall be final.

(F) *Misdemeanor prosecution.* A violation of this chapter shall be a misdemeanor.

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

(1976 Code, § 40.12) Penalty, see § 112.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 112: TOBACCO REGULATIONS / § 112.99 PENALTY.

§ 112.99 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 of \$75 for a first violation of this chapter, \$200 for a second offense at the same licensed premises within a 24-month period, and \$250 for a third or subsequent offense at the same location within a 24-month period. After the third offense, the license is automatically suspended for seven days commencing the day following the date of the third offense. In addition to the seven-day suspension, the City Council shall conduct a hearing at the regular Council meeting following the third violation to determine whether the license should be suspended longer than seven days. Any additional suspension may be for the remainder of the license period or 90 days, whichever is greater.

(B) *Other individuals.* Other individuals, other than minors regulated by division (C) of this section, found to be in violation of this chapter shall be charged an administrative fine of \$50.

(C) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices, may be referred to the Anoka County Attorney's Office.

(D) *Misdemeanor.* Any person found guilty by a lawful authority of violating any provisions of this chapter shall be guilty of a misdemeanor.

(1976 Code, § 40.13) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS

CHAPTER 113: PAWNBROKERS

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**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
GENERAL PROVISIONS**

GENERAL PROVISIONS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / GENERAL PROVISIONS / § 113.01 PURPOSE.

§ 113.01 PURPOSE.

(A) The City Council finds that the use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The City Council further finds that the pawn industry has outgrown the city's current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this chapter is to prevent pawn businesses from being used as facilities for the commission of crimes, and to assure that these businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(B) To help the Police Department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this chapter also implements and establishes the required use of the automated pawn system (APS).

(Ord. 338, passed 6-2-2003)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / GENERAL PROVISIONS / § 113.02 DEFINITIONS.

§ 113.02 DEFINITIONS.

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

BILLABLE TRANSACTION. Every reportable transaction conducted by a pawnbroker except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession.

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PAWNBROKER. Any natural person, partnership, or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a **PAWNBROKER'S** business includes buying personal property previously used, rented, or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

REPORTABLE TRANSACTION. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, except:

(1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of that merchandise; provided, the pawnbroker must maintain a record of the purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; or

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and redemption periods have expired.

(Ord. 338, passed 6-2-2003)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / GENERAL PROVISIONS / § 113.03 EXEMPTIONS.

§ 113.03 EXEMPTIONS.

This chapter does not apply to or include the following:

- (A) Sales by a person licensed as a motor vehicle dealer;
- (B) The sale of secondhand books, magazines, sound or video recordings, or films;
- (C) The sale of goods at an auction held by a licensed auctioneer;
- (D) The business of buying or selling only those secondhand goods taken as part of full payment for new goods and where that business is incidental to and not the primary business of a person;
- (E) A bulk sale of property from a merchant or manufacturer or wholesaler having an

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established place of business or of goods sold at open sale from bankrupt stock;

(F) Goods sold at a public market; or

(G) Goods sold at an exhibition.

(Ord. 338, passed 6-2-2003)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
GENERAL PROVISIONS / § 113.04 VIOLATIONS.**

§ 113.04 VIOLATIONS.

Violation of any provision of this chapter shall be misdemeanor.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
LICENSING**

LICENSING

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
LICENSING / § 113.15 FEES.**

§ 113.15 FEES.

The annual license fee and the billable transaction fee for a pawnbroker or pawnbrokers for a location where more than one is engaged in business shall be separately set from time to time, by resolution of the City Council as it, in its discretion, deems appropriate.

(Ord. 338, passed 6-2-2003)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
LICENSING / § 113.16 LICENSE APPLICATION.**

§ 113.16 LICENSE APPLICATION.

(A) *Application; content.* An application form provided by the Department of Licenses and Consumer Services must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

(1) If the applicant is a natural person:

(a) The name, place and date of birth, street resident address, and phone number of the applicant;

(b) Whether the applicant is a citizen of the U.S. or resident alien;

(c) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used;

(d) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time;

(e) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five years;

(f) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions;

(g) The physical description of the applicant;

(h) The applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to application; and

(i) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions(A)(1)(a) - (A)(1)(g) of this section.

(2) If the applicant is a partnership:

(a) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A)(1) of this section;

(b) The name(s) of the managing partner(s) and the interest of each

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partner in the licensed business;

(c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of that certificate must be attached to the application;

(d) A true copy of the federal and state tax returns for the partnership for the two years prior to application; and

(e) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (A)(1)(a) - (A)(1)(g) of this section.

(3) If the applicant is a corporation or other organization:

(a) The name of the corporation or business form, and if incorporated, the state of incorporation;

(b) A true copy of the certificate of incorporation, articles of incorporation, or association agreement, and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, must be attached;

(c) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in (A)(1)(a) - (A)(1)(g) of this section; and

(d) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning those persons required in division (A)(1) above. This division (A)(3)(d), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

(4) For all applicants:

(a) Whether the applicant holds a current pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;

(b) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit;

(c) The location of the business premises;

(d) If the applicant does not own the business premises, a true and

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complete copy of the executed lease;

(e) The legal description of the premises to be licensed;

(f) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;

(g) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and

(h) Other information as the City Council or issuing authority may require.

(B) *Site plan.* The application for a pawnbroker license must be accompanied by a site plan drawn to scale. The site plan must contain:

(1) A legal description of the property upon which the proposed licensed premises are situated;

(2) A plot plan;

(3) The exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property, and entrance into the premises;

(4) The location of and distance from the nearest church, school, hospital, and residence; and

(5) A floor plan of the licensed premises.

(C) *New manager.* When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days. The application must include all appropriate information required in this section.

(1) *Investigation fee.* Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this section. If the investigation process is conducted solely within this state, the fee shall be as set from time to time by Council resolution. If the investigation is conducted outside this state, the issuing authority may recover the actual investigation costs not exceeding \$10,000.

(2) *Application execution.* All applications for a license under this section must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by that person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an

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unincorporated association, by the manager or managing officer thereof.

(3) *Investigation.* The Police Department must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the police license inspector such evidence as the inspector may reasonably require in support of the statements set forth in the application.

(4) *Persons ineligible for a license.* No licenses under this section will be issued to an applicant who is a natural person, a partnership if the applicant has any general partner or managing partner, or a corporation or other organization if the applicant has any manager, proprietor, or agent in charge of the business to be licensed, if the applicant:

(a) Is a minor at the time that the application is filed;

(b) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03(2), as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S. § 364.03(3), as it may be amended from time to time; or

(c) Is not of good moral character or repute.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.17 PUBLIC HEARING.

§ 113.17 PUBLIC HEARING.

A pawnbroker license will not be issued or renewed without a public hearing. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. A public hearing must be preceded by at least ten days' published notice specifying the location of the proposed licensed business premises.

(Ord. 338, passed 6-2-2003)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.18 BOND REQUIRED.

§ 113.18 BOND REQUIRED.

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Before a license will be issued, every applicant must submit a \$5,000 bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be cancelled except upon 30 days' written notice to the city, which shall be served upon the licensing authority.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.19 INELIGIBLE PLACES.

§ 113.19 INELIGIBLE PLACES.

A license will not be issued or renewed under this chapter for any place or for any business:

(A) If taxes, assessments, or other financial claims of the city or the state on the licensee's business premises are delinquent and unpaid;

(B) If the premises are located within 500 feet of any structure containing a public or private school, church, licensed day care center, public library, park, or municipal building, or are within 500 feet of any residential district;

(C) Where operation of a licensed premises would violate zoning ordinances; or

(D) Where the applicant's present license was issued conditioned upon the applicant making specified improvements to the licensed premises or the property of the licensed premises which improvements have not been completed.

(Ord. 338, passed 6-2-2003)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.20 LICENSE DENIAL, SUSPENSION, OR REVOCATION.

§ 113.20 LICENSE DENIAL, SUSPENSION, OR REVOCATION.

Any license under this chapter may be denied, suspended, or revoked for one or more of

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the following reasons:

- (A) The proposed use does not comply with the any applicable zoning code;
- (B) The proposed use does not comply with any health, building, building maintenance, or other provisions of this chapter or other ordinances of the city, or state law;
- (C) The applicant or licensee has failed to comply with one or more provisions of this chapter;
- (D) The applicant is not a citizen of the U.S. or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;
- (E) Fraud, misrepresentation, or bribery in securing or renewing a license;
- (F) Fraud, misrepresentation, or false statements made in the application and investigation for, or in the course of, the applicant's business;
- (G) Violation within the preceding five years of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business; or
- (H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

(Ord. 338, passed 6-2-2003)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.21 LICENSED BUSINESS ONLY AT ONE LOCATION.

§ 113.21 LICENSED BUSINESS ONLY AT ONE LOCATION.

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the police license inspector may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § 113.41 of this code. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of this city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premises that extends for more than six months.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.22 REFUNDS.

§ 113.22 REFUNDS.

The Administrator, Clerk/Treasurer will refund a pro rata share of the license fee for a license to the licensee or the licensee's estate if:

- (A) The business ceases to operate because of destruction or damage; or
- (B) The licensee dies.

(Ord. 338, passed 6-2-2003)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.23 DEATH OF LICENSEE.

§ 113.23 DEATH OF LICENSEE.

In the case of the death of the licensee, the personal representative of the estate of the licensee may continue operation of the business for not more than 90 days after the licensee's death.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / LICENSING / § 113.24 USE OF "THREE BALLS" RESTRICTED.

§ 113.24 USE OF "THREE BALLS" RESTRICTED.

No pawnbroker shall exhibit and maintain any sign usually known as a pawnbroker's sign, such as "three balls," or advertise in any way as such without first being licensed under this chapter.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /

LICENSING / § 113.25 COUNTY LICENSE.

§ 113.25 COUNTY LICENSE.

Pawnbrokers dealing in precious metals and gems must be licensed by Anoka County.
(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
OPERATING REGULATIONS**

OPERATING REGULATIONS

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS /
OPERATING REGULATIONS / § 113.35 RECORDS REQUIRED.**

§ 113.35 RECORDS REQUIRED.

(A) *Transaction records.* At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department:

- (1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;
- (2) The purchase price, amount of money loaned upon, or pledged therefor;
- (3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;
- (4) The date, time, and place the item of property was received by the licensee, and the unique alpha or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;
- (5) The full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including: sex, height, weight, race, color of eyes, and color of hair;

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(6) The identification number and state of issue from any of the following forms of identification of the seller:

- (a) Current valid driver's license of this state;
- (b) Current valid identification card of this state; or
- (c) Current valid photo identification card issued by another state or province of Canada.

(7) The signature of the person identified in the transaction;

(8) (a) Effective 60 days from the date of notification by the Police Department of acceptable video standards the licensee must also take a color photograph or color video recording of:

- 1. Each customer involved in a billable transaction; and
- 2. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

(b) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. These photographs must be available to the Police Chief, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The license must keep the exposed videotape for three months.

(9) Effective 60 days from the date of notification by the Police Department, licensees must fulfill the color photograph requirements in division (A)(8) above by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in division (A)(8).

(B) *Renewals, extensions, and redemptions.* For renewals, extensions, and

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redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(C) *Inspection of records.* The records must at all reasonable times be open to inspection by the Police Department or Department of Licenses and Consumer Services. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.36 DAILY REPORTS TO POLICE.

§ 113.36 DAILY REPORTS TO POLICE.

(A) *Daily reports required.* Effective no later than 60 days after the Police Department provides licensees with computerized record standards, licensees must submit every reportable transaction to the Police Department daily in the following manner.

(B) *Manner of report.* Licensees must provide to the Police Department all information required in §§ 113.35(A)(1) - 113.35(A)(6) and other required information, by transferring it from their computer to the automated pawn system (APS) via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority using procedures that address security concerns of the licensees and the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily.

(C) *Billable transaction fees.* Licensees will be charged for each billable transaction reported to the Police Department.

(D) *Technical difficulties; alternative reporting methods.*

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department printed copies of all reportable transactions along with the video tape(s) for that date, by 12:00 the next business day.

(2) Until the licensee's system is corrected, the licensee must provide the required reports in division (D)(1) above, by printed copy, and resubmit all such transactions via modem when the error is corrected.

(3) If a licensee is unable to capture, digitize, or transmit the photographs required in § 113.35(A)(8), the licensee must immediately take all required photographs with a

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still camera, cross- reference the photographs to the correct transaction, and make the pictures available to the County Sheriff upon request.

(4) Regardless of the cause or origin of the technical problem that prevented the licensee from uploading his or her reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

(5) Divisions (D)(1) - (D)(3) notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.37 RECEIPT REQUIRED.

§ 113.37 RECEIPT REQUIRED.

(A) Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years.

(B) The receipt must include at least the following information:

- (1) The name, address, and telephone number of the licensed business;
- (2) The date and time the item was received by the licensee;
- (3) Whether the item was pawned or sold, or the nature of the transaction;
- (4) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on the item;
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction;
- (6) The amount advanced or paid;
- (7) The monthly and annual interest rates, including all pawn fees and charges;
- (8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the

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pawned item on that date;

(9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller;

(10) The identification number and state of issue from any of the following forms of identification of the seller:

(a) Current valid driver's license of this state;

(b) Current valid identification card of this state; or

(c) Current valid photo driver's license or identification card issued by another state or a province of Canada.

(11) A description of the pledger or seller including approximate sex, height, weight, race, color of eyes, and color of hair;

(12) The signature of the pledger or seller; and

(13) All printed statements as required by M.S. § 325J.04(2), as it may be amended from time to time, or any other applicable statutes.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.38 REDEMPTION PERIOD.

§ 113.38 REDEMPTION PERIOD.

Any person pledging, pawning, or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60-day holding period, items may not be removed from the licensed location except as provided in § 113.21 of this code. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the police license inspector. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction record in accordant with § 113.35 of this code.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.39 HOLDING PERIOD.

§ 113.39 HOLDING PERIOD.

Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.40 POLICE ORDER TO HOLD PROPERTY.

§ 113.40 POLICE ORDER TO HOLD PROPERTY.

(A) *Investigative hold.* Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold or confiscate is issued, pursuant to division (B) of this section, whichever comes first.

(B) *Order to hold.* Whenever the Police Chief, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire 90 days from the date it is placed unless the Police Chief or the Chief's designee determines a hold is still necessary and notifies the licensee in writing.

(C) *Order to confiscate.* If an item is identified as stolen or evidence in a criminal case, the Chief or Chief's designee may:

(1) Physically confiscate and remove it from the shop, pursuant to a written order from the Chief or the Chief's designee; or

(2) Place the item on hold or extend the hold as provided in division (B) above, and leave it in the shop.

(D) *Confiscation; identification.* When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name

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and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

(E) *Termination.* When an order to hold or confiscate is no longer necessary, the Police Chief or Chief's designee shall so notify the licensee.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.41 INSPECTIONS.

§ 113.41 INSPECTIONS.

At all times during the term of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in § 113.21, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the items, wares, and merchandise, and records therein to verify compliance with this chapter or other applicable laws.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.42 LABEL REQUIRED.

§ 113.42 LABEL REQUIRED.

Licenses must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.43 UNLAWFUL ACTS.

§ 113.43 UNLAWFUL ACTS.

(A) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

(B) No licensee may receive any goods from a person of unsound mind or an intoxicated person.

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid identification card from this state, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

(D) No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

(E) No person may pawn, pledge, sell, consign, leave, or deposit any article of property not his or her own; nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest; with any licensee.

(F) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth; nor give a false or out-of- date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

(Ord. 338, passed 6-2-2003; Am. Ord. 344, passed 4-5-2004) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.44 WEAPONS.

§ 113.44 WEAPONS.

A licensed pawnbroker may not receive as a pledge or otherwise accept for consignment or sale any revolver, pistol, sawed-off shotgun, automatic rifle, blackjack, switchblade knife, or other similar weapon or firearm.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 113: PAWNBROKERS / OPERATING REGULATIONS / § 113.45 HOURS OF OPERATION.

§ 113.45 HOURS OF OPERATION.

No property shall be received as a pledge or purchase by any pawnbroker, nor shall any property be sold by a pawnbroker on any day before 9:00 a.m. or after 8:00 p.m., Monday through Friday, nor after 6:00 p.m. on Saturday and Sunday; further, no pawnbroker shall be open for business on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, or Christmas Day.

(Ord. 338, passed 6-2-2003) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS

CHAPTER 114: SECONDHAND GOODS DEALERS

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TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; GENERAL PROVISIONS

SECONDHAND GOODS DEALERS; GENERAL PROVISIONS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; GENERAL PROVISIONS / § 114.01 DEFINITIONS.

§ 114.01 DEFINITIONS.

For the purpose of this subchapter and for §§ 114.15 *et seq.* and 114.35 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different

meaning.

RECEIVE. To purchase, accept for sale or consignment any secondhand goods.

SECONDHAND GOODS DEALER. A person whose regular business includes selling or receiving tangible personal property (excluding motor vehicles) previously used, rented, owned, or leased.

(1976 Code, § 47H.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; GENERAL PROVISIONS / § 114.02 EXCEPTIONS.

§ 114.02 EXCEPTIONS.

This subchapter and §§ 114.15 *et seq.* and 114.35 *et seq.* do not apply to, or include, the following:

- (A) The sale of secondhand goods where all of the following conditions are present:
 - (1) The sale is held on property occupied as a dwelling by the seller or owned, rented, or leased by a charitable or athletic organization;
 - (2) The sale does not exceed a period of 72 consecutive hours; and
 - (3) None of the items offered for sale have been purchased for resale or received on consignment for purpose of resale.
- (B) Sales by a person licensed as a motor vehicle dealer;
- (C) The sale of goods at an auction held by a licensed auctioneer;
- (D) A bulk sale of property from a merchant or manufacturer or wholesaler having an established place of business or of goods sold at open sale from bankrupt stock;
- (E) Goods sold at an exhibition;
- (F) Infants', toddlers', or children's clothing, toys, equipment, and furniture; or
- (G) Maternity clothing.

(1976 Code, § 47H.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; GENERAL PROVISIONS / § 114.03 INSPECTION; RIGHT OF ENTRY.

§ 114.03 INSPECTION; RIGHT OF ENTRY.

A peace officer or any properly designated employee of the city or the state may enter, inspect, and search business premises licensed under §§ 114.15 *et seq.* during business hours without a warrant.

(1976 Code, § 47H.22)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; GENERAL PROVISIONS / § 114.04 VIOLATIONS.

§ 114.04 VIOLATIONS.

Violation of any provision of this subchapter, or §§ 114.15 *et seq.* or 114.35 *et seq.*, shall be a misdemeanor.

(1976 Code, § 47H.24) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING

SECONDHAND GOODS DEALERS; LICENSING

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.15 LICENSE REQUIRED.

§ 114.15 LICENSE REQUIRED.

No person, partnership, or corporation shall engage in or carry on the business of a

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secondhand goods dealer without first obtaining a license issued by the city for each and every office or place of business operated by that licensee in the city.

(1976 Code, § 47H.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.16 MULTIPLE DEALERS LICENSE.

§ 114.16 MULTIPLE DEALERS LICENSE.

(A) The owner of a business at which two or more secondhand goods dealers are engaged in business by maintaining separate sales space and identifying themselves to the public as individual dealers may obtain a multiple secondhand goods dealer license for the location.

(B) A multiple license may not be issued unless the following requirements are present:

- (1) The businesses must have a single name and address;
- (2) The businesses must operate in a compact and contiguous space;
- (3) The businesses must be under the unified control and supervision of the one person who holds the license; and

(4) Sales must be consummated at a central point or register operated by the owner of the business and the owner must maintain a comprehensive account of all sales.

(1976 Code, § 47H.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.17 LICENSE FEE.

§ 114.17 LICENSE FEE.

The annual license fee for a secondhand goods dealer shall be set from time to time by resolution of the City Council as it, in its discretion, deems appropriate.

(1976 Code, § 47H.05)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.18 LICENSE APPLICATION.

§ 114.18 LICENSE APPLICATION.

(A) Every applicant for a license to maintain, operate, or conduct a secondhand goods dealer's shop or a secondhand goods dealer's shop with multiple dealers, shall file a completed application under oath with the city upon a form provided by the office of the Administrator, Clerk/Treasurer and pay an associated, non-refundable application fee in an amount as set from time to time by resolution of the City Council as it, in its discretion, deems appropriate. The application, once accepted, shall be referred to the City Police Department for investigation in accordance with this subchapter. Copies of the application shall be forwarded to those other city departments as the City Council deems necessary for verification and investigation of the facts set forth in the application. The Police Chief and other department heads shall make a written recommendation to the City Council as to the issuance or non-issuance of the license within 30 days.

(B) The completed application form shall contain all of the information indicated and requested including the following:

- (1) The name, place and date of birth, and street residence of the applicant;
- (2) The business address and the name and address of the owner of the premises as well as the name of the business itself;
- (3) A statement as to whether, within the preceding five years, the applicant has been convicted of any law relating to theft, trespass or damage to property, sale of a controlled substance, or the operation of any type of business. As to each offense listed, the nature of the offense must be described with particularity and the penalty therefor assessed;
- (4) Whether the applicant is a natural person, corporation, or partnership. If the applicant is a corporation, the state of incorporation and the names and addresses of all officers and directors with their titles as appropriate; and
- (5) The name of the manager or proprietor of the business.

(C) If the applicant is a natural person, the application shall be sworn to by the person; if a corporation, by the agent authorized to sign; and if a partnership, by a partner.

(D) No person shall make any material false statement in an application. In addition to other penalties, the licensee's license may be revoked by the City Council for any false or

fraudulent information given on an application.

(1976 Code, § 47H.06) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.19 SITE PLAN.

§ 114.19 SITE PLAN.

(A) The application for a secondhand goods dealer license must be accompanied by a site plan drawn to scale.

(B) The site plan must contain:

(1) A legal description of the property upon which the proposed licensed premises are situated;

(2) A plot plan;

(3) The exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property, and entrance into the premises;

(4) The location of and distance from the nearest church, school, hospital, and residence; and

(5) A floor plan of the licensed premises.

(1976 Code, § 47H.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.20 INVESTIGATION; FEE.

§ 114.20 INVESTIGATION; FEE.

(A) *Conduct.* The city, prior to the granting of an initial or renewed secondhand goods dealer license, must conduct a preliminary background and financial investigation of the applicant. Any person having a beneficial interest in the license must be investigated. The investigation shall be conducted by the Police Chief of the city as well as those other city departments as the City Council shall deem necessary for verification and investigation, and results of the investigation shall be reported to the City Council. The Police Chief and all other

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department heads must verify the facts stated in the application and must report all convicted violations of state law, federal law, or municipal ordinances involving the applicant, interested persons, or the licensed premises while under the applicant's proprietorship, and shall further report as to findings relating to business responsibility, moral character, and reputation of the applicant and all interested persons and whether or not the applicant is capable of operating a business in a manner consistent with the public health, safety, and good morals.

(B) *Fee.* The City Council, by resolution as it in its discretion deems appropriate, shall, from time to time, set an investigation fee to be charged all applicants in connection with the processing of the application and the conduct of the investigation as required under this section. The applicant shall be notified of the investigation fee prior to the City Council's final action on the license application, and the investigation fee shall be payable upon terms as established by the Administrator, Clerk/Treasurer and shall be non-refundable.

(1976 Code, § 47H.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.21 GRANTING OF LICENSE.

§ 114.21 GRANTING OF LICENSE.

After review of the license application and the investigation report, the City Council shall act upon the license application and may grant or refuse the license for a new or renewed secondhand goods dealer after duly considering all submitted information.

(1976 Code, § 47H.09)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.22 INELIGIBLE PERSONS.

§ 114.22 INELIGIBLE PERSONS.

A secondhand goods dealer license shall not be issued to:

- (A) A person not a citizen of the U.S. or a resident alien;
- (B) A person under 18 years of age;

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(C) Subject to the provisions of law, a person who has been convicted of receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, damage or trespass to property, or any law or ordinance regulating the business of secondhand goods dealers;

(D) A person who, within five years of the license application date, had a secondhand goods dealer license revoked;

(E) A person whom the City Council determines not to be of sufficient good moral character or repute; or

(F) When the City Council determines, after investigation, that issuance or renewal of the license would adversely affect the public health, safety, or welfare.

(1976 Code, § 47H.10)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.23 LICENSE NON-TRANSFERABLE.

§ 114.23 LICENSE NON-TRANSFERABLE.

A license will be issued to the applicant and only for the business premises as described in the application. The license is effective only for the premises specified in the approved license application. The license shall not be transferred to any other person, partnership, or corporation or be used for any other premises than the one specified. Violation of any of these restrictions shall be grounds for the revocation of the license.

(1976 Code, § 47H.11) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.24 TERM AND EXPIRATION; PRO RATA FEE.

§ 114.24 TERM AND EXPIRATION; PRO RATA FEE.

Any secondhand goods dealer license issued under this subchapter shall be for a period of one year beginning on January 1, except that if the application is made during a license year, a license may be issued for the remainder of the license year for a monthly pro rata fee. Any unexpired fraction of a month will be counted as a complete month, and all licenses, regardless

of date of issue, shall expire on December 31 of the year during which the license was issued.

(1976 Code, § 47H.12)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; LICENSING / § 114.25 LICENSE SUSPENSION OR REVOCATION.

§ 114.25 LICENSE SUSPENSION OR REVOCATION.

A license under this subchapter may be suspended or revoked by the Council after a public hearing where the licensee is granted the opportunity to be heard for one or more of the following reasons:

- (A) The operation of the business is in conflict with any provision of this chapter;
- (B) The operation of the business is in conflict with any health, building maintenance, zoning, or any other provisions of this code or law;
- (C) The licensee of the business premises fails to conform with the standards for license application contained in this subchapter;
- (D) The licensee has failed to comply with one or more provisions of this chapter or any statute, rule, or ordinance pertaining to the business of secondhand goods dealers;
- (E) Fraud or misrepresentation or bribery in securing a license; or misrepresentation of any fact on the application;
- (F) Fraud, misrepresentation, or false statements made in the course of the applicant's business; or
- (G) Subject to the provisions of law, violation within the preceding five years of any state or federal law relating to theft, damage or trespass to property, sale of a controlled substance or stolen goods, or operation of a business.

(1976 Code, § 47H.20) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS

SECONDHAND GOODS DEALERS; OPERATING REGULATIONS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.35 RECORDS REQUIRED.

§ 114.35 RECORDS REQUIRED.

(A) A licensed secondhand goods dealer, at the time of receipt of an item, must immediately record in ink or other indelible medium in the English language in a book or word processing unit, the following information:

- (1) An accurate description of the item including, but not limited to, any trademark, identification number, serial number, model number, brand name, and other identifying mark on the items;
- (2) The purchase price;
- (3) The date, time, and place of receipt;
- (4) The name, address, and date of birth from whom the item was received;

and

(5) The identification number from any of the following forms of identification of the seller:

- (a) A valid picture driver's license of this state;
- (b) A valid picture identification card of this state; or
- (c) A medicard.

(B) The books as well as the goods received must be opened for inspection by the Police Department at reasonable times. Records required by this division must be stored and maintained by the licensee on the premises of the business for a period of at least three years and the records shall remain at all times on the premises.

(1976 Code, § 47H.13) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.36 STOLEN GOODS; REPORT.

§ 114.36 STOLEN GOODS; REPORT.

A licensed secondhand goods dealer must report immediately to the police any article pledged or received or sought to be pledged or received if the licensee has reason to believe that the article was stolen or lost.

(1976 Code, § 47H.14) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.37 SEIZURE OF STOLEN PROPERTY.

§ 114.37 SEIZURE OF STOLEN PROPERTY.

The City Police Department, and any of its duly authorized members, may immediately seize from any licensed secondhand goods dealer any property which can be confirmed as stolen property for any type of identification process; the same can be immediately taken into possession of the Police Department without a warrant.

(1976 Code, § 47H.15)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.38 RECEIPT.

§ 114.38 RECEIPT.

(A) A licensed secondhand goods dealer must provide a receipt to the seller or consignor of any items.

(B) This receipt shall include:

- (1) The address and phone number of the business;
- (2) The date;
- (3) A description of the item purchased; and

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- (4) The purchaser's signature.

(1976 Code, § 47H.16) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.39 PAYMENT BY CHECK.

§ 114.39 PAYMENT BY CHECK.

When secondhand goods dealers buy or otherwise receive an item at the licensed place of business, payment must be made by check, made payable to a named payee who is the actual intended seller. This section does not apply to purchases of individual items, or items in aggregate, purchased from one individual, with a total value of \$15 or less.

(1976 Code, § 47H.21) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.40 POLICE ORDERS.

§ 114.40 POLICE ORDERS.

If a city officer notifies a licensed secondhand goods dealer not to sell an item, the item may not be sold or removed from the licensed premises until authorized to be released by a member of the City Police Department.

(1976 Code, § 47H.17) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.41 WEAPONS.

§ 114.41 WEAPONS.

A licensed secondhand goods dealer may not receive as a pledge or otherwise accept for consignment or sale any revolver, pistol, sawed-off shotgun, automatic rifle, blackjack,

switchblade knife, or other similar weapon or firearm.

(1976 Code, § 47H.18) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / SECONDHAND GOODS DEALERS; OPERATING REGULATIONS / § 114.42 UNLAWFUL ACTS.

§ 114.42 UNLAWFUL ACTS.

(A) *Minors.* A minor, being defined as any person under the age of 18 years, may not sell or consign or attempt to sell or consign goods from a secondhand goods dealer. A secondhand goods dealer may not receive goods from a minor.

(B) *Others.* A secondhand goods dealer may not receive any goods from a person of unsound mind or an intoxicated person.

(C) *Identification.* A secondhand goods dealer may not receive goods unless the seller presents identification in the form authorized under § 114.35(A)(5).

(1976 Code, § 47H.19) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS

USED CAR DEALERS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.55 DEFINITIONS.

§ 114.55 DEFINITIONS.

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

MOTOR VEHICLE. All vehicles propelled by any power other than muscular power, which do not run upon rails, except traction engines, road rollers, and farm tractors.

USED CAR DEALER. Any person whose principal business is the buying and selling or

storage of secondhand motor vehicles, parts, and accessories.

(1976 Code, § 47E.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.56 LICENSE REQUIRED.

§ 114.56 LICENSE REQUIRED.

No person shall, within the limits of the city, engage in or carry on the business of dealing in, buying, selling, storing, exchanging, or assembling secondhand motor vehicles without first having obtained and paid for a license herein provided.

(1976 Code, § 47E.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.57 LICENSE APPLICATION.

§ 114.57 LICENSE APPLICATION.

(A) Every person desiring to procure a license, as provided in this subchapter, shall file with the Administrator, Clerk/Treasurer a written application upon a form prepared and furnished by the city.

(B) The application shall contain the names and residences of the applicant, if an individual, partnership, or firm, or the names of the principal officers and their residences if the applicant is an association or corporation. The application shall also describe in detail the character of the business in which he or she desires to engage. It shall also state the following:

(1) The length of time the applicant, if an individual, firm, or partnership, or the manager or person in charge, if the applicant is a firm, partnership, corporation, or association, has or have resided in the city, his or her places of previous employment, whether married or single, whether he or she has been convicted of a felony or misdemeanor, and, if so, what offense, when, and what court;

(2) The premises where or from which the business is to be located or carried on, giving street and number;

(3) Whether the applicant has, either alone or with someone else, previously been a used car dealer or motor vehicle junk dealer; and

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- (4) Other information as may be required by the City Council.

(1976 Code, § 47E.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.58 LICENSE FEE; TERM; TRANSFER; DUPLICATES.

§ 114.58 LICENSE FEE; TERM; TRANSFER; DUPLICATES.

Every used car dealer shall pay an annual license fee for each established place of business, as set from time to time by Council resolution. All licenses shall be issued as of January 1 and shall continue in force until January 1 next succeeding the date of issuance thereof, unless sooner revoked by the City Council. No license shall be used by any person other than the original licensee, and any holder of a license who permits it to be used by any other person, and any person who uses a license granted to any other person, shall be guilty of a violation of this subchapter. Whenever a license shall be lost or destroyed without fault on the part of the holder or his or her employee, a duplicate license in lieu thereof under the original application may be issued by the Administrator, Clerk/Treasurer in his or her discretion, setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

(1976 Code, § 47E.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.59 LICENSE ISSUANCE AND CONTENT; RE-APPLICATION AFTER DENIAL.

§ 114.59 LICENSE ISSUANCE AND CONTENT; RE-APPLICATION AFTER DENIAL.

(A) Upon the filing of the application as provided in this subchapter, the City Council may, upon its approval of the application after such investigation as it shall require, and the payment to the city of the license fee provided in this subchapter, issue to the applicant a license to engage in the business as provided in this subchapter. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the house or place of business in or from which the person receiving the license shall be authorized to carry on the business as used car dealer, the kind of business, the date of issuance and expiration of the license, and the name and address of the licensee.

- (B) No applicant to whom a license has been refused shall make further application

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until a period of at least six months shall have elapsed since the last previous rejection unless he or she can show that the reason for the rejection no longer exists.

(1976 Code, § 47E.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.60 RESTRICTIONS.

§ 114.60 RESTRICTIONS.

(A) No person shall carry on the business at or from any other place in the city than the one designated in the license therefor; nor shall he or she continue to carry on business after the license has been revoked or has expired.

(B) No license herein provided shall be granted to any person who or any member of which shall have been convicted, within one year of the date of application, of a violation of this subchapter; also any person who or any member of which shall have, within five years of the date of application, been convicted of a felony or knowingly receiving stolen goods.

(C) No license shall be granted to any person doing business in a location contrary to the provisions of Ch. 156 of this code, regarding zoning, or amendments thereof, unless special permit is granted therefor in accordance with the provisions of Ch. 156. Nor shall any person be permitted to move a business licensed hereunder to a location within the city prohibited by Ch. 156.

(1976 Code, § 47E.06) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.61 REVOCATION.

§ 114.61 REVOCATION.

The City Council may, at any time, for such cause as it, upon investigation, deems sufficient, revoke any license granted under the provisions of this subchapter. Whenever any license shall be revoked, no refund of an unearned portion shall be made and no license shall be granted to any person whose license has been revoked within a period of one year from the date of that revocation. Notice of the revocation and the reasons therefor in writing shall be served by the Administrator, Clerk/Treasurer upon the person named in the application by mailing the same to the address given in the application.

(1976 Code, § 47E.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.62 CHANGING PLACE OF BUSINESS.

§ 114.62 CHANGING PLACE OF BUSINESS.

In case any licensee shall move his or her place of business from the place designated in the license, he or she shall immediately thereon give notice to the Administrator, Clerk/Treasurer and have the same endorsed on the license.

(1976 Code, § 47E.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.63 RECORDS REQUIRED.

§ 114.63 RECORDS REQUIRED.

Every person licensed under this subchapter shall keep and preserve a book in which there shall be made at the time of the transaction, a record in English of every purchase, sale, storage, exchange, or wreckage of all secondhand motor vehicles, purchased, sold, stored, exchanged, wrecked, or left in his or her possession for sale, storage, or wreckage. These records shall include the following information: the name, place of residence, including street and number, and a personal description of each person from whom a secondhand motor vehicle is obtained, or to whom such a vehicle is delivered; the date and hour received or delivered; and a description of the secondhand motor vehicle, and manufacturers' numbers and any other serial number and any peculiar mark or marks of identification whatsoever, style of body, seating or other capacity, color, and car and license number.

(1976 Code, § 47E.09) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.64 INSPECTION OF RECORDS AND MATERIALS.

§ 114.64 INSPECTION OF RECORDS AND MATERIALS.

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The books provided for in § 114.63 above and all secondhand motor vehicles, parts, and accessories in the possession of the licensee shall be, at all reasonable times, open to the inspection of the Police Chief, any member of the police force, or any person duly authorized in writing by the Police Chief for that purpose. No licensee or clerk, agent, or other person in charge of the premises or business of a licensee, shall refuse to admit thereto any person authorized in this section to examine records, or fail to exhibit to him or her on demand all motor vehicles, parts, or accessories and books, papers, and inventories relating thereto.

(1976 Code, § 47E.10) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 114: SECONDHAND GOODS DEALERS / USED CAR DEALERS / § 114.65 VIOLATIONS.

§ 114.65 VIOLATIONS.

The violation of any section of this subchapter shall constitute a misdemeanor.

(1976 Code, § 47E.11) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS

CHAPTER 115: AMUSEMENTS

Section

Lawful Gambling

- 115.01 Purpose
- 115.02 Definitions
- 115.03 Lawful gambling; criteria
- 115.04 Premises permits and bingo hall licenses; procedures
- 115.05 Contributions
- 115.06 Law enforcement and administrative costs
- 115.07 Gambling exempt from state licensing requirements
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TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL

GAMBLING

LAWFUL GAMBLING

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.01 PURPOSE.

§ 115.01 PURPOSE.

The purpose of this subchapter is to regulate and control the conduct of lawful gambling in the city by providing standards and criteria related to the approval or denial of premises permits as required by M.S. § 349.213, as it may be amended from time to time.

(1976 Code, § 47A.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.02 DEFINITIONS.

§ 115.02 DEFINITIONS.

For the purpose of this subchapter, the terms defined in M.S.A. § 349.12, as it may be amended from time to time, are incorporated herein and by reference. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The State Gambling Control Board.

CLASS OF LICENSE.

(1) A Class A, B, C, or D license issued by the Board as authorized under M.S.A. § 349.16 as it may be amended from time to time, and further defined as follows:

- (a) A Class A license authorizes all forms of lawful gambling;
- (b) A Class B license authorizes all forms of lawful gambling except bingo;
- (c) A Class C license authorizes bingo only; and
- (d) A Class D license authorizes raffles only.

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(2) No premises licensed hereunder shall be issued more than one license in any one class.

LAWFUL GAMBLING. The operation, conduct, or sale of bingo, raffles, paddlewheels, tipboards, and pulltabs as regulated by M.S. Ch. 349, as it may be amended from time to time.

ORGANIZATION. Any fraternal, religious, veterans', or other non-profit group which has at least 15 active dues-paying members, is operating within the city, and either has been duly incorporated in this state as a non-profit organization for the most recent three years, or has been recognized by the I.R.S. as exempt from income taxation for the most recent three years, as defined in M.S.A. § 349.12 as it may be amended from time to time.

ORGANIZATIONAL LICENSE. A license for lawful gambling issued by the Board.

PREMISES PERMIT. A permit issued by the Board to an organization as defined herein, after approval by a City Council resolution. A **PREMISES PERMIT** shall designate the location of an organization's lawful gambling activities.

TRADE AREA. This city and each city contiguous to this city.

(1976 Code, § 47A.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.03 LAWFUL GAMBLING; CRITERIA.

§ 115.03 LAWFUL GAMBLING; CRITERIA.

Lawful gambling as regulated by M.S. Ch. 349, as it may be amended from time to time, is permitted in the city if the organization conducting these activities meets the following criteria:

- (A) It is licensed by the State Gambling Control Board;
- (B) It has maintained an address within the city for at least three years prior to the application;
- (C) No organization may conduct lawful gambling at more than three locations within the city;
- (D) The organization must strictly adhere to the requirements of this subchapter;
- (E) Organizations which lawfully conducted gambling in the city before the effective date of this subchapter are not required to submit applications before the date of their next license or permit renewal; however, all organizations must comply with the terms of this

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subchapter immediately upon its passage and publication; and

(F) Premises authorized to conduct lawful gambling in the city must have an on-sale or off-sale liquor license or a club license permitting liquor on the premises.

(1976 Code, § 47A.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.04 PREMISES PERMITS AND BINGO HALL LICENSES; PROCEDURES.

§ 115.04 PREMISES PERMITS AND BINGO HALL LICENSES; PROCEDURES.

(A) An organization applying to the Gambling Control Board for a premises permit, bingo hall license, or for the renewal of the same, to conduct lawful gambling in the city shall, within ten days of making the application, file the following with the city:

(1) A duplicate copy of the Gambling Control Board application along with all supporting documents submitted to the Gambling Control Board;

(2) A copy of the articles of incorporation and bylaws of the organization;

(3) The names and addresses of all officers and directors of the organization;

(4) A copy of the organization's written procedures and criteria for distribution of funds derived from lawful gambling, its standardized application form, and its written fiscal control procedures;

(5) A copy of the I.R.S.'s tax exempt letter;

(6) Confirmation that no employee or principal officer of the organization has been convicted of a felony. No employee or organization whose principal officers and employees with a felony conviction, shall be employed in a gambling-related activity by any permitted organization;

(7) All organizations must show proof that they have a gambling manager trained in accordance with the requirements of M.S. § 349.167, as it may be amended from time to time (Laws, 1990); and

(8) A copy of the gambling organization's lease, which must be for a two-year period, shall be submitted to the city for approval.

(B) Upon receipt of the materials required by division (A) above, city staff shall investigate the applicant, and based upon the investigation, the City Council shall act on the

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application within 30 days.

(C) The action of the City Council to approve an applicant for a premises permit or bingo hall license within the city shall be by resolution. Failure to receive a majority affirmative vote of the City Council shall constitute a denial of the application.

(D) Copies of the monthly financial statements filed by the organization with the Gambling Control Board, as defined in M.S. § 349.154, as it may be amended from time to time, shall be filed with the city within ten days of filing those materials with the Gambling Control Board.

(E) To assure compliance with this subchapter, the city may require a premises permit holder or bingo hall licensee to provide copies of his or her records described in M.S. § 349.19, as it may be amended from time to time.

(F) A premises permit issued by the city under this section may be suspended or revoked by the city for violation of this subchapter or for failure to meet the qualifications set out in this subchapter, or for a willful violation of any part of this subchapter, or for a failure to comply, for any reason, with any provision, guarantee, or claim made in an applicant's original license application to the city or the state.

(G) No license or permit issued by the city, including any bingo hall license, grants the licensee a property right or entitlement to the license or permit. The city may refuse to issue, renew, or revoke the license or permit for any reason and will not incur liability for any damages including but not limited to direct, consequential, or incidental damages, deprivation of property, loss of income, loss of profits, or loss of livelihood.

(H) All Class A and Class B licensees and permittees in the city shall use an approved independent accounting firm for their annual audits related directly to lawful gambling and charges as an allowable expense of the gambling operation. Further, all Class A and Class B licensees and permittees, at their discretion, may use an independent accounting firm to perform other accounting, bookkeeping, and tax preparation services related directly to lawful gambling and charges as an allowable expense of the gambling operation. All agreements providing for this type of services shall be in writing and shall be submitted to the city as part of the application for review by the city to determine compliance with local and state regulations and laws. Any such agreements entered into or modified after issuance of a license or permit shall be filed with the city prior to the new agreement or modification becoming effective. The initial approval and the continuance of a license or permit is contingent upon these agreements complying with this subchapter and state statutes and regulations. It shall be unlawful for the premises owner to provide accounting or bookkeeping services to the licensee, directly or indirectly.

(I) All licensees and permittees in the city will assure continuous and active management of the gambling operation by members of the organization and will not delegate

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managerial responsibilities; all licensees and permittees will work continuously to operate in the most efficient manner to increase the amount of available lawful proceeds and will maintain the lowest possible costs and will encourage and use volunteers to the fullest extent possible.

(1976 Code, § 47A.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.05 CONTRIBUTIONS.

§ 115.05 CONTRIBUTIONS.

Each organization conducting lawful gambling within the city shall contribute a minimum of 60% of its net profits to organizations outside of itself within the city's trade area as defined in § 115.16.

(1976 Code, § 47A.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.06 LAW ENFORCEMENT AND ADMINISTRATIVE COSTS.

§ 115.06 LAW ENFORCEMENT AND ADMINISTRATIVE COSTS.

(A) All organizations conducting lawful gambling within the city shall, within 30 days of the end of the month, pay to the city an amount equal to 3% of the gross receipts from lawful gambling conducted in the city in that month, less amounts actually paid for prizes, to cover the city's law enforcement and administrative costs in regulating lawful gambling. Any unused portion of this money will be paid back annually in accordance with M.S. § 349.213, as it may be amended from time to time.

(B) The city may investigate the criminal history and background of an applicant for a premises permit or license pursuant to this subchapter.

(1976 Code, § 47A.06) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.07 GAMBLING EXEMPT FROM STATE LICENSING REQUIREMENTS.

§ 115.07 GAMBLING EXEMPT FROM STATE LICENSING REQUIREMENTS.

(A) Organizations which conduct lawful gambling which are exempt from state gambling licensing requirements may conduct that gambling within the city upon receipt of a permit from the city, except this requirement does not apply to door prizes, raffles, and bingo where total prizes are less than an amount set forth in the fee schedule.

(B) An application for this type of permit, along with a fee in the amount set from time to time by Council resolution, shall be made at least 30 days prior to the date the gambling is to be conducted. The application shall contain the following:

- (1) The name of the organization;
- (2) The address of the organization;
- (3) The place where the gambling will occur; and
- (4) The total prizes to be awarded.

(C) Within 30 days of filing any reports with the Gambling Control Board, the organization shall file a copy of those reports with the city.

(D) The provisions relating to law enforcement and administrative costs set forth in § 115.20 shall not apply to gambling permitted pursuant to this section. All other provisions of this subchapter apply to these organizations.

(1976 Code, § 47A.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL GAMBLING / § 115.08 VIOLATIONS.

§ 115.08 VIOLATIONS.

It shall be a misdemeanor to carry on any lawful gambling activity without a valid premises permit. Nothing in this section shall preclude the city from enforcing this subchapter by means of any appropriate legal action.

(1976 Code, § 47A.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 115: AMUSEMENTS / LAWFUL

GAMBLING / § 115.09 ENFORCEMENT RESPONSIBILITY.

§ 115.09 ENFORCEMENT RESPONSIBILITY.

Nothing in this subchapter shall be construed to require the city to undertake any responsibility for enforcing compliance with M.S.A. Ch. 349 other than those provisions related to the issuance of premises permits as required in M.S.A. § 349.213, as these statutes may be amended from time to time.

(1976 Code, § 47A.10)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE

CHAPTER 116: VEHICLES FOR HIRE

Section

Taxicabs

- 116.01 License required
- 116.02 License application
- 116.03 License issuance; fee; term
- 116.04 Termination of license
- 116.05 Records required

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE / TAXICABS

TAXICABS

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE / TAXICABS / § 116.01 LICENSE REQUIRED.

§ 116.01 LICENSE REQUIRED.

No person, firm, co-partnership, or corporation whose principal place of business is

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located within the city shall drive, operate, or keep for pay or hire within the city limits any taxicab without first obtaining a license or licenses to do so in accordance with the provisions of this subchapter.

(1976 Code, § 43.01) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE / TAXICABS / § 116.02 LICENSE APPLICATION.

§ 116.02 LICENSE APPLICATION.

Application for license or licenses shall be made in writing to the Administrator, Clerk/Treasurer showing:

- (A) Description of the taxicabs;
- (B) Ownership of the taxicabs and employees of the company;
- (C) Copy of the automobile liability insurance policy covering the taxicabs. This policy must provide limits of liability to at least the extent required by the Safety Responsibility Law of this state. This policy shall also contain an endorsement that the policy cannot be cancelled unless ten days' written notice be first given to the city;
- (D) Deposit of the license fee;
- (E) Schedule of the fares and rates to be charged; and
- (F) Hours of operation.

(1976 Code, § 43.02) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE / TAXICABS / § 116.03 LICENSE ISSUANCE; FEE; TERM.

§ 116.03 LICENSE ISSUANCE; FEE; TERM.

Licenses shall be granted by the City Council. The license fee shall be in the amount set from time to time by Council resolution, per year or any part thereof, per cab, and shall expire on December 31 of each year.

(1976 Code, § 43.04)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE / TAXICABS / § 116.04 TERMINATION OF LICENSE.

§ 116.04 TERMINATION OF LICENSE.

Any license issued under this subchapter shall terminate whenever, during the term of the license, the insurance policy shall not be kept in full force and effect.

(1976 Code, § 43.03)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 116: VEHICLES FOR HIRE / TAXICABS / § 116.05 RECORDS REQUIRED.

§ 116.05 RECORDS REQUIRED.

Every taxicab shall keep a trip sheet, upon which shall be noted the starting point and time, and the termination and time of each trip of the taxicab and the amount of fare charged, which information shall be available to any law enforcement officer of the city.

(1976 Code, § 43.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE

CHAPTER 117: FOOD SALES AND SERVICE

Section

Soliciting and Vending by Catering Food Vehicles

- 117.01 Compliance required; application
- 117.02 Definitions
- 117.03 Hours of operation
- 117.04 Routes; approval required
- 117.05 Stopping restrictions
- 117.06 Insurance requirements

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- 117.07 Safety requirements
- 117.08 Registration requirements
- 117.09 Litter prevention
- 117.10 Loud noise prohibited

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES

SOLICITING AND VENDING BY CATERING FOOD VEHICLES

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.01 COMPLIANCE REQUIRED; APPLICATION.

§ 117.01 COMPLIANCE REQUIRED; APPLICATION.

No owner or operator of any catering food vehicle, as defined in § 117.02, which is used for on- street soliciting for the sale of or the vending of confections or other goods directly from the vehicle, shall engage in the activity of on-street soliciting, dispensing, or vending unless the provisions of this subchapter are met. This subchapter shall not apply to persons using vehicles for the delivery of goods or services directly to homes or establishments where the goods are taken by the operator of the vehicle onto private property for delivery, nor shall it apply to the operation of any political subdivision or unit of government.

(1976 Code, § 46.01) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.02 DEFINITIONS.

§ 117.02 DEFINITIONS.

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

OPERATOR. Anyone who is charged with the responsibility for driving or otherwise operating a vehicle.

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OWNER. The registered owner of the vehicle used for vending, or the person, firm, or corporation who owns or controls the vending business.

VEHICLE. Any mobile unit being used on public streets for the vending or soliciting of sales of foods or confections.

