

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ALCOHOLIC BEVERAGES

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CHAPTER 110: ALCOHOLIC BEVERAGES

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GENERAL PROVISIONS**§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.**

(A) The provisions of M.S. Ch. 340A, as it may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of alcoholic beverages, including intoxicating liquor, 3.2% malt liquor and wine, are hereby adopted by reference and are made apart of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(B) The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

(Ord. 83, passed 12-17-2003)

§ 110.02 DEFINITIONS.

In addition to or as a supplement to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, for the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

3.2 PERCENT MALT LIQUOR. Malt liquor containing not less than 0.5% alcohol by volume, nor more than 3.2% alcohol by weight.

ALCOHOLIC BEVERAGE. Any beverage containing more than 0.5% alcohol by volume and includes the term **LIQUOR**, as used in this chapter.

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

- (1) Has more than 30 members;
- (2) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and
- (3) Is directed by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive

any profit from the distribution or sale of beverages to the members of the club, or then-guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of those items authorized by M.S. § 340A.412, subd. 14, as it may be amended from time to time.

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 a minimum of ten guest rooms.

INTOXICATING LIQUOR. Ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2% of alcohol by weight.

LIQUOR. Except as the context may otherwise require, without modification by the words “intoxicating” or “3.2 percent malt”, includes intoxicating liquor, 3.2% malt liquor, malt liquor and wine.

MALT LIQUOR. Any beer, ale or other beverage made from malt by fermentation and containing not less than 0.05% alcohol by volume.

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.

OUTDOOR AREA. Any area that is not bounded by the walls, doorways and closeable windows covering 100% of the combined surface area of the vertical planes constituting the perimeter of the area. A wall does not include any retractable divider, garage door or other physical barrier, whether temporary or permanent.

PREMISES or LICENSED PREMISES. The compact and contiguous space specified in the license granted.

RESTAURANT. A catering facility, other than a hotel, under the control of a single proprietorship or manager, having facilities for seating at least 30 guests at one time, where meals are regularly prepared on the premises, where waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location and which has a license from the state to serve food. An establishment which serves only prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served shall not be considered to be a **RESTAURANT** for purposes of this chapter.

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, in each instance containing not less than 0.5%, nor more than 24% alcohol by volume for non-industrial use. *WINE* does not include distilled spirits.
(Ord. 83, passed 12-17-2003; Ord. 96, passed 11-18-2008)

§ 110.03 NUDITY ON PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety and general welfare of the people of the city that nudