

**TITLE XI: BUSINESS REGULATIONS**

Chapter

- 110. GENERAL REGULATIONS**
- 111. ALCOHOLIC BEVERAGES**
- 112. PEDDLERS AND SOLICITORS**
- 113. TOBACCO REGULATIONS**



## CHAPTER 110: GENERAL REGULATIONS

### Section

#### *General Licensing*

- 110.01 Definitions
- 110.02 Applications
- 110.03 Action on application, transfer, termination and duplicate license
- 110.04 Fixing license fees
- 110.05 Carrying or posting
- 110.06 Penalty for property owner
- 110.07 Responsibility of licensee
- 110.08 Conditional licenses
- 110.09 Renewal of license
- 110.10 Insurance requirements
- 110.11 License denial and fixing rates; hearing
- 110.12 Worker's compensation

#### *General Business Regulations*

- 110.25 Amusement devices
- 110.26 Dances
- 110.27 Shows
- 110.28 Vendor's permit fees
- 110.29 Kennels
- 110.30 Gambling
- 110.31 Sewer line installer
- 110.32 Pawnbrokers
- 110.33 Right-of-way permits
- 110.34 Disposal of garbage and rubbish

#### ***Cross-references:***

- Alcoholic beverages, see Chapter 111*
- Peddlers and solicitors, see Chapter 112*
- Tobacco regulations, see Chapter 113*

**GENERAL LICENSING****§ 110.01 DEFINITIONS.**

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

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

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

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

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

**CITY COST.** The actual costs incurred by the city for public rights-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing and verifying right-of-way permit applications; creating and maintaining information on a Geographical Information System ("GIS") mapping system; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment during public right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed; and revoking right-of-way permits and performing all of the other tasks required hereunder, including other costs the city may incur in managing the provisions of this chapter.

**DEGRADATION COST.** Money paid to the city to cover the cost associated with a decrease in the useful life of a public right-of-way caused by excavation.

**DISRUPTIVE COST.** The penalty imposed as the result of the adverse impact on city citizens and others who are required to alter travel routes and times resulting from right-of-way obstructions.

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

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

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

**SALE, SELL and SOLD.** All forms of barter and all manner or means of furnishing merchandise to persons.  
(Prior Code, § 6.01) (Ord. 44, passed 6-4-1999)

**§ 110.02 APPLICATIONS.**

All applications shall be made as follows.

(A) All applications shall be made at the office of the City Clerk upon forms that have been furnished by the city for those purposes.

(B) Unless otherwise provided for in this chapter, all the applications must be subscribed, sworn to, and include information as the Council shall deem necessary considering the nature of the business for which license application is made.

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

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

(E) Applications for renewal licenses may be made in the abbreviated form as the Council may by resolution adopt.  
(Prior Code, § 6.02) Penalty, see § 10.99

**§ 110.03 ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.**

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

(B) *Issuing.* If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis, unless otherwise specified herein as to particular businesses. Unless otherwise herein

specified, license fees shall be pro-rated on the basis of one-twelfth for each calendar month or part thereof remaining in the then current license year; provided, that for licenses where the fee is less than \$100, a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically city-wide, licenses shall be valid only at one location and on the premises therein described.

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

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

(E) *Refusal and revocation.*

(1) The Council may, for any reasonable cause, refuse to grant any application, or revoke any license.

(2) No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard.

(3) Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing.

(4) Grounds for revocation may be, but are not limited to, any of the following:

(a) The licensee suffered or permitted illegal acts upon licensed premises;

(b) The licensee had knowledge of the illegal acts but failed to report the same to police;

(c) The licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts; or

(d) The activities of the licensee created a serious danger to public health, safety or welfare.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Clerk, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee, as set by Council from time to time, for issuance of the duplicate. All duplicate licenses shall be clearly marked "DUPLICATE".

(Prior Code, § 6.03) Penalty, see § 10.99

**§ 110.04 FIXING LICENSE FEES.**

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

(Prior Code, § 6.04)

**§ 110.05 CARRYING OR POSTING.**

All solicitors shall, at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity; provided, however, that in the case of machine or other device licensing, the city may provide a sticker for the current license year, which shall be affixed to each machine or device requiring the sticker. All licensees shall display their licenses upon demand by any officer or citizen.

(Prior Code, § 6.05)

**§ 110.06 PENALTY FOR PROPERTY OWNER.**

It is unlawful for any person to knowingly permit any real property owned or controlled by him or her to be used, without a license, for any business for which a license is required by this chapter.

(Prior Code, § 6.06) Penalty, see § 10.99

**§ 110.07 RESPONSIBILITY OF LICENSEE.**

The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under the license, shall be deemed the conduct of the licensee.

(Prior Code, § 6.07)

**§ 110.08 CONDITIONAL LICENSES.**

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

(Prior Code, § 6.08)

**§ 110.09 RENEWAL OF LICENSES.**

Applications for renewal of an existing license shall be made at least 30 days prior to the date of expiration of the license, and shall contain information as is required by the city. This time requirement may be waived by the Council for good and sufficient cause.

(Prior Code, § 6.09)

**§ 110.10 INSURANCE REQUIREMENTS.**

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

(A) The limits are at least as high as required;

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

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

(Prior Code, § 6.10)

**§ 110.11 LICENSE DENIAL AND FIXING RATES; HEARING.**

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

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

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

(Prior Code, § 6.11)

**§ 110.12 WORKER'S COMPENSATION.**

No license to operate a business shall be issued by the city until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of state statutes by providing the name of the insurance company, the policy number and dates of coverage, or the permit to self-insure.

(Prior Code, § 6.12) (Ord. 6, passed 7-14-1989)

**GENERAL BUSINESS REGULATIONS**

**§ 110.25 AMUSEMENT DEVICES.**

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

**AMUSEMENT DEVICE.** Includes a game of skill, a coin amusement, or a video game, as defined in this division (A), or any combination thereof.

**ARCADE.** A contiguous area in which more than six amusement devices are kept for use by the public generally.

**COIN AMUSEMENT.** Any machine which upon the insertion of a coin, token or slug, operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

**DISTRIBUTOR.** The person who places amusement devices on premises not owned by him or her or under his or her control, which devices may be played by the public generally for a price paid either directly or indirectly.

**GAME OF SKILL.** Any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for the privilege.

**VIDEO GAME.** Any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.

(B) *License required.* It is unlawful for any person to have upon premises owned or controlled by him or her: any amusement device; or operate an arcade, without a license therefor from the city. It is unlawful for any person to be a distributor without a license therefor from the city.

(C) *Exception.* This section shall not apply to video games of chance under the control of the Charitable Gambling Control Board.

(D) *Unlawful use and devices.* It is unlawful for any person to:

(1) Sell or maintain a machine or device which is for gambling or contains an automatic pay-off device;

(2) Give any prize, award, merchandise, gift or thing of value to any person on account of operation of the device;

(3) Sell or maintain, or permit to be operated in his or her place of business, any amusement device equipped with an automatic pay-off device;

(4) Equip any amusement device with an automatic pay-off device;

(5) Permit persons under the age of 18 years to play or operate any game of skill; or

(6) Permit the playing of coin amusement machines between the hours of 1:00 a.m. and 6:00 a.m. of any day.

(Prior Code, § 6.31) Penalty, see § 10.99

## § 110.26 DANCES.

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

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

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

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

(C) *License fee.* The license fee shall include the cost of providing attendance of a police officer, or officers.

(D) *Application and license.*

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

(2) All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he or she lives, that he or she has not been convicted of a felony, gross misdemeanor or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

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

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

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

(6) At least one officer of the law shall be designated by the Chief of Police to be present at every public dance during the entire time the dance is being held. In case any person, not a public officer, shall be designated as the officer of the law, the person to whom the permit has been issued shall be responsible for the person's acts and conduct and there shall be no liability for the person's acts and conduct on the part of the officer designating the person under the provisions of this section.

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

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

(E) *Dance regulations.*

(1) *Obscenity and immorality prohibited.* It is unlawful for any person to dance, or for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene or indecent manner or for any licensee to suffer or permit any person so to act or speak in any public dancing place.

(2) *Illumination.* Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed or turned low so as to give imperfect illumination is prohibited.

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

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

(Prior Code, § 6.31) (Ord. 6, passed 7-14-1989) Penalty, see § 10.99

## § 110.27 SHOWS.

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

(B) *Exceptions.* No license shall be required in the following instances:

(1) Performances presented in the local schools and colleges, under the sponsorship of the schools and colleges, and primarily for the students thereof only;

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

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

(C) *Obscenity prohibited.*

(1) For the purpose of this division (C), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

**OBSCENE PERFORMANCE.** A performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

**OBSCENITIES.** The slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

**PERFORMANCE.** Any play, motion picture film, dance or other exhibition pictured, animated or live, performed before an audience.

**SADO-MASOCHISTIC ABUSE.** Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**SEXUAL CONDUCT.** Human masturbation, sexual intercourse or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

**SEXUAL EXCITEMENT.** The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(2) It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly:

(a) Exhibit an obscene performance;

(b) Directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance; or

(c) Directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.

(3) Any prosecution under this division (C) shall include the following elements:

(a) The average person, applying contemporary community standards, would find the performance, taken as a whole, appealing to the prurient interest of the audience;

(b) The performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and

(c) The performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

(Prior Code, § 6.32) Penalty, see § 10.99

#### § 110.28 VENDOR'S PERMIT FEES.

(A) The intent of this policy is to establish fair and consistent vendors permit fees for all activities transpiring within the city, including, but not limited to, any celebrations commemorating the Fourth of July or the Centennial of the city.

(B) The city does hereby ordain that there will be a vendor permit fee, as set by Council from time to time, for any celebration, event or vendor's sales for any vendor that does not require electricity from the city.

(C) The city does hereby ordain that there will be a vendor permit fee, as set by Council from time to time, for any celebration, event or vendor's sales for any vendor that does require electricity from the city.

(Prior Code, § 6.34-1) (Ord. 64, passed 3-19-2004; Ord. 71, passed 2-8-2006)

#### § 110.29 KENNELS.

(A) *Defined.* For the purpose of this section, the term **KENNEL** means any place, building, tract of land, abode or vehicle, wherein or whereon three or more dogs, over six months of age, are kept, kept for sale or boarded.

(B) *License required.* It is unlawful for any person to operate or maintain a kennel without a license therefor from the city.

(C) *Exception.* Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this section.

(D) *License fee.* The annual fee for a kennel license is \$10.

(Prior Code, § 6.35) (Ord. 34, passed 8-2-1996) Penalty, see § 10.99

#### **Cross-references:**

*Animal control regulations, see Chapter 90*

*Kennel regulations, see §§ 90.50 through 90.52*

**§ 110.30 GAMBLING.**

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

**BOARD.** The Charitable Gambling Control Board.

**LAWFUL GAMBLING.** The operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pull-tabs for a lawful purpose as herein defined.

**LAWFUL PURPOSE.**

(a) One or more of the following:

1. Benefitting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

2. Initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;

3. Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or

4. The payment of taxes imposed under this section, and other taxes imposed by the state or the United States on receipts from lawful gambling.

(b) **LAWFUL PURPOSE** does not include the erection, acquisition, improvement, expansion, repair or maintenance of any real property, owned or leased by the organization, unless the Board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in divisions (a)1. through (a)3. above.

**ORGANIZATION.** Any fraternal, religious, veterans or other non-profit organization.

**PROFIT.** The gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for gambling supplies and equipment, prizes, rent and utilities used during the gambling occasions, compensation paid to members for conducting gambling, taxes imposed by statute and maintenance of devices used in lawful gambling.

(B) *Gambling forms and eligibility.* All forms of legal gambling may be carried on, but only by an organization, and subject to the provisions of this section and M.S. §§ 349.11 et seq., as they may be amended from time to time.

(C) *Gambling regulations.*

(1) *Premises.* If the organization owns or leases property for organizational activities, which may or may not include lawful gambling activities, a majority in value of the real property shall be situated within the city. If the organization owns or leases no real property except that it leases space on real property for lawful gambling activities only, the premises shall be licensed under city code, Chapter 111 for on-sale of liquor. If the organization carries on lawful gambling upon leased premises, the lease shall be in writing and for a term of at least one year, and the rental payments shall not be based upon a percentage of receipts or profits from the gambling.

(2) *Expenditure of profits.* A majority of all profits shall be expended for:

(a) Persons who are residents of the city;

(b) Organizations which carry on all their activities within the city;

(c) Supplementing the services of the government of the city; or

(d) Improving, expanding, maintaining, repairing or acquiring real property located within the city.

(3) *Exemptions.* Statutory exemptions from licensing by the Board, whether by reason of the type of organization or number of lawful gambling events or occasions, shall require a permit from the city; provided, however, that bingo conducted in a nursing home or a senior citizen housing project, or by a senior citizen organization, conducted as provided and exempted by statute, shall not require a permit.

(4) *Special bingo regulations.* Bingo shall only be conducted by an organization which has been in existence for at least three years, has at least 30 active members, and on premises which it owns, or leases.

(D) *City approval of applications.* Unless it finds that the applicant can or has complied with all of the applicable regulations set forth in division (C) above, the Council shall:

(1) Upon receipt from the Board of a notice of application for issuance or renewal of a license, take action to disapprove the same and inform the Board; or

(2) As to lawful gambling exempt from licensing, refuse to issue or renew a permit.

(E) *Unlawful act.* It is unlawful for any person to violate this section.

(Prior Code, § 6.36) (Ord. 6, passed 7-14-1989; Ord. 12, passed 11-2-1991; Ord. 83, passed 8-13-2014) Penalty, see § 10.99

**§ 110.31 SEWER LINE INSTALLER.**

Licensing of sewer line installers is covered in §§ 54.01 through 54.11.  
(Prior Code, § 6.37)

**§ 110.32 PAWNBROKERS.**

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

**PAWNBROKER.** A person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**PAWN SHOP.** The location at which or premises in which a pawnbroker regularly conducts business.

**PAWN TRANSACTION.** Any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**PLEGGED GOODS.** Tangible personal property, other than a chose in action, securities, bank drafts or printed evidence of indebtedness, that are purchased by, deposited with or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

(B) *License required.*

(1) It is unlawful for any person to engage in the business as a pawnbroker unless the person has a valid license authorizing engagement in the business. Any pawn transaction made without benefit of a license is void.

(2) A separate license is required for each place of business. The city may issue more than one license to a person if that person complies with this section for each license.

(3) No expiration, revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor.

(4) The Chief of Police shall be notified by the city of any licensee whose license has expired or been surrendered, suspended or revoked as provided by this section.

(C) *Persons disqualified.* No license under this section may be issued or renewed to a person who is a minor; has been convicted of any crime related to the occupation of pawnbroker; or is not of good moral character or repute.

(D) *Unemployment clearance required.* No license shall be granted, transferred or renewed and shall be revoked if the Commissioner notifies the city that the licensee owes the state delinquent unemployment insurance contributions, reimbursements or benefit overpayments.

(E) *Change in ownership.* Any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license, and the new owner must satisfy all current eligibility requirements.

(F) *Pawn tickets.*

(1) *Entries of pawn tickets.* At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the city:

(a) A complete and accurate description of the property, including model and serial number if indicated on the property;

(b) The full name, residence address, residence telephone number and date of birth of the pledgor or seller;

(c) The date and time of pawn or purchase transaction;

(d) The identification number and state of issue from one of the following forms of identification of the seller or pledgor: current valid Minnesota driver's license; current valid Minnesota identification card; or current valid photo identification card issued by another state or province of Canada;

(e) Description of the pledgor including approximate height, sex and race;

(f) Amount advanced or paid;

(g) The maturity date of the pawn transaction and the amount due; and

(h) The monthly and annual interest rates, including all pawn fees and charges.

(2) *Printed pawn ticket.* The following shall be printed on all pawn tickets:

(a) The statement that “Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods.”;

(b) The statement that “The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item.”;

(c) The statement that “This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction record; and

(d) A blank line for the pledgor’s signature.

(G) *Records; retention.*

(1) The pledgor or seller shall sign a pawn ticket and receive an exact copy of the pawn ticket.

(2) The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.

(H) *Effect of non-redemption.*

(1) A pledgor shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal or extension shall automatically be forfeited to the pawnbroker, and qualified right, title and interest in and to the goods shall automatically vest in the pawnbroker.

(2) The pawnbroker’s right, title and interest in the pledged goods under this division (H) is qualified only by the pledgor’s right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up the date of redemption.

(3) A pawn transaction that involves holding only the title to property is subject to M.S. Chapter 168A or 336, as they may be amended from time to time.

(I) *Permitted charges.*

(1) A pawnbroker may contract for and receive a pawnshop charge not to exceed 3% per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed an amount as set by Council from time to time if the property is not in the possession of the pawnbroker.

(2) The pawnshop charge allowed under this division (I) shall be deemed earned, due and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due and owing on the same day of the succeeding month; however, if full payment is made more than two weeks before the next succeeding date, the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledgor.

(3) Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest or fees than would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.

(4) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, shall be uncollectible and the pawn transaction shall be void.

(5) A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.

(J) *Records; prohibitions.* A pawnbroker and any clerk, agent or employee of a pawnbroker shall not:

(1) Make any false entry in the records of pawn transactions;

(2) Falsify, obliterate, destroy or remove from the place of business the records, books or accounts relating to the licensee's pawn transactions;

(3) Refuse to allow the appropriate law enforcement agency, the Attorney General or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;

(4) Fail to maintain a record of each pawn transaction for three years;

(5) Accept a pledge or purchase property from a person under the age of 18 years;

(6) Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this section, or providing for a maturity date less than one month after the date of the pawn transaction;

(7) Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in state statutes, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal or extension and the pawnbroker has sold the pledged goods pursuant to state statutes, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

(8) Sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledgor or seller in the same, or a related, transaction;

(9) Sell or otherwise charge for insurance in connection with a pawn transaction; or

(10) Remove pledged goods from the pawnshop premises or other storage place approved by the city at any time before unredeemed, pledged goods are sold pursuant to statute.

(K) *Redemption; risk of loss.* Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

(L) *Motor vehicle title pawn transactions; special provisions.*

(1) In addition to the other requirements of this section, a pawnbroker who holds a title to a motor vehicle as part of a pawn transaction shall:

(a) Be licensed as a used motor vehicle dealer under M.S. Chapter 168, as it may be amended from time to time, and post the license on the pawnshop premises;

(b) Verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety; and

(c) Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

(2) A pawnbroker may not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

(M) *Transition.* Pawnbrokers in business on the effective date of this section must apply for a license and pay the required fee within six months.

(N) *Violation.* A violation of this section is a misdemeanor.  
(Prior Code, § 6.38) (Ord. 40, passed 11-27-1998) Penalty, see § 10.99

### § 110.33 RIGHT-OF-WAY PERMITS.

(A) *Permit requirement.* Except as otherwise provided in the city code, no person may obstruct or excavate any right-of-way without first having obtained one of the following permits from the City Engineer.

(1) *Excavation permit.* An excavation permit is a permit allowing the holder to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the duration specified therein.

(2) *Obstruction permit.* An obstruction permit is a permit allowing the holder to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

(B) *Dates specified.* No person may excavate or obstruct the right-of-way beyond the dates specified in the permit unless the person:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

(2) A new permit or permit extension is granted.

(C) *Display of permit.* Permits issued under this section shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the City Engineer.

(D) *Permit applications.* Notwithstanding other provisions of this chapter, application for a permit under this section shall be made to the City Engineer.

(E) *Requirements.* Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(1) Registration with the City Engineer;

(2) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed equipment; and

(3) Payment of all money due to the city for:

(a) Permit fees and costs;

(b) Prior obstructions or excavations;

(c) Any loss, damage or expense suffered by the city as a result of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; and

(d) When an excavation permit is requested for installation of additional equipment, the posting of a removal bond for the additional equipment.

(F) *Issuance of permit; conditions.* If the City Engineer determines that the applicant has satisfied the application requirements, the City Engineer may:

(1) Issue an unconditional permit; or

(2) Impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder in order to protect the public health, safety and welfare, to insure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way and to minimize the disruption and inconvenience to the traveling public.

(G) *Permit fees.*

(1) *Excavation permit fee.* The excavation permit fee shall be established by the Council, plus an amount determined by the City Engineer sufficient to recover the following costs:

(a) The city cost;

(b) The disruptive cost; and

(c) The degradation cost.

(2) *Obstruction permit fee.* The obstruction permit fee shall be established by the Council, plus an amount determined by the City Engineer sufficient to recover the following costs:

(a) The city cost; and

(b) The disruptive cost.

(H) *Right-of-way restoration.*

(1) The work to be done under the excavation permit, and the repair and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of permittee or when work was prohibited as unseasonable or unreasonable.

(2) In addition to repairing its own work, the permittee must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for 36 months thereafter.

(a) *Restoration.* In its application for an excavation permit, the permittee may choose either to have the city restore the right-of-way or to restore the right-of-way itself, except for the final pavement surface for which the city retains the right of first refusal for the restoration work.

(b) *City restoration.* Where the city is chosen to restore the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If, during the 36 months following restoration the surface settles due to permittee's improper backfilling, permittee shall pay the cost of repair.

(c) *Permittee restoration.* If the permittee chooses to restore the right-of-way itself, except for the final pavement surface, it shall, at the time of application for a permit:

1. Post a performance bond in an amount determined by the City Engineer to be sufficient to cover the cost of restoring the right-of-way to its pre-excavation condition. If, 36 months after completion of the restoration, the City Engineer determines that the right-of-way has been properly restored, the surety on the bond shall be released;

2. Pay an amount equivalent to 10% of the aforementioned bond to cover the cost of inspecting the site during the reconstruction and for a period of 36 months after completion of the restoration; and

3. The permittee shall perform repairs and restorations according to standards and with materials specified by the City Engineer. The City Engineer shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. The City Engineer in exercising this authority shall be guided by the following standards and considerations: the number, size, depth and duration of the excavations, disruptions or damage to the right-of-way; the traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way; the pre-excavation condition of the right-of-way; the remaining life-expectancy of the right-of-way affected by the excavation; whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and the likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

(d) *Restoration methods.* Methods of restoration may include, but are not limited to, patching, replacement of the right-of-way base, and milling and overlay of the entire area of the right-of-way affected.

(e) *Work guarantee.* By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for 36 months following its completion. During this 36-month period, it shall, upon notification from the City Engineer, correct all restoration work to the extent necessary using the method required by the City Engineer. The work shall be completed within five calendar days of the receipt of the notice from the City Engineer, not including days during which work cannot be done because of circumstances constituting force majeure or days when work was prohibited as unseasonable or unreasonable.

(f) *City to do work.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the City Engineer, or fails to satisfactorily and timely complete all repairs required by the City Engineer, the City Engineer, at his or her option, may do the work. In that event, the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way.

(g) *Payment of degradation code.* In lieu of right-of-way restoration, a permittee shall pay to the city a degradation cost to cover city costs associated with a decrease in the useful life of a public right-of-way caused by excavation and repairs. Payment of a degradation cost does not relieve permittee of the obligation to make necessary right-of-way repairs.

(I) *Joint applications.* Registrants are encouraged to make joint application for permits to excavate or obstruct the right-of-way at the same place and time. Registrants who join in a scheduled obstruction or excavation performed by the City Engineer, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee. Registrants who apply for permits for the same obstruction or excavation, which is not performed by the City Engineer, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

(J) *Supplementary applications.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit.

(1) No permittee may perform any work outside the area specified in the permit, except as provided herein.

(2) Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before working in that greater area:

(a) Make application for a permit extension and pay any additional fees necessitated thereby; and

(b) Be granted a new permit or permit extension.

(K) *Supplementary permits.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must make application for a new permit for the added time needed, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. Supplementary permits must be obtained before the permit end date.

(L) *Other obligations.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses and authority and to pay all fees required by any other city, county, state or federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who performs the work. Except in the case of an emergency, and with the approval of the City Engineer, no right-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for the work.

(Prior Code, § 6.39) (Ord. 44, passed 6-4-1999)

#### § 110.34 DISPOSAL OF GARBAGE AND RUBBISH.

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

**GARBAGE.** Any one or all of the following substances: offal, garbage, ashes, barnyard litter, manure, rubbish, barnyard cleanings, dead animals or any other foul or unhealthy items or material.

**RUBBISH DISPOSAL.** The removal, collection and disposal of rubbish from public or private property within the city.

(B) *Cost of service.* The owners of all properties served shall pay the proportionate cost of garbage and rubbish service to their respective properties and in default of payment, the Council may annually levy an assessment equal to the unpaid costs as of September 1 of each year, against each lot or parcel of land so served for which the service charge is unpaid. The assessment may include a penalty not to exceed 10% of the amount thereof and shall bear interest at an amount not exceeding 6% per annum, as the Council shall determine in the statement of levy. The assessments shall be certified to the Auditor of the county and shall be collected and remitted to the City Treasurer in the same manner as assessment for local improvements.

(C) *Contract for service.* The city shall contract for garbage and rubbish service with a single company for service to citizens. All costs shall be spread equally unless otherwise specified pursuant to state statute.

(Prior Code, § 6.40) (Ord. 65, passed 5-21-2004)

**Editor's note:**

See TSO, Table III for related material

## CHAPTER 111: ALCOHOLIC BEVERAGES

### Section

- 111.01 Definitions
- 111.02 Applications and licenses under this chapter; procedure and administration
- 111.03 Renewal license applications
- 111.04 Delinquent taxes and charges
- 111.05 Conditional licenses
- 111.06 Premises licensed
- 111.07 Unlawful acts
- 111.08 Conduct on licensed premises
- 111.09 Sale by employee
- 111.10 License condition and unlawful act
- 111.11 License fees; fixing and refundment
- 111.12 Financial responsibility of licensees
- 111.13 Insurance certificate requirements
- 111.14 Minors
- 111.15 Consumption and possession of alcoholic beverages on streets, public property and private parking lots to which the public has access
- 111.16 Alcoholic beverages in certain buildings and grounds
- 111.17 Worker's compensation
- 111.18 Brew-on-premises store; unlawful acts
- 111.19 Beer license required
- 111.20 Temporary beer license
- 111.21 Hours and days of beer sales
- 111.22 Beer license restrictions, regulations and unlawful acts
- 111.23 Liquor license required
- 111.24 Sports, convention or cultural facilities license
- 111.25 Temporary liquor license
- 111.26 Hours and days of liquor sales
- 111.27 Sunday sales
- 111.28 On-sale wine license required
- 111.29 Hours and days of sales by on-sale wine licensees
- 111.30 Liquor and on-sale wine license restrictions, regulations and unlawful acts
- 111.31 Club license restrictions and regulations and unlawful acts
- 111.32 Consumption and display
- 111.33 Nudity or obscenity prohibited

**§ 111.01 DEFINITIONS.**

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

**ALCOHOLIC BEVERAGE.** Any beverage containing more than 0.5% alcohol by volume, including, but not limited to, beer, wine and liquor as defined in this section.

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

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

**BEER.** Malt liquor containing not less than 0.5% alcohol by volume nor more than 3.2% alcohol by weight. (This definition includes so-called “malt coolers” with the alcoholic content limits stated herein.)

**BREW ON PREMISES STORE.** A facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store.

**BREWER.** A person who manufactures beer for sale.

**CLUB.** An incorporated organization organized under the laws of the state for civic, fraternal, social or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans’ organization, which: has more than 50 members; has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. The club or congressionally chartered veterans’ organization must have been in existence for at least three years.

**COMMISSIONER.** The Minnesota Commissioner of Public Safety.

**EXCLUSIVE LIQUOR STORE.** An establishment used exclusively for the sale of liquor, except for the incidental sale of ice, tobacco, beer, beverages for mixing with liquor, soft drinks, liqueur-filled candies, food products that contain more than 0.5% alcohol by volume, cork extraction devices, books and videos on the use of alcoholic beverages, magazines and other publications published primarily for information and education on alcoholic beverages, and the establishment may offer recorded or live entertainment.

**HOTEL.** An establishment where food and lodging are regularly furnished to transients and which has: a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and at least ten guest rooms.

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

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

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

**LICENSED PREMISES.** The premises described in the issued license.

**LIQUOR.** Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight. (This definition includes so-called “wine coolers” and “malt coolers” with the alcoholic content limits stated herein.)

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

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

**MINOR.** Any natural person who has not attained the age of 21 years.

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

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

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

**RESTAURANT.** An establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for 25 guests.

**SALE, SELL and SOLD.** All barter and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law. **SALE** is considered effective at the time of physical delivery of an alcoholic beverage.