VENDING, DISPENSING, or SOLICITING. The act of selling, offering for sale, or in any manner distributing or dispensing confections or other goods directly or indirectly from a vehicle to persons in the vicinity of the vehicle.

(1976 Code, § 46.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.03 HOURS OF OPERATION.

§ 117.03 HOURS OF OPERATION.

No person shall carry on the activity of soliciting, dispensing, or vending any foods or confections except between the hours of 1:00 p.m. and 4:30 p.m., and 6:00 p.m. to either dusk or 9:00 p.m., whichever comes earlier.

(1976 Code, § 46.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.04 ROUTES; APPROVAL REQUIRED.

§ 117.04 ROUTES; APPROVAL REQUIRED.

(A) *Proposed routes.* More than ten days before commencing his or her operation, the vendor shall file with the Police Chief a proposed route or routes over which the vehicle or vehicles will travel each day within the city. The vendor shall follow these routes while operating within the city. Proposed route changes shall be filed with the Police Chief at least ten days in advance of making the changes.

(B) *Criteria for approval of routes.* Only routes which will minimize the hazards to persons who may be customers of these vehicles and which will minimize traffic hazards in the city shall be approved. The City Council, or its duly authorized representative, will indicate certain streets upon which vending or soliciting under this subchapter is entirely prohibited.

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Those streets will be those heavily traveled streets whereon this type of selling would constitute a per se hazard to customers' safety or to the safety of other vehicles or persons.

(1976 Code, § 46.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.05 STOPPING RESTRICTIONS.

§ 117.05 STOPPING RESTRICTIONS.

(A) Operators of vehicles under this subchapter shall not stop to sell goods therefrom within 100 feet of any intersection or alleyway.

(B) Operators of vehicles under this subchapter, when stopping such a vehicle to sell goods, must stop in a manner so that the curb side of the vehicle is no more than two feet from the curb, or when there is no curb, no more than two feet from the edge of the street or roadway.

(C) Operators of vehicles under this subchapter shall sell goods only from the curb side of such a vehicle. The operator is responsible for preventing the development of a waiting line or accumulation of customers on any side other than the curb side of the vehicle.

(1976 Code, § 46.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.06 INSURANCE REQUIREMENTS.

§ 117.06 INSURANCE REQUIREMENTS.

Every owner or operator of vehicles under this subchapter shall maintain liability insurance in the amount as set forth in the insurance limits schedule.

(1976 Code, § 46.06) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.07 SAFETY REQUIREMENTS.

§ 117.07 SAFETY REQUIREMENTS.

(A) Each motorized vehicle under this subchapter must be equipped with, and must continually use while vending, flashing lights on both front and rear of the vehicle. These lights must be clearly visible to oncoming cars in full daylight.

(B) Every motorized vehicle, while carrying on a vending operation, shall be attended by at least two persons, one of whom will have the following specific duties: for the full period during which the vehicle is stopped for vending, or is stopped in a manner or place so as to reasonably cause others to believe that it is proposing to engage in vending operations, this person shall stand alongside the vehicle in a manner so as to be able to observe traffic coming from all directions and also crossing of the street by minors in the immediate vicinity of the vehicle. This person shall give adequate warning to both vehicles and minors so as to avoid accident or injury to the minors. This person shall, if necessary, carry a signal or warning device as will enable him or her to give adequate warning.

(1976 Code, § 46.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.08 REGISTRATION REQUIREMENTS.

§ 117.08 REGISTRATION REQUIREMENTS.

(A) In order to aid the city in contacting the owner or operator of vehicles under this subchapter and to aid the owner or operator with problems of theft or vandalism, the following requirements must be met:

(1) The operator of each vehicle under this subchapter must register with the Administrator, Clerk/Treasurer before beginning vending operations within the city.

(2) The registration will be on forms provided by the Administrator, Clerk/Treasurer, which shall give the following information:

(a) The name and description of the registrant, and whether registrant is a sole proprietorship, partnership, or corporation;

(b) The permanent home address and full local address of the registrant;

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(c) A brief description of the nature of the business, the goods to be sold, and the registrant's method of operation;

(d) If employed, the name and address of the registrant's employer and credentials establishing the exact employment relationship;

(e) The length of time which the registrant intends to do business in the city, with the approximate dates;

(f) A photograph of the registrant taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the registrant in a clear and distinguishable manner;

(g) A description of the vehicle to be used, together with the license number of the vehicle, or other means of identification;

(h) If the owner of the vehicle is other than the operator, the name and permanent and temporary address of the owner; and

(i) A description, including verification, of the license given to the operator or to his or her employer or to the owner of the vehicle by the State Commissioner of Agriculture authorizing the licensee to sell food as required under M.S.A. § 28A.04, as it may be amended from time to time.

(B) The Administrator, Clerk/Treasurer will issue to each registrant a registration badge with the name, address, and the picture of the operator contained on the face thereof. Each operator must display the badge in a prominent, visible place on the vehicle.

(1976 Code, § 46.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.09 LITTER PREVENTION.

§ 117.09 LITTER PREVENTION.

Every vehicle under this subchapter must have a rubbish container located on the curb side of the vehicle, which is adequate to contain any food wrappers discarded by the customers purchasing food from the vehicle. The operator is required to request the customers discarding food wrappers immediately after purchase to place the wrappers in the rubbish container. The operator is required to collect and deposit in the container any wrappers dropped or improperly discarded in his or her presence.

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(1976 Code, § 46.09) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 117: FOOD SALES AND SERVICE / SOLICITING AND VENDING BY CATERING FOOD VEHICLES / § 117.10 LOUD NOISE PROHIBITED.

§ 117.10 LOUD NOISE PROHIBITED.

No operator or person accompanying the operator of a vehicle under this subchapter shall call attention to his or her business by crying out, blowing a horn, ringing a bell, playing music, or any other noises; provided, however, that the ringing of a bell or the playing of music is permissible for no more than a period of ten seconds in each minute, during the times in which the operator is authorized to vend under § 117.03 of this code. Provided further, that the ringing of a bell or playing of music be of a moderate volume and not raucous in nature.

(1976 Code, § 46.10) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS

CHAPTER 118: SAUNAS

Section

- 118.01 Policy
- 118.02 Definition
- 118.03 License required
- 118.04 License application
- 118.05 License fees; investigation; term; renewal or transfer
- 118.06 Eligibility of persons and places
- 118.07 Operating restrictions and regulations
- 118.08 Employee regulations
- 118.09 Construction and maintenance requirements
- 118.10 Health and disease control
- 118.11 License revocation and suspension
- 118.12 Exemptions
- 118.13 Violations

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.01 POLICY.

§ 118.01 POLICY.

(A) The City Council deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which offer saunas or sauna baths to the general public in order to protect the public health, safety, and welfare and to guard against the inception and transmission of disease. The City Council further finds that commercial enterprises offering saunas or sauna baths are susceptible of operation in a manner contravening, subverting, or endangering the morals of the community, thus requiring close inspections, licensing, and regulation.

(B) The City Council also finds that control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, requires intensive efforts by the Police Department, public health sanitarian, and other departments of the city, and as a consequence, the concentrated use of city services in that control detracts from and reduces the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals, and safety of the community. In consideration for the necessity on the part of the city to provide numerous services to all segments of the community, without a concentration of public services in one area to work to the detriment of the members of the general public, it is hereby decided that the number of sauna licenses issued pursuant to this chapter or the number of massage parlor licenses issued pursuant to Ch. 119 of this code, which may be in force at any one time, either licensed sauna parlors, massage parlors, or any combination thereof, shall be no more than a total of three licenses of these types.

(1976 Code, § 47C.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.02 DEFINITION.

§ 118.02 DEFINITION.

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

SAUNA. Includes a steam bath, hot water bath, or heat bathing by use of heat lamps, and any room or facility specially constructed therefor, used for the purposes of bathing, relaxing, or reducing utilizing steam, hot air, hot water, or heat lamps as a cleaning, relaxing, or reducing agent.

(1976 Code, § 47C.02)

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.03
LICENSE REQUIRED.**

§ 118.03 LICENSE REQUIRED.

No person shall engage in the business of operating a sauna or sauna bath either exclusively or in connection with any other business enterprise without being first licensed as provided in this chapter.

(1976 Code, § 47C.03) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.04
LICENSE APPLICATION.**

§ 118.04 LICENSE APPLICATION.

Application for a license shall be made only on the forms provided by the City Administrator, Clerk/Treasurer. Four complete copies of the application must be submitted to the Administrator, Clerk/Treasurer's office containing the address and legal description of the property to be used, the name, address, and telephone number of the owner, lessee, if any, and the operator or manager, the name, address, and telephone number of two persons, who shall be residents of Anoka County, who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, and nature of the crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as and regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance, and operation of a sauna parlor or sauna bath. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit, along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including creditors furnishing credit for the establishment, acquisition, maintenance, and furnishing of the business and, in the case of a corporation, the names and addresses of all officers, general managers, members of the Board of Directors, as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of

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the establishment including the purchase or acquisition of any items of personal property for use in the operation. All applicants shall furnish to the city, along with their applications, complete and accurate documentation establishing the interest of the applicant and other persons having an interest in the premises upon which the building is proposed to be located or the furnishings thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage, credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise offering a sauna or sauna bath. The application shall also contain blueprints, diagrams, plans, layouts, and the like showing the construction, revision, remodeling, alteration, or additions of or to the premises and specifically showing the layout, design, and arrangement of the bathing and restroom facilities and the size and type of equipment and facilities to be used.

(1976 Code, § 47C.04) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.05
LICENSE FEES; INVESTIGATION; TERM; RENEWAL OR TRANSFER.**

§ 118.05 LICENSE FEES; INVESTIGATION; TERM; RENEWAL OR TRANSFER.

The annual license fee and the investigation fee for the purposes of issuing a license shall be in amounts as set from time to time by Council resolution. The license fee and fee for the investigation of the license shall be paid when the application is filed. In the event that the application is denied or in the event that the license, once issued, is revoked, cancelled, or surrendered, no part of the annual license fee or fee for the investigation for the issuance of a license shall be returned to the applicant unless by express action of the City Council. A separate license shall be obtained each year for each place of business. The licensee shall display the license in a prominent place in the licensed premises at all times. A license, unless revoked, is for the calendar year or a part thereof for which it has been issued. The fee for the investigation for issuance of a license must be tendered with each new application for a license and must also be paid at any time when there is a proposed change of ownership or re-application for a license wherein additional or different parties other than the original licensee and parties are proposing to be licensed. All licenses granted herein are non-transferable.

(1976 Code, § 47C.05) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.06
ELIGIBILITY OF PERSONS AND PLACES.**

§ 118.06 ELIGIBILITY OF PERSONS AND PLACES.

(A) No license shall be issued if the applicant or any of its owners, managers, employees, agents, or interested parties are persons of bad repute.

(B) Licenses shall be issued only if the applicant and all of its owners, managers, employees, agents, or interested parties are free of convictions for offenses which involve moral turpitude or which relate directly to the person's ability, capacity, or fitness to perform the duties and discharge the responsibilities of the licensed activity.

(C) Licenses shall be issued only to applicants who have not, within one year prior to the day of application, been denied licensure, have had a license revoked or suspended in or by any community or political subdivision or the state and whose owners, managers, or any interested parties have not been similarly denied, revoked, or suspended.

(D) Licenses shall be issued only to applicants who have answered fully and truthfully all of the information requested in the application, who have paid the full license fee and fee for investigation, and have cooperated fully and truthfully with the city in the review of the application.

(E) If the applicant is a natural person, a license shall be granted only if the person is 18 years of age or older.

(F) Licenses may be granted only in complete conformity with Ch. 156 of this code, regarding zoning.

(G) Licenses shall be granted only to establishments which can meet the safety, sanitary, and building code requirements of the city.

(H) A license shall not be granted if granting the license:

(1) Would be inconsistent with the comprehensive development plans of the city; or

(2) Would otherwise have a detrimental effect upon other property or properties in the vicinity.

(1976 Code, § 47C.06) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.07
OPERATING RESTRICTIONS AND REGULATIONS.**

§ 118.07 OPERATING RESTRICTIONS AND REGULATIONS.

(A) The licensee and the persons in its employ, agency, or persons with an interest in the business shall comply with all applicable ordinances, regulations, and laws of the city, the state, and the federal government.

(B) If the licensee is a partnership or a corporation, the applicant shall designate a person to be manager and in responsible charge of the business. This person shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the Police Department in writing of any such change, indicating the name and address of the new manager and the effective date of the change.

(C) The licensee shall furnish the Police Department with a list of current employees, indicating their names and addresses and designating the duties of the employees within the sauna bath or sauna parlor. The licensee shall promptly notify the Police Department of any additions or deletions in the list of employees or changes in their job descriptions or duties.