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

**WINE.** The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. This definition includes “wine coolers” with the alcoholic content limits stated herein. For purposes of on-sale wine licenses, **WINE** may contain up to 14% alcohol by volume for consumption with the sale of food. For all other purposes, **WINE** is a product containing not less than, 0.5%, nor more than 24 percent alcohol by volume for nonindustrial use.  
(Prior Code, § 5.01) (Ord. 31, passed 8-2-1996)

## **§ 111.02 APPLICATIONS AND LICENSES UNDER THIS CHAPTER; PROCEDURE AND ADMINISTRATION.**

(A) *Application.* All applications shall be made at the office of the City Clerk upon forms prescribed by the city, or if by the Commissioner, then together with additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

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

(C) *Action.*

(1) *Granting.* The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

(2) *Issuing.* If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the city or the Commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis, unless otherwise specified herein. For

licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

(3) *Transfer.* A license shall be transferable between persons upon 30-days' notice to the Council and consent of the Council. No license shall be transferable to a different location without prior consent of the Council and payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (C)(3).

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

(5) *Public interest.* No license under this chapter may be issued, transferred or renewed if the results of any investigation show, to the satisfaction of the Council, that the issuance, transfer or renewal would not be in the public interest.

(6) *Revocation or suspension.*

(a) For any license granted under the provisions of this chapter, the Council may revoke, suspend for a period not to exceed 60 days, impose a civil fine not to exceed \$2,000, or any combination of these sanctions, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the city code relating to alcoholic beverages.

(b) The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if the revocation is mandatory by statute.

(c) If it shall be made to appear at the hearing thereon that the violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense.

(d) No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing.

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

(f) As additional restrictions or regulations on licensees under this chapter, and in addition to grounds for revocation or suspension stated in the city code or statute, the following shall also be grounds for the action:

1. The licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor;
2. The licensee had knowledge of the illegal acts upon licensed premises, but failed to report the same to police;
3. The licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts upon licensed premises; or
4. The activities of the licensee created a serious danger to public health, safety or welfare.

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

(D) *Resident manager or agent.*

(1) Before a license is issued under this chapter to an individual who is a nonresident of the city, or who does not reside within 20 miles of the city, to more than one individual whether or not they are residents of the city, or to a corporation, partnership or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the city as its manager or agent.

(2) The resident manager or agent shall, by the terms of his or her written consent:

- (a) Take full responsibility for the conduct of the licensed premises; and
- (b) Serve as agent for service of notices and other process relating to the license.

(3) The manager or agent must be a person who, by reason of age, character, reputation and other attributes, could qualify individually as a licensee.

(4) If the manager or agent ceases to be a resident of the city or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to the appointment shall be subject to revocation or suspension.

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

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

(G) *Persons disqualified.*

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

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

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

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

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

(2) No person holding a license from the Commissioner as a manufacturer, brewer (except as provided by statute), wholesaler or importer, may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the city.

(Prior Code, § 5.02) (Ord. 31, passed 8-2-1996) Penalty, see § 10.99

**§ 111.03 RENEWAL LICENSE APPLICATIONS.**

Applications for renewal of all licenses under this chapter shall be made at least 60 days prior to the date of expiration of the license, and shall contain information as is required by the city. This time requirement may be waived by the Council for good and sufficient cause.

(Prior Code, § 5.03)

**§ 111.04 DELINQUENT TAXES AND CHARGES.**

No license under this chapter shall be granted for operation on any premises upon which taxes, assessments or installments thereof, or other financial claims of the city, are owed and are delinquent and unpaid.

(Prior Code, § 5.04)

**§ 111.05 CONDITIONAL LICENSES.**

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

(Prior Code, § 5.05)

**§ 111.06 PREMISES LICENSED.**

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

(Prior Code, § 5.06) (Ord. 31, passed 8-2-1996)

**§ 111.07 UNLAWFUL ACTS.**

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

(B) *Closing.* It is unlawful for any person, other than a licensee or his or her bona fide employee actually engaged in the performance of his or her duties, to be on premises licensed under this chapter more than 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

(Prior Code, § 5.07) Penalty, see § 10.99

**§ 111.08 CONDUCT ON LICENSED PREMISES.**

Except as herein provided, every licensee under this chapter shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order therein.  
(Prior Code, § 5.08)

**§ 111.09 SALE BY EMPLOYEE.**

Any sale of an alcoholic beverage in or from any premises licensed under this chapter by any employee authorized to make the sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties, except criminal penalties, provided by law for the sale, equally with the person actually making the sale.  
(Prior Code, § 5.09)

**§ 111.10 LICENSE CONDITION AND UNLAWFUL ACT.**

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

(B) It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making the inspection.  
(Prior Code, § 5.10) Penalty, see § 10.99

**§ 111.11 LICENSE FEES; FIXING AND REFUNDMENT.**

(A) *Fixing fees.* Except as otherwise specifically provided, all fees provided for in this chapter, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The fees may, from time to time, be amended by the Council by resolution; provided, however, that before any such fee shall be increased, a 30-day notice shall be mailed to all affected licensees and a hearing held thereon. A copy of the resolution shall be kept on file in the office of the City Clerk and open to inspection during regular business hours. For the purpose of fixing the fees, the Council may categorize and classify, provided, that the categorization and classification shall be included in the resolution authorized by this section.

(B) *Refundment.*

(1) A pro-rata share of an annual license fee for a license to sell liquor or beer on-sale shall be refunded to the licensee, or to his or her estate, if:

(a) The business ceases to operate because of destruction or damage;

(b) The licensee dies; or

(c) The business ceases to be lawful for a reason other than a license revocation or suspension.

(2) There shall be no refund of beer or liquor off-sale or special Sunday on-sale liquor license fees.

(Prior Code, § 5.11) (Ord. 14, passed 2-21-1992)

**§ 111.12 FINANCIAL RESPONSIBILITY OF LICENSEES.**

(A) *Proof.* No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by statute, by filing with the city a certificate that there is in effect an insurance policy or pool providing minimum coverages of: \$50,000 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$100,000 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$10,000 because of injury to or destruction of property of others in any one occurrence; and \$50,000 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000 for loss of means of support of two or more persons in any one occurrence.

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

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

(Prior Code, § 5.12) (Ord. 39, passed 11-27-1998)

**§ 111.13 INSURANCE CERTIFICATE REQUIREMENTS.**

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

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

(B) Cancellation or termination of the coverage shall be grounds for license revocation.  
(Prior Code, § 5.13)

**§ 111.14 MINORS.**

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

- (1) Licensee to permit any minor to consume alcoholic beverages on licensed premises; or
- (2) Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of the parent or guardian.

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

- (1) Person to sell, barter, furnish or give alcoholic beverages to a minor unless the person is the parent or guardian of the minor, and then only for consumption in the household of the parent or guardian;
- (2) Minor to purchase or attempt to purchase any alcoholic beverage; and
- (3) Person to induce a minor to purchase or procure any alcoholic beverage.

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

(D) *Entering licensed premises.*

- (1) It is unlawful for a minor, as defined in this chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage.

(2) It is not unlawful for any person who has attained the age of 18 years to enter licensed premises for the following purposes:

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

(b) To consume meals; and

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

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

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

(F) *Proof of age.* Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or identification card issued by the state, another state or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid military identification card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport.