(D) The licensed premises shall not be open for business nor shall patrons be permitted on the premises between the hours of 11:00 p.m. and 8:00 a.m. of the succeeding day.

(E) The licensee shall permit and allow the inspection of the premises during business hours by all appropriate city employees.

(F) Upon demand by any police officer, any person employed in any licensed premises shall identify himself or herself by giving his or her true legal name and his or her correct address.

(G) No person under 18 years of age shall be employed in an establishment requiring a license under the provisions of this chapter.

(H) All equipment or personal property used in or for a sauna or sauna bath shall be of a safe and sanitary design as approved by the city sanitarian and the entire premises wherein saunas or sauna baths are given, administered, or allowed and all personal property, clothing, towels, and the like used therein shall be sanitary, which is defined as a complete absence of the vegetative cells of pathogenic microorganisms.

(I) The licensee and all persons in its employ or connected therewith shall maintain an occupancy or guest register by which each patron of the sauna or sauna bath must register with his or her correct name, address, and phone number, and each licensee or person in its employ shall require each patron to furnish identification describing and identifying his or her correct name, address, and phone number and shall further require each patron to correctly and

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truthfully furnish his or her name, address, and telephone number to the guest register before the administration of any services of the sauna or sauna baths. The occupancy register or guest register must be maintained on file for inspection by officers, employees, or agents of the city or any other agency of any political subdivision, the state, or agency of the federal government for a period of not less than two years.

(1976 Code, § 47C.07) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.08
EMPLOYEE REGULATIONS.**

§ 118.08 EMPLOYEE REGULATIONS.

At all times during the operation of any sauna parlor, sauna, or sauna bath, male employees and attendants shall attend to, assist, or otherwise serve only male patrons, and female employees shall attend, assist, or otherwise serve only female patrons, and at all times, employees of the sauna parlor, sauna, or sauna bath must remain and be fully clothed.

(1976 Code, § 47C.08) Penalty, see § 10.99

**TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.09
CONSTRUCTION AND MAINTENANCE REQUIREMENTS.**

§ 118.09 CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

(A) Each establishment shall have a separate restroom and separate locker room facility for each sex.

(B) All sauna rooms, locker rooms, restrooms, and bathrooms used on the premises shall be constructed of materials which are impervious to moisture, bacteria, mold, or fungus and must be kept in a sanitary condition, which is defined as free from the vegetative cells of pathogenic microorganisms. The floor-to-wall and wall joints shall be constructed to provide a sanitary cove with a minimum radius of one inch.

(C) All restrooms shall be provided with mechanical ventilation with two cfm per square foot of floor area, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels, and a soap dispenser.

(D) All rooms in the licensed premises, including but not limited to sauna rooms, massage rooms, restrooms, bathrooms, janitor's closet, hallways, and reception area, shall be

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illuminated with not less than 30 foot candles of illumination.

(E) Each establishment shall have a janitor's closet which shall provide for the storage of cleaning supplies. This closet shall have mechanical ventilation with two cfm per square foot of floor area. The closet shall include a mop sink.

(F) Floors, walls, and equipment in sauna rooms and in restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and clean at all times. Linens and other materials shall be stored at least 12 inches off the floor. Clean towels and wash cloths must be made available for each customer.

(G) Individual lockers shall be made available for use by patrons. The lockers shall have separate keys for locking.

(H) These establishments shall provide adequate refuse receptacles which shall be emptied as required.

(I) The doors to the individual sauna rooms shall not be equipped with any locking device and shall not be blocked or obstructed from either side of the door.

(1976 Code, § 47C.09) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.10 HEALTH AND DISEASE CONTROL.

§ 118.10 HEALTH AND DISEASE CONTROL.

No person while afflicted with any disease in a communicable form, or while a carrier of such a disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in or use the services of any public steam bathing rooms, heat bathing room, bathroom, or reducing or relaxation establishment in any capacity in which there is a likelihood of that person contaminating surfaces with pathogenic organisms, or transmitting disease to other individuals; and no person known or suspected of being afflicted with any disease or condition shall be employed or permitted in such an area or capacity.

(1976 Code, § 47C.10) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.11 LICENSE REVOCATION AND SUSPENSION.

§ 118.11 LICENSE REVOCATION AND SUSPENSION.

The license may be revoked, suspended, or not renewed by the City Council upon recommendation of the Administrator, Clerk/Treasurer by showing that the licensee, its owners, managers, employees, agents, or any of its interested parties have engaged in any of the following conduct:

(A) Fraud, deception, or misrepresentation in connection with the securing of the license;

(B) Habitual drunkenness or intemperance in the use of drugs including but not limited to the use of drugs defined in M.S. §§ 152.01 and 152.02, as it may be amended from time to time, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(C) Conduct inimical to the interests of the public health, safety, welfare, or morals;

(D) Engaging in any conduct involving moral turpitude, or permitting or allowing others to engage in this type of conduct, or failing to prevent this type of conduct;

(E) Failure to fully comply with any requirements of this chapter or failure to comply with any requirements of the ordinances of the city relating to public health and sanitary conditions, building and construction codes, zoning codes, and requirements of any ordinance, the violation of which involves moral turpitude;

(F) Conviction of an offense involving moral turpitude by any court of competent jurisdiction; or

(G) Engaging in any conduct which would constitute grounds for refusal to issue a license under § 118.06 of this code. The licensee may appeal the suspension, revocation, or non-renewal to the City Council. The Council shall consider the appeal at the next regularly scheduled Council meeting on or after ten days from service of the notice of appeal to the Administrator, Clerk/Treasurer.

(1) At the conclusion of the hearing, the Council may order:

(a) The revocation, suspension, or non-renewal of the license; or

(b) The revocation, suspension, or non-renewal be lifted and the certificate be returned to the certificate holder.

(2) The City Council may base either suspension or issuance of the certificate upon any additional terms, conditions, and stipulations which it may in its sole discretion

impose.

(1976 Code, § 47C.11) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.12 EXEMPTIONS.

§ 118.12 EXEMPTIONS.

This chapter does not apply to the operation of a sauna which is operated in connection with or as a part of a chiropractic office wherein the practitioners thereof are licensed by the state or as a part of a fully equipped, bona fide health club, having a fully equipped exercise room, complete with types and pieces of equipment in operating and working order of a type required for all forms of physical exercise, staffed and administered by persons trained as athletic directors, trainers, physical therapists, or chiropractors, which offers complete exercising, physical training, and reducing services including recommendations as to food, health, diet, and the like, nor does this chapter apply to any municipal corporation, nor does this chapter apply to any sauna located in any commercial office building, apartment building, hotel, or motel, which is clearly incidental and secondary to the permitted principal use and which is offered solely and exclusively to bona fide tenants, employees of the tenants, residents, guests of the residents, and registered lodgers, respectively, of the buildings, hotels, and motels; and which is not offered to the public generally and as to which there is no public advertising or public offer of these saunas via any news media.

(1976 Code, § 47C.12)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 118: SAUNAS / § 118.13 VIOLATIONS.

§ 118.13 VIOLATIONS.

Every person who commits or attempts to commit, conspires to commit, or aids and abets in the commission of any act constituting a violation of this chapter or any act which constitutes an omission and therefore a violation of this chapter, whether individually or in connection with one or more persons or as principal, agent, or accessory, shall be guilty of that offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any of the provisions of this chapter is likewise guilty of the offense.

(1976 Code, § 47C.14) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES

CHAPTER 119: MASSAGE SERVICES

Section

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TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.01 POLICY.

§ 119.01 POLICY.

(A) The City Council considers it necessary to provide for the special and express regulation of businesses or commercial enterprises which offer massages to the general public in order to protect the public health, safety, and welfare and to guard against the inception and transmission of disease. The City Council further finds that commercial enterprises offering massages are susceptible of operation in a manner contravening, subverting, and endangering the

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morals of the community, thus requiring close inspection, licensing, and regulation.

(B) The City Council also finds that control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Police Department, public health sanitarian, and other departments of the city, and as a consequence, the concentrated use of city services in that control detracts from and reduces the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare, morals, and safety of the community. In consideration for the necessity on the part of the city to provide numerous services to all segments of the community, without a concentration of public services in one area working to the detriment of the members of the general public, it is hereby decided that the number of massage parlor licenses issued pursuant to this chapter or the number of sauna licenses issued pursuant to Ch. 119 of this code, which may be in force at any one time, either licensed massage parlors, sauna parlors, or any combination thereof, shall be no more than a total of three licenses of these types.

(1976 Code, § 47D.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.02 DEFINITIONS.

§ 119.02 DEFINITIONS.

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

CERTIFICATE. A certificate issued by the city authorizing the holder thereof to practice or administer massage in the city.

MASSAGE. The rubbing, stroking, kneading, tapping, or rolling of the body of another with the hands for the exclusive purpose of physical fitness, relaxation, beautification, and for no other purpose.

MASSEUR. A male person who practices or administers massage.

MASSEUSE. A female person who practices or administers massage.

(1976 Code, § 47D.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.03 MASSAGE DISTINGUISHED FROM THERAPY AND THE LIKE.

§ 119.03 MASSAGE DISTINGUISHED FROM THERAPY AND THE LIKE.

The practice of massage is hereby declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, and persons duly licensed in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, nurses who work solely under the direction of any such persons, athletic directors, and trainers are hereby 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 those shops or places of business, for the purpose of beautification only, shall be exempt from the provisions of this chapter.

(1976 Code, § 47D.03)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.04 LICENSE AND CERTIFICATE REQUIRED.

§ 119.04 LICENSE AND CERTIFICATE REQUIRED.

No person shall engage in the business of operating a massage parlor or massage establishment either exclusively or in connection with any other business enterprise without being first duly licensed as provided herein. No person shall engage in or hold himself or herself out as being engaged in the practice of massage nor shall any person administer or practice massage commercially or for hire, or for the exchange of any valuable consideration, within the city without first having obtained a certificate as herein provided, except any person who is currently registered by the State Board of Medical Examiners.

(1976 Code, § 47D.04) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.05 LICENSE APPLICATION.

§ 119.05 LICENSE APPLICATION.

Application for license shall be made only on the forms provided by the City Administrator, Clerk/Treasurer. Four complete copies of the application shall be furnished to the office of the Administrator, Clerk/Treasurer, containing the address and legal description of the property to be used, the names, addresses, and telephone numbers of the owner, lessee, if any,

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and the operator or manager, the name, address, and telephone number of two persons, who shall be residents of Anoka County and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense, and, if so, complete and accurate information as to the time, place, and nature of the crime or offense, including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as and regarding credit which has been extended for the purpose of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance, and operation of a massage parlor or massage establishment. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit, along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of the business and, in the case of a corporation, the names and addresses of all officers, general managers, and members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishings of the establishment including the purchase or acquisition of any items of personal property for use in the operation. All applicants shall furnish to the city, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or in the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage, credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise offering a massage. The application shall also contain blueprints, diagrams, plans, layouts, and the like showing the construction, revision, remodeling, alteration, or additions of or to the premises and specifically showing the layout, design, and arrangement of the bathing and restroom facilities and the size and type of equipment and facilities to be used.

(1976 Code, § 47D.05) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.06 CERTIFICATE APPLICATION.

§ 119.06 CERTIFICATE APPLICATION.

(A) Application shall be made only on forms provided by the City Administrator, Clerk/Treasurer.

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(B) The application shall contain the following information, together with any other information which the Administrator, Clerk/Treasurer may require:

(1) Evidence of the applicant's education qualifications, including originals or certified copies of degrees, diplomas, or certificates, if any;

(2) Evidence of the applicant's practical qualifications to practice massage;

(3) Evidence that the applicant is of good moral character;

(4) The names and addresses of two persons, residents of Anoka County, who may be referred to as to the applicant's character;

(5) Whether the applicant has ever been convicted of a crime or offense other than a traffic offense, and if so, information as to the time, place, and nature of the crime or offense; and

(6) Evidence in the form of a current certificate from a licensed physician practicing in this state indicating:

(a) Within the past 30 days, he or she has examined the applicant;

(b) The examination was for the purpose of determining whether the applicant had any communicable disease; and

(c) As a result of that exam, he or she believes that the applicant is not suffering from any communicable disease which would disqualify the applicant from engaging in the practice of massage.

(1976 Code, § 47D.06) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.07 LICENSE FEE; INVESTIGATION; TERM; RENEWAL OR TRANSFER.

§ 119.07 LICENSE FEE; INVESTIGATION; TERM; RENEWAL OR TRANSFER.

The annual license fee and the investigation fee for the purpose of issuing a license shall be in amounts as set from time to time by Council resolution. The license fee and fee for the investigation of the license shall be paid when the application is filed. In the event that the application is denied or in the event that the license, once issued, is revoked, cancelled, or surrendered, no part of the annual license fee or fee for investigation for the issuance of the license shall be returned to the applicant unless by express action of the City Council. A separate license shall be obtained each year for each place of business. The licensee shall

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display the license in a prominent place in the licensed premises at all times. A license, unless revoked, is for the calendar year or a part thereof for which it has been issued. The fee for the investigation for issuance of a license must be tendered with each new application for a license and must also be paid at any time when there is a proposed change of ownership or re-application for a license wherein additional or different parties other than the original licensee and interested parties are proposing to be licensed. A license for the operation of a massage parlor is non-transferable.

(1976 Code, § 47D.07) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.08 CERTIFICATE FEE; INVESTIGATION; TERM; RENEWAL OR TRANSFER.

§ 119.08 CERTIFICATE FEE; INVESTIGATION; TERM; RENEWAL OR TRANSFER.

The annual certificate fee and the investigation fee for the purposes of issuing a certificate shall be in amounts as set from time to time by Council resolution. The certificate fee and fee for the investigation of the certificate shall be paid when the application is filed. In the event that the application is denied or in the event that the certificate, once issued, is revoked, cancelled, or surrendered, no part of the annual certificate fee or fee for the investigation for the issuance of a certificate shall be returned to the applicant unless by express action of the City Council. A separate certificate shall be obtained each year. The certificate holder shall display the certificate in a prominent place in the premises of the certificate holder at all times. A certificate, unless revoked, is for the calendar year or a part thereof for which it has been issued. The fee for the investigation for issuance of a certificate must be tendered with each new application for a certificate and must also be paid at any time when there is a proposed change of ownership or re-application for a certificate wherein additional or different parties other than the original certificate holder are proposing certification. A certificate permitting the holder thereof to practice massage is non-transferable.

(1976 Code, § 47D.08) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.09 GRANTING OR DENIAL OF LICENSES AND CERTIFICATES.

§ 119.09 GRANTING OR DENIAL OF LICENSES AND CERTIFICATES.

License applications and certificate applications shall be reviewed by the Police Department, Planning and Inspection Department, Health Department, and other departments as

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the Administrator, Clerk/Treasurer shall deem necessary. The review shall include an inspection of the premises covered by the application to determine whether the premises conforms to all applicable code requirements. Thereafter, licenses and certificates shall be recommended for approval or denial by the Administrator, Clerk/Treasurer to the City Council subject to the provisions of this chapter. Any appeals shall be before the City Council. A license permitting the conduct of a massage parlor or massage establishment is non-renewable and non-transferable, and application must be made each year for a license permitting and allowing the conduct of that business for the succeeding year. A certificate permitting the holder thereof to practice or administer massage commercially is non-renewable and non-transferable, and application must be made each year for a certificate permitting and allowing the holder thereof to administer or practice massage for the succeeding year.

(1976 Code, § 47D.09) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.10 LICENSE ISSUANCE; ELIGIBILITY OF PERSONS AND PLACES.

§ 119.10 LICENSE ISSUANCE; ELIGIBILITY OF PERSONS AND PLACES.

(A) No license shall be issued if the applicant or any of its owners, managers, employees, agents, or interested parties is a person of bad repute.

(B) Licenses shall be issued only if the applicant and all of its owners, managers, agents, employees, or interested parties are free of convictions or offenses which involve moral turpitude or which relate directly to the person's ability, capacity, or fitness to perform the duties and discharge the responsibilities of the licensed activity.

(C) Licenses shall be issued only to applicants who have not, within one year prior to the day of application, been denied licensure, or had a license revoked or suspended in or by any community or political subdivision or the state, and whose owners, managers, or any interested parties have not been similarly denied, revoked, or suspended.

(D) Licenses shall be issued only to applicants who have answered fully and truthfully all of the information requested in the application, who have paid the full license fee and fee for investigation, and have cooperated fully and truthfully with the city in the review of the application.

(E) If the applicant is a natural person, a license shall be granted only if the person is 18 years of age or older.

(F) Licenses may only be granted when in complete conformity with Ch. 156 of this

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code, regarding zoning.

(G) Licenses shall be granted only to establishments which can meet the safety, sanitary, and building code requirements of the city.

(H) A license shall not be granted if granting the license:

(1) Would be inconsistent with the comprehensive development plans of the city; or

(2) Would otherwise have a detrimental effect upon other property or properties in the vicinity.

(1976 Code, § 47D.10)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.11 CERTIFICATE ISSUANCE; ELIGIBILITY OF PERSONS.

§ 119.11 CERTIFICATE ISSUANCE; ELIGIBILITY OF PERSONS.

(A) Certificates shall be issued only to persons of good repute and persons who are in good health and free from any communicable diseases which would disqualify the applicant from engaging in the practice of massage.

(B) Certificates shall be issued only to persons free of convictions of offenses which involve moral turpitude or which relate directly to the person's ability, capacity, or fitness to perform the duties and discharge the responsibilities of the occupation.

(C) Certificates shall not be issued to persons who, within one year prior to the date of application, have been denied certification or who have had a certificate revoked or suspended in or by any political subdivision, municipality, or by the state.

(D) Certificates shall be issued only to persons who have fully and truthfully answered all of the information requested in the application and have paid the full certification fee and certification investigation fee.

(E) Certificates shall be issued only to persons 18 years of age or older.

(1976 Code, § 47D.11)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.12 OPERATING RESTRICTIONS AND REGULATIONS.

§ 119.12 OPERATING RESTRICTIONS AND REGULATIONS.

(A) No licensee shall employ any person as a masseur or masseuse without first insuring that the employee possesses a valid certificate for the administration or practice of massage.

(B) The licensed premises shall not be open or in operation between the hours of 11:00 p.m. and 8:00 a.m. on the succeeding day, nor shall any person engaged in the practice of massage be on the premises or perform any massage or administer any such services between the hours of 11:00 p.m. and 8:00 a.m. on the succeeding day.

(C) The licensee, masseuse, or masseur and any persons in his or her employ or agents or officers thereof, and any and all persons with an interest in the business, shall comply with all applicable ordinances, regulations, and laws of the city, the state, and the federal government.

(D) If the licensee is a partnership or corporation, the applicant shall designate a person to be manager and in responsible charge of the business. That person shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the Police Department in writing of any such change, indicating the name, address, and telephone number of the new manager and the effective date of the change.

(E) The licensee shall permit and allow the inspection of the premises during business hours by any and all appropriate city employees and agents.

(F) The licensed premises must be kept and maintained in a sanitary condition, defined as being free from the vegetative cells of pathogenic microorganisms, and all equipment, personal property, tables, beds, towels, clothing, and the like used in or for the purpose of massage shall also be maintained in a sanitary condition as defined herein.

(G) Any person acting as a masseur or masseuse shall have his or her certificate displayed in a prominent place at his or her place of employment, and upon demand by any police officer or other authorized officer or agent of the city, any person engaged in practicing massage shall identify himself or herself, giving his or her true legal name, correct address, and phone number.

(H) No person under 18 years of age shall be permitted upon or allowed to be employed or to serve in any establishment licensed under the provisions of this chapter.

(I) Any person practicing massage within the city shall initially advise the city of his or her address and telephone number and shall further advise the city of any changes in address

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or telephone number within 30 days of the change.

(J) Any person practicing massage within the city may do so only at premises which are licensed for the conduct of this type of business as herein provided, and further, any person practicing massage shall inform the city of all changes in employment or the location of his or her employment within seven days after the change.

(K) It is unlawful for a masseur to practice massage upon any person except a male and for a masseuse to practice massage on any person except a female.

(L) Any masseur or masseuse practicing massage shall have the upper and lower parts of his or her body covered and completely clothed by a non-transparent uniform or cloth at all times.

(M) Every person to whom a certificate is issued shall appear personally at the Police Department to receive delivery of the certificate and, upon appearance, shall be photographed and fingerprinted for identification purposes. One copy of the photographs shall be permanently affixed to the certificate and a second copy thereof shall be kept in the files of the Police Department.

(N) Each licensee shall keep on the licensed premises and for each licensed premises an occupancy or guest register which shall contain the true correct name, address, and phone number of each patron of the licensed premises. Each licensee, his or her employees, masseurs, masseuses, or agents of them shall require each patron to identify himself or herself by sufficient identification showing the true correct name, address, and phone number of the patron. The occupancy register or guest register shall be maintained on the licensed premises and open for inspection by officers, employees, and agents of the city, state, or the federal government and must be maintained for a period of not less than two years.

(1976 Code, § 47D.12) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.13 CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

§ 119.13 CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

(A) Each licensed premises shall have a separate restroom and separate locker room for members of each sex.

(B) All massage rooms, restrooms, and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold, or fungus growth and shall be maintained in a sanitary condition, defined as being completely free from the

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vegetative cells of pathogenic microorganisms. The floor-to-wall and wall joints shall be constructed to provide a sanitary cove with a minimum radius of one inch. All equipment, personal property, beds, towels, clothing, and the like used in the massage parlor shall be of a sanitary design and kept in a sanitary condition.

(C) All restrooms shall be provided with mechanical ventilation with two cfm per square foot of floor area, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels, and a soap dispenser.

(D) All rooms in the licensed premises, including but not limited to sauna rooms, massage rooms, restrooms, bathrooms, janitor's closet, hallways, and reception area, shall be illuminated with not less than 30 foot candles of illumination.

(E) Each licensed premises shall have a janitor's closet which shall provide for the storage of cleaning supplies. This closet shall have mechanical ventilation of two cfm per square foot of floor area. The closet shall include a mop sink.

(F) Floors, walls, and equipment in massage rooms, restrooms, and bathrooms must be kept in a state of good repair and sanitary at all times. Linen and other materials shall be stored at least 12 inches off the floor. Clean towels, wash cloths, and linens must be available for each customer.

(G) Individual lockers shall be made available for use by patrons, with each locker having separate keys for locking.

(H) The licensed premises shall provide adequate refuse receptacles which shall be emptied as often as required.

(I) The doors to the individual massage rooms shall not be equipped with any locking device, nor shall they be blocked or obstructed from either side of the door.

(1976 Code, § 47D.13) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.14 HEALTH AND DISEASE CONTROL.

§ 119.14 HEALTH AND DISEASE CONTROL.

No person while afflicted with any disease in a communicable form or while a carrier of such a disease or while afflicted with boils, infected wounds, sores, or any acute respiratory infection shall work in or use the services of any public massage room, 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.

(1976 Code, § 47D.14) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.15 LICENSE REVOCATION, SUSPENSION, OR NON-RENEWAL; APPEAL.

§ 119.15 LICENSE REVOCATION, SUSPENSION, OR NON-RENEWAL; APPEAL.

(A) The license may be revoked, suspended, or not renewed by the City Council upon recommendation of the City Administrator, Clerk/Treasurer by showing that the licensee, its owners, managers, employees, agents, or any other interested parties have engaged in any of the following conduct:

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

(2) Habitual drunkenness or intemperance in the use of drugs including but not limited to the use of drugs defined in M.S. §§ 152.01 and 152.02, as it may be amended from time to time, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(3) Conduct inimical to the interests of the public health, safety, welfare, and morals;

(4) Engaging in conduct involving moral turpitude, or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude, or failing to prevent agents, officers, or employees from engaging in conduct involving moral turpitude;

(5) Failure to fully comply with any requirements of the ordinances of the city regarding sanitary and safety conditions, zoning requirements, building code requirements, or ordinances, the violation of which involves moral turpitude, or failure to comply fully with any requirements of this chapter;

(6) Conviction of an offense involving moral turpitude by any court of competent jurisdiction; or

(7) Engaging in any conduct which would constitute grounds for refusal to issue a license herein.

(B) The licensee may appeal the suspension, revocation, or non-renewal to the City Council. The Council shall consider the appeal at the next regularly scheduled Council meeting

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on or after ten days from service of the notice of appeal to the Administrator, Clerk/Treasurer.

(1) At the conclusion of the hearing, the Council may order:

(a) The revocation, suspension, or non-renewal be affirmed; or

(b) The revocation, suspension, or non-renewal be lifted and the certificate be returned to the certificate holder.

(2) The City Council may base either suspension or issuance of the certificate upon any additional terms, conditions, and stipulations which it may, in its sole discretion, impose.

(1976 Code, § 47D.15) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.16 CERTIFICATE REVOCATION, SUSPENSION, OR NON-RENEWAL; APPEAL.

§ 119.16 CERTIFICATE REVOCATION, SUSPENSION, OR NON-RENEWAL; APPEAL.