(Prior Code, § 5.14) (Ord. 21, passed 11-26-1993) Penalty, see § 10.99

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

(A) It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any:

(1) City park;

(2) Street;

(3) Public property; or

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

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

(C) For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.  
(Prior Code, § 5.15) Penalty, see § 10.99

**§ 111.16 ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.**

It is unlawful for any person to introduce upon, or have in his or her possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories, and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.  
(Prior Code, § 5.16) (Ord. 14, passed 2-21-1992) Penalty, see § 10.99

**§ 111.17 WORKER'S COMPENSATION.**

No license to operate a business shall be issued by the city until the applicant presents acceptable evidence of compliance with the worker's compensation insurance coverage requirement of state statutes by providing the name of the insurance company, the policy number and dates of coverage, or the permit to self-insure.  
(Prior Code, § 5.17) (Ord. 5, passed 7-14-1989)

**§ 111.18 BREW-ON-PREMISES STORE; UNLAWFUL ACTS.**

It is unlawful:

(A) To sell or otherwise provide alcoholic beverages to customers of a brew-on-premises store unless the owner of the brew-on-premises store holds an appropriate liquor license;

(B) For a customer to re-sell malt liquor brewed in a brew-on-premises store or use it for any purpose other than personal use; and

(C) For a minor to be a customer of a brew-on-premises store.  
(Prior Code, § 5.18) (Ord. 31, passed 8-2-1996) Penalty, see § 10.99

**§ 111.19 BEER LICENSE REQUIRED.**

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale or otherwise dispose of beer, as part of a commercial transaction, without a license therefor from the city. This section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the city. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, clubs and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale beer license, and may sell beer off-sale without an additional license; provided, however, that the on-sale or off-sale of beer is made only during the hours when the licensee is permitted by law to make liquor sales of the particular type.

(Prior Code, § 5.30) Penalty, see § 10.99

**§ 111.20 TEMPORARY BEER LICENSE.**

(A) *Applicant.* A club or charitable, religious or non-profit organization shall qualify for a temporary on-sale beer license.

(B) *Conditions.*

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

(2) No applicant shall qualify for a temporary license for more than a total of seven days in any calendar year.

(3) The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000 for injury to any one person and \$100,000 for injury to more than one person, and \$5,000 for property damage, naming the city as an insured during the license period. The license shall be issued only on the condition that the applicant will not sell in excess of \$10,000 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein; provided, however, that if the coverage is a duplication, the Council may waive the requirement of this division (B)(3).

(Prior Code, § 5.31)

**§ 111.21 HOURS AND DAYS OF BEER SALES.**

No sale of beer shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Sunday through Saturday.

(Prior Code, § 5.32) Penalty, see § 10.99

**§ 111.22 BEER LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.**

It is unlawful for any:

(A) Person who has not attained the age of 18 years to be employed to sell or serve beer in any on-sale establishment;

(B) Person to knowingly induce another to make an illegal sale or purchase of beer;

(C) Licensee to sell or serve beer to any person who is obviously intoxicated;

(D) Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises;

(E) Licensee to sell beer on any day, or during any hour, when the sales are not permitted by law;

(F) Licensee to allow consumption of beer on licensed premises on any day when sales of beer are not permitted by law; and

(G) Person to purchase beer on any day, or during any hour, when sales of beer are not permitted by law.

(Prior Code, § 5.33) Penalty, see § 10.99

**§ 111.23 LIQUOR LICENSE REQUIRED.**

(A) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the city.

(B) This section shall not apply to:

(1) Potable liquors as are intended for therapeutic purposes and not as a beverage;

(2) Industrial alcohol and its compounds not prepared or used for beverage purposes;

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

(4) Sales by manufacturers to wholesalers duly licensed as such by the Commissioner; or

(5) To sales by wholesalers to persons holding liquor licenses from the city.

(C) Any person licensed to sell liquor on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license.

(D) Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale beer license, and may sell beer off-sale without an additional license; provided, however, that the on-sale or off-sale of beer is made only during the hours when the licensee is permitted by law to make liquor sales of the particular type.

(E) The city may issue annual on-sale liquor licenses only to the following:

(1) Hotels;

(2) Restaurants; and

(3) Clubs or congressionally chartered veterans' organizations, provided that liquor sales will be made only to members and bona fide guests.

(F) The city may issue annual off-sale liquor licenses to exclusive liquor stores.  
(Prior Code, § 5.40) Penalty, see § 10.99

#### **§ 111.24 SPORTS, CONVENTION OR CULTURAL FACILITIES LICENSE.**

The Council may authorize any holder of an on-sale liquor license issued by the city or by an adjacent municipality to sell liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the city, or instrumentality thereof having independent policy-making and appropriating authority and located within the city. The licensee must be engaged to sell liquor at such an event by the person or organization permitted to use the premises, and may sell liquor only to persons attending the event. The licensee shall not sell liquor to any person attending or participating in any amateur athletic event. The sales may be limited to designated areas of the facility. All the sales shall be subject to all laws relating thereto. The licensee shall provide proof of the extension of financial responsibility coverage to the premises on which the sales are to be made.

(Prior Code, § 5.41)

**§ 111.25 TEMPORARY LIQUOR LICENSE.**

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

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

(C) *Terms and conditions of license.*

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

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

(3) No temporary license shall issue until the city is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this chapter, and that the coverage is in force on the premises where liquor is to be served.

(4) All licenses and licensees are subject to all provisions of statutes and the city code relating to liquor sale and licensing. The licensee shall provide proof of financial responsibility coverage.

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

(6) No more than three temporary licenses for the sale of alcoholic beverages may be issued to any one organization, or for any one location in a 12-month period.

(D) *Insurance required.* The Council may, but at no time shall it be under any obligation whatsoever, to grant a temporary liquor license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000 for injury to any one person, \$100,000 for injury to more than one person, and \$5,000 for property damage, naming the city as an insured during the license period; provided, that if the coverage is a duplication, the Council may waive the requirement of this division (D).

(Prior Code, § 5.42) (Ord. 31, passed 8-2-1996)

**§ 111.26 HOURS AND DAYS OF LIQUOR SALES.**

(A) Pursuant to M.S. § 340A.504, Subd. 6, as it may be amended from time to time, the city has the discretion to limit the sale of alcohol to either 2:00 a.m., or 1:00 a.m., daily.

(B) The city does ordain that for public safety reasons, as well, as the potential for increased law enforcement and prosecution expense an extended closing time is not in the city's best interest.

(C) The city hereby does ordain that pursuant to M.S. § 340A.504, Subd. 6, as it may be amended from time to time, the sale of alcoholic beverages is hereby limited to 1:00 a.m. daily. No sale of alcoholic beverages may be made after that time.

(D) No sale of liquor shall be made after 1:00 a.m. on Sunday, nor until 8:00 a.m. on Monday, nor after 8:00 p.m. on December 24. No on-sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday. No off-sale shall be made before 8:00 a.m. or after 10:00 p.m. on any weekday. No off-sale shall be made on Thanksgiving Day or Christmas Day, December 25.

(E) Note: this section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the section of this chapter entitled "Sunday Sales".

(Prior Code, § 5.43) (Ord. 5, passed 7-14-1989; Ord. 07-74, passed 5-9-2007)

#### **§ 111.27 SUNDAY SALES.**

The electorate of the city having heretofore authorized the same at a general or special election, a Sunday on-sale liquor license may be issued to hotels, restaurants or clubs, as defined in this chapter, which have on-sale licenses and which also have facilities for serving not less than 30 guests at one time. The hours of the sales shall be from 12:00 noon on Sundays to 1:00 a.m. on Mondays in conjunction with the serving of food, provided that the licensed establishment is in conformance with the Minnesota Clean Indoor Air Act, being M.S. §§ 144.411 to 144.417, as it may be amended from time to time. At the time of issuance of licenses, the Council reserves the right to further restrict the hours and days of Sunday liquor sales.

(Prior Code, § 5.44) (Ord. 9, passed 8-4-1989)

#### **§ 111.28 ON-SALE WINE LICENSE REQUIRED.**

(A) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale or otherwise dispose of wine on-sale, as part of a commercial transaction, without a license therefor from the city.

(B) This section shall not apply to:

- (1) Sales by manufacturers to wholesalers duly licensed as such by the Commissioner;
- (2) Sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the city;
- (3) Sales by wholesalers to persons holding on-sale wine licenses from the city; or

(4) Sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted.

(C) Provided, however, that an on-sale wine licensee who is also licensed to sell beer on-sale, and whose gross receipts are at least 60% attributable to the sale of food, may sell intoxicating beer without an additional license.

(Prior Code, § 5.45) (Ord. 5, passed 7-14-1989) Penalty, see § 10.99

### **§ 111.29 HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.**

No on-sale of wine shall be made between the hours of 1:00 a.m. and 12:00 noon on Sunday, nor between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 8:00 p.m. on December 24 and 8:00 a.m. on December 25.

(Prior Code, § 5.46) (Ord. 21, passed 11-26-1993) Penalty, see § 10.99

### **§ 111.30 LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.**

(A) *Limitations on issuance of licenses to one person or place.* No more than one off-sale liquor license may be issued to any one person or for any one place.

(B) *Licenses in connection with premises of another.* A liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This division (B) does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien or a person who has been convicted of a crime other than a violation of this chapter.

(C) *Employment of minors.* No person under 18 years of age may sell or serve liquor or wine on licensed premises.

(D) *Premises eligible.* On-sale wine licenses shall be granted only to restaurants as defined in this chapter; provided, however, for purposes of this section, the restaurant shall have appropriate facilities for seating not less than 25 guests at one time.

(E) *Unlawful acts.* It is unlawful for any:

(1) Licensee to sell, offer for sale or keep for sale, liquor in any original package which has been refilled or partly refilled;

(2) Licensee to display liquor to the public during hours when the sale of liquor is prohibited;

(3) Person to hold more than one license. For the purpose of this division (E)(3), any person owning a beneficial interest of 5%, or more, of any licensed establishment shall be considered a licensee;

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

(5) Licensee to sell liquor or wine on any day, or during any hour, when sales of liquor or wine are not permitted by law;

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

(7) Licensee to sell or serve liquor or wine to any person who is obviously intoxicated.  
(Prior Code, § 5.47) (Ord. 5, passed 7-14-1989; Ord. 9, passed 7-26-1989; Ord. 14, passed 2-21-1992)  
Penalty, see § 10.99

### § 111.31 CLUB LICENSE RESTRICTIONS AND REGULATIONS AND UNLAWFUL ACTS.

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

**GUEST.** A person not a member of the club but present on the club licensed premises in the company of a host member.

**HOST MEMBER.** A member who is entertaining a guest who is in the member's company at all times the guest is on the licensed premises.

**MEMBER.** Any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his or her person.

(B) *Daily register.* In addition to all other general provisions, restrictions and regulations set forth in this chapter, relating to beer or liquor licensees, as the case may be, all club licensees shall keep a daily register showing the names of guests present and the name of the host member. The register shall be open to inspection by police officers at all times.

(C) *Unlawful acts.* The following are in addition to all other unlawful acts set forth in this chapter relating to sales and purchases of beer or liquor, as the case may be.

(1) It is unlawful for a club licensee to sell liquor or beer to any person not a member, or a bona fide guest of a member, of the licensed club.

(2) It is unlawful for any club licensee to serve beer or liquor to any non-member of the licensed club unless the non-member is a guest.

(3) It is unlawful for any person who is not a member, or a bona fide guest of a member, of the licensed club to purchase liquor or beer from the club.

(4) It is unlawful for any club licensee to hinder or prevent a police officer from determining compliance with this section and chapter, and all other laws.

(5) It is unlawful for any person to refuse, upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest or host member, or to give false, fraudulent or misleading information in response to the request.

(Prior Code, § 5.60) Penalty, see § 10.99

### § 111.32 CONSUMPTION AND DISPLAY.

(A) *Consumption and display license required.* It is unlawful for any business establishment or club, not holding an on-sale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to the members, without a license therefor from the city.

(B) *Consumption and display restrictions and regulations.*

(1) *Eligible licensees.* If the applicant is otherwise eligible, licenses may be issued only to:

(a) Persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this chapter or other law relating to the sale or furnishing of alcoholic beverages;

(b) A restaurant;

(c) A hotel;

(d) A beer licensee;

(e) A resort as defined by statute; or

(f) A club or an unincorporated club otherwise meeting the definition of a club, provided, that no license may be issued to a club holding an on-sale liquor license.

(2) *Unlawful act.* It is unlawful to sell liquor on licensed premises.

(3) *License expiration.* In order to coordinate the expiration of a consumption and display license with a state permit, all licenses shall expire on March 31 of each year.

(4) *State permit required.* Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.

(5) *Hours and days.* No licensee may permit a person to consume or display liquor, and no person may consume or display liquor, between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

(Prior Code, § 5.70) (Ord. 14, passed 2-21-1992) Penalty, see § 10.99

### § 111.33 NUDITY OR OBSCENITY PROHIBITED.

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

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

**OBSCENE PERFORMANCE.** A play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

**OBSCENITIES.** Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

**SADO-MASOCHISTIC ABUSE.** Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

**SEXUAL CONDUCT.** Human masturbation, sexual intercourse or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

**SEXUAL EXCITEMENT.** The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(B) *Unlawful act.* It is unlawful for any person issued a license provided for in this chapter to permit upon licensed premises any nudity, obscene performance or continued use of obscenities by any agent, employee, patron or other person.

(Prior Code, § 5.80) Penalty, see § 10.99



## CHAPTER 112: PEDDLERS AND SOLICITORS

### Section

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

### § 112.01 DEFINITIONS.

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

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

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

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

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

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

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

#### § 112.02 EXCEPTIONS TO DEFINITIONS.

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

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

(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 register as solicitors under § 112.07. The term **DOOR TO DOOR ADVOCACY** includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

#### § 112.03 LICENSING; EXEMPTIONS.

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

(B) *City license required.* Pursuant to M.S. § 437.02, as it may be amended from time to time, except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 112.07.

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

- (1) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;
- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city, with a maximum 14 consecutive days;
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;

(13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

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

(15) Proof of any required county license;

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

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

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

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

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

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

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, within two 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 under § 112.04, in which case the Clerk must deny the license application. If the City Clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request for a public hearing. The decision of the City Council following the public hearing can be appealed by petitioning the State Court of Appeals for a writ of certiorari.