(A) Certification may be recommended by the Administrator, Clerk/Treasurer for revocation or suspension or not renewed by the City Council for any of the following:

(1) Fraud, deception, or misrepresentation in connection with the securing of certification;

(2) Habitual drunkenness or intemperance of the use of drugs including but not limited to the use of drugs defined in M.S. §§ 152.01 and 152.02, as it may be amended from time to time, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(3) Conduct inimical to the interests of the public health, safety, welfare, or morals;

(4) Engaging in conduct involving moral turpitude;

(5) Failure to fully comply with the requirements of this chapter; or

(6) Conviction of an offense involving moral turpitude by any court of competent jurisdiction.

(B) The certificate holder may appeal the suspension, revocation, or non-renewal to the City Council. The Council shall consider the appeal at the next regularly scheduled Council

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meeting on or after ten days from service of the notice of appeal to the Administrator, Clerk/Treasurer.

(1) At the conclusion of the hearing, the Council may order:

(a) The revocation, suspension, or non-renewal be affirmed; or

(b) The revocation, suspension, or non-renewal be lifted and the certificate be returned to the certificate holder.

(2) The City Council may base either suspension or issuance of the certificate upon any additional terms, conditions, and stipulations which it may, in its sole discretion, impose.

(1976 Code, § 47D.16) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.17 EMPLOYEE CERTIFICATE AND DISPLAY.

§ 119.17 EMPLOYEE CERTIFICATE AND DISPLAY.

No employer shall employ a person to practice or administer massage nor permit, suffer, or allow a person to practice or administer massage unless that person has been granted a valid certificate pursuant to this chapter, and every employer shall require that the certification be prominently and openly displayed on the premises in plain view.

(1976 Code, § 47D.17) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 119: MASSAGE SERVICES / § 119.18 VIOLATIONS.

§ 119.18 VIOLATIONS.

Every person who commits or attempts to commit, conspires to commit, or aids and abets in the commission of any act constituting a violation of this chapter, whether individually or in connection with one or more persons or as principal, agent, or accessory, shall be guilty of that offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any of the provisions of this chapter is likewise guilty of the offense.

(1976 Code, § 47D.19) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 120: SEXUALLY ORIENTED BUSINESSES

CHAPTER 120: SEXUALLY ORIENTED BUSINESSES

Section

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TITLE XI: BUSINESS REGULATIONS / CHAPTER 120: SEXUALLY ORIENTED BUSINESSES / § 120.01 FINDINGS AND PURPOSE.

§ 120.01 FINDINGS AND PURPOSE.

The city recognizes that the existence of sexually oriented businesses within the city presents unique problems in a variety of areas, including crime prevention, protection of retail trade, maintenance of protection of the quality of life in the city, and public health concerns as a result of sexually transmitted diseases. In particular, the city also recognizes problems that other communities throughout the country have had with sexually oriented businesses in terms of their location and effect upon adjoining neighborhoods. Finally, the city makes note of the spread of the sexually transmitted disease known as acquired immune deficiency syndrome (AIDS), and the lack of any adequate cure or treatment for this disease. In order to provide for the general safety and welfare of the citizens of the city, the preservation of property values, and to minimize public health risks, the city finds it necessary to regulate sexually oriented businesses in terms of their physical location, condition of the premises, and the like.

(1976 Code, § 66C.01)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 120: SEXUALLY ORIENTED BUSINESSES / § 120.02 DEFINITIONS.

§ 120.02 DEFINITIONS.

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

ADULT ENTERTAINMENT CENTER. An enclosed building or a part of an enclosed building, a portion of which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals, or the charging of any admission fee for the viewing of this type of activity.

ADULTS-ONLY BOOKSTORE. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for rent, sale, or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined in this section, or an establishment with a segment or section devoted to the sale, rental, or display of this type of material, for sale or rental to patrons therein. A “substantial or significant portion” of its stock in trade shall be deemed to exist if 10% or more of the gross revenue from the business is derived from this type of sales or rentals, or if 10% or more of the floor area of the building used for these purposes is occupied by this stock in trade.

ADULTS-ONLY THEATER. An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing, or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined in this section, for observation by patrons therein.

MASSAGE PARLOR. An establishment or place primarily in the business of providing massage services.

NUDITY. The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depicting of covered male genitals in a discernibly turgid state.

RAP PARLOR. An establishment or place primarily in the business of providing non-professional conversation or similar services for adults.

SADOMASOCHISTIC ABUSE. Flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or

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otherwise physically restrained on the part of one so clothed.

SAUNA. An establishment or place primarily in the business of providing:

- (1) A steam bath; and
- (2) Massage services.

SEXUAL CONDUCT. Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such a person be a female, her breast.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

(1976 Code, § 66C.02)

TITLE XI: BUSINESS REGULATIONS / CHAPTER 120: SEXUALLY ORIENTED BUSINESSES / § 120.03 ZONING RESTRICTION.

§ 120.03 ZONING RESTRICTION.

No sexually oriented businesses shall be permitted to be located in any area which is zoned other than C-1 (commercial).

(1976 Code, § 66C.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 120: SEXUALLY ORIENTED BUSINESSES / § 120.04 SPECIAL USE PERMIT REQUIRED; CONDITIONS.

§ 120.04 SPECIAL USE PERMIT REQUIRED; CONDITIONS.

(A) Within the C-1 zoning district, sexually oriented businesses shall be permitted only by special use permit, to be issued on an annual basis, to be reviewed on an annual basis.

(B) The special use permit shall be issued in the same manner as other special use permits are under §§ 156.165 *et seq.* of this code, with the following exceptions, which shall apply to all special use permits issued for sexually oriented businesses.

- (1) *Conditions common to all sexually oriented businesses.*
 - (a) *Location.* All sexually oriented businesses shall exist in

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free-standing buildings, located at least 500 feet from any structure containing any public or private school, church, licensed day care center, public library, park, or municipal building. All sexually oriented businesses shall be located at least 500 feet from any residential district.

(b) *Parking.* All driveways and parking facilities shall be paved with concrete or bituminous material in accordance with specifications to be established from time to time by the City Engineer.

(c) *Illumination.* Parking lots and access roads shall be illuminated by exterior lighting facilities with a sufficient candle power or illuminating capacity to meet standards which shall be from time to time established and publicly available through the office of the City Engineer.

(d) *Inspection.* During business hours, all areas of the facility shall be open and available for inspection by law enforcement personnel, public health officials, and Fire Department or building code officials. The premises of each business shall be completely covered by television camera surveillance devices, with sufficient closed circuit monitors to permit the inspection of all locations within and without the premises on a constant basis. These monitors shall be available to law enforcement personnel at all times during business hour operations. Standards for the quality and type of television camera monitoring equipment shall be established at the time of issuance of the special use permit, by the City Council upon recommendation of its staff and other experts as may be employed by the City Council.

(e) *Minors.* No person under the age of 18 years shall be permitted on or about the premises, whether or not accompanied by an adult, at any time.

(f) *Signage.* No exterior signage containing reference to any of the activities going on within the business shall be permitted except a simple, generic sign identifying the type of establishment, as defined in § 120.02 above. Sign lettering shall not exceed six inches in height. Sign prohibition shall not include the AIDS warning sign noted below.

(g) *AIDS warning.* Each sexually oriented business shall display, immediately adjacent to its main entrance, an AIDS warning sign. The AIDS warning sign shall be purchased from the city, which shall charge a fee equal to the cost of production of the sign. The content of the AIDS warning sign shall be as determined from time to time by the City Council and shall not be altered in any way by the merchant displaying the sign. The sign shall be displayed at all times and shall be illuminated at all times.

(h) *Annual fee and information.* Each sexually oriented business shall pay an annual license fee to be established from time to time by resolution of the City Council.

1. Prior to issuance of the license, the owner of each sexually oriented business shall provide the following information to the city:

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- a. The type of business organization which owns the business, e.g., corporation, partnership, proprietorship;
- b. The names and addresses of all stockholders, partners, or other persons interested in the ownership of the business; and
- c. Other information as the City Council may from time to time direct. Forms shall be prepared by city staff listing the types of information which are deemed necessary for investigation of the background of the owner of any sexually oriented business.

2. No person shall be eligible, and no business shall be eligible, to obtain a special use permit for a sexually oriented business if any principal, stockholder, or other interested party having an interest in the business has ever been convicted of any type of felony, or has ever been convicted of any type of gross misdemeanor or misdemeanor involving a sexual offense or illegal sale of liquor, tobacco, or other materials to minors.

(i) *Alcohol and drugs.* No sexually oriented business shall permit on the premises any alcoholic beverage or other mood-altering substances. Owners of all sexually oriented businesses shall make concerned efforts to prohibit any illicit or illegal activities from taking place upon their premises, including the illegal sale, use, or distribution of alcohol or controlled substances, or acts of prostitution or criminal sexual conduct of any kind.

(j) *Revocation.* All special use permits for sexually oriented businesses shall be subject to revocation under the procedures established for revocation of special use permits in §§ 156.165 *et seq.* of this code, for any violation of any term or condition of the special use permit. Further, upon the revocation of a special use permit for a violation, the premises where the violation occurred shall not be eligible for another special use permit for a sexually oriented business for a period of ten years following that revocation.

(k) *Other codes.* All sexually oriented businesses shall strictly observe the conditions of all state, fire, health, and building codes. All buildings housing sexually oriented businesses shall be completely sprinkled with an approved fire detection and sprinkler system.

(l) *Consumables.* No sexually oriented business shall engage in the sale or distribution of any item for human consumption, and no sexually oriented business shall be eligible for any vending machine license of any kind.

(m) *Violations of law.* The special use permit of any sexually oriented business shall be subject to revocation in the event any employee, owner, interested principal, or agent of the business is convicted of any of the following crimes on more than one occasion within any calendar year, or on three occasions within any ten-year period:

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1. Prostitution;
2. Sale of any material, device, or item to any minor which is prohibited by state law;
3. Trafficking in controlled substances including the use, possession, or distribution thereof; or
4. Any sex crime as defined in M.S. §§ 609.293 - 609.352, inclusive, as they may be amended from time to time.

(2) *Conditions common to bookstores.*

(a) *Windows.* All bookstores shall be completely surrounded on the exterior walls by transparent windows which shall not be covered in any manner. Windows shall be at least four feet in height, and the interior of the premises shall be illuminated at all times during regular business hours. Windows shall not be tinted and shall be specifically designed and aligned so as to permit the observance from the outside of patrons and employees on the inside.

(b) *Booths.* No private booths of any kind will be allowed within the bookstore, excepting a private business office for use only by store employees. All other areas of bookstores at all times shall be open and accessible.

(c) *Parking.* Each bookstore shall provide one parking stall for every ten square feet of retail floor space located in the bookstore.

(3) *Conditions common to theaters.*

(a) *Parking.* One parking stall shall be provided for every ten square feet, as measured at the foundation level, of the building housing the theater, or one space per seat allocated for patron seating, whichever figure is greater.

(b) *Obscenity.* For any theater offering live entertainment, the following activities are hereby defined as obscene and shall be prohibited:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piqueurism, sapphism, or zoerastia;

2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

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3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast;
5. Situations involving a person or persons, any of whom are nude, clad in undergarments, or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraining of those persons;
6. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, or vaginal or anal irrigation.

(4) *Conditions common to parlors.*

(a) *Enclosures.* No private booths or enclosed areas shall be permitted in any parlor or any sauna having a steam bath facility; any such steam bath shall be completely surrounded by transparent windows, to permit observation of all areas within those steam baths from the outside. A massage parlor or sauna may provide for separate enclosed areas where members of the same sex may be shielded from view from members of the opposite sex, but for no other purposes.

(b) *Obscenity.* No person shall engage in any of the acts described in division (B)(3)(b) above, publicly or in private, for remuneration or no remuneration, in any parlor.

(5) *Additional conditions.* The City Council, upon recommendation of its Planning Commission, may make or propose other conditions and restrictions on sexually oriented businesses as the City Council deems from time to time to be appropriate, where those restrictions or regulations are designed to protect the general health, safety, and welfare of the public.

(1976 Code, § 66C.03) Penalty, see § 10.99

TITLE XI: BUSINESS REGULATIONS / CHAPTER 120: SEXUALLY ORIENTED BUSINESSES / § 120.05 INITIAL INVESTIGATION FEE.

§ 120.05 INITIAL INVESTIGATION FEE.

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In addition to the annual permit fee required by § 120.04(B)(1)(h) above, at the time of initial application for a special use permit, an initial investigation fee shall be charged, in an amount to be established from time to time by resolution of the City Council.

(1976 Code, § 66C.04) Penalty, see § 10.99