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

(G) *License exemptions.*

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

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

Penalty, see § 10.99

**§ 112.04 LICENSE INELIGIBILITY.**

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

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

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

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

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

(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 Office of the State Attorney General, or other state 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.

**§ 112.05 LICENSE SUSPENSION AND REVOCATION.**

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

- (1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by the applicant on the application form;
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity;
- (3) Subsequent conviction of any offense for which granting of a license could have been denied under § 112.04;
- (4) Engaging in prohibited activity as provided under § 112.08; and
- (5) Violation of any other provision 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 license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.* Upon receiving the notice provided in division (C) above, the licensee shall have the right to request a public hearing. If no request for a 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 notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated 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) above.

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

Penalty, see § 10.99

**§ 112.06 LICENSE TRANSFERABILITY.**

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

Penalty, see § 10.99

**§ 112.07 REGISTRATION.**

All solicitors, and any person exempt from the licensing requirements of this chapter under § 112.03, shall be required to register with the city. Persons engaging in door to door advocacy shall not be required to register. The term *DOOR TO DOOR ADVOCACY* includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.

Penalty, see § 10.99

**§ 112.08 PROHIBITED ACTIVITIES.**

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

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

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

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

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

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

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the

endorsement of the city solely based on the city having issued a license or certificate of registration to that person; or

(G) Remaining on the property of another when requested to leave, or to otherwise conducting business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.  
Penalty, see § 10.99

#### **§ 112.09 EXCLUSION BY PLACARD.**

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

Penalty, see § 10.99

#### **§ 112.10 EFFECTIVENESS.**

The provisions of §§ 112.01, 112.02, 112.08 and 112.09 shall automatically apply upon adoption of this chapter. Sections 112.03, 112.04, 112.05, 112.06 and 112.07 shall not be effective until the adoption of a City Council resolution or ordinance authorizing the licensing of persons covered by those sections.

## CHAPTER 113: TOBACCO REGULATIONS

### Section

#### *General Regulations*

- 113.01 Purpose
- 113.02 Definitions
- 113.03 License
- 113.04 Fees
- 113.05 Basis for denial of license
- 113.06 Prohibited sales
- 113.07 Vending machines
- 113.08 Self-service sales
- 113.09 Responsibility
- 113.10 Compliance checks and inspections
- 113.11 Violations

#### *Minors*

- 113.25 Minor defined
- 113.26 Possession by minor
- 113.27 Use by minor
- 113.28 Procurement by or for minor
- 113.29 False identification
- 113.30 Exceptions and defenses
- 113.31 Juvenile court

### **GENERAL REGULATIONS**

#### **§ 113.01 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 the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin 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 subchapter 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.  
(Prior Code, § 6.33-1) (Ord. 37, passed 5-22-1998)

### § 113.02 DEFINITIONS.

For the purpose of this subchapter, 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 subchapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this subchapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco-related devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products and tobacco-related devices.

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

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

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

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

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

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

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

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

**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.

(Prior Code, § 6.33-2) (Ord. 37, passed 5-22-1998)

### § 113.03 LICENSE.

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

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

(B) *Action.* The 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 Council shall approve the license, the City Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

(C) *Term.* All licenses issued under this subchapter shall be valid for one calendar year from the date of issue.

(D) *Revocation or suspension.* Any license issued under this subchapter may be revoked or suspended as provided in the violations and penalties provisions herein.

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

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

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

(H) *Renewals.* The renewal of a license under this subchapter shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this subchapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Prior Code, § 6.33-3) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

#### **§ 113.04 FEES.**

No license shall be issued under this subchapter until the appropriate license fee shall be paid in full. The fee for a license under this subchapter shall be as set by Council from time to time. The license fee shall commence on January 1, 1999.

(Prior Code, § 6.33-4) (Ord. 37, passed 5-22-1998)

#### **§ 113.05 BASIS FOR DENIAL OF LICENSE.**

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

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

(B) The applicant has been convicted within the past five years of any violation of a federal, state or local law or city code provision, or other regulation relating to tobacco or tobacco products, or tobacco-related devices;

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

(D) The applicant fails to provide any information required on the application, or provides false or misleading information; and/or

(E) The applicant is prohibited by federal, state or local law, city code provision or other regulation from holding such a license.

(Prior Code, § 6.33-5) (Ord. 37, passed 5-22-1998)

**§ 113.06 PROHIBITED SALES.**

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

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

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

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

(D) By means of loosies as defined herein;

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

(F) By any other means, or to any other person, or in any other manner or form prohibited by federal, state or other local law, city code provision or other regulations.

(Prior Code, § 6.33-6) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.07 VENDING MACHINES.**

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

(Prior Code, § 6.33-7) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.08 SELF-SERVICE SALES.**

It is unlawful for a licensee under this subchapter to allow the sale of tobacco, tobacco products or tobacco-related devices by any means whereby the customer may have greater access to such items than permitted by state or federal law.

(Prior Code, § 6.33-8) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.09 RESPONSIBILITY.**

All licensees under this subchapter 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 premise, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this subchapter shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this subchapter, state or federal law, or other applicable law or regulation.

(Prior Code, § 6.33-9) (Ord. 37, passed 5-22-1998)

**§ 113.10 COMPLIANCE CHECKS AND INSPECTIONS.**

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco-related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee(s) and shall produce any identification, if any exists, for which he or she is asked. Nothing in this subchapter 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.

(Prior Code, § 6.33-10) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.11 VIOLATIONS.**

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

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

(C) *Hearing Officer*. The Police Commission shall serve as the hearing officer.

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

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

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

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

(Prior Code, § 6.33-11) (Ord. 37, passed 5-22-1998)

## ***MINORS***

### **§ 113.25 MINOR DEFINED.**

***MINOR*** means any natural person who has not yet reached the age of 18 years.  
(Prior Code, § 8.24-1) (Ord. 37, passed 5-22-1998)

### **§ 113.26 POSSESSION BY MINOR.**

(A) It is unlawful for any minor to have in his or her possession any tobacco, tobacco product or tobacco-related device.

(B) This subchapter shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(Prior Code, § 8.24-2) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.27 USE BY MINOR.**

It is unlawful for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco-related device.

(Prior Code, § 8.24-3) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.28 PROCUREMENT BY OR FOR MINOR.**

(A) It is unlawful:

(1) For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products or tobacco-related device;

(2) For any person to purchase or otherwise obtain the items on behalf of a minor;

(3) For any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device to any minor; and

(4) 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.

(B) This section shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(Prior Code, § 8.24-4) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.29 FALSE IDENTIFICATION.**

It is unlawful 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 in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Prior Code, § 8.24-5) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

**§ 113.30 EXCEPTIONS AND DEFENSES.**

Nothing in this subchapter shall prevent the providing of tobacco, tobacco products or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It is an affirmative defense to the violation of this subchapter for a person to have reasonably relied on proof of age as described by state law.

(Prior Code, § 8.24-6) (Ord. 37, passed 5-22-1998)

**§ 113.31 JUVENILE COURT.**

Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products or tobacco-related devices shall be referred to juvenile court.  
(Prior Code, § 8.24-7) (Ord. 37, passed 5-22-1998) Penalty, see § 10.99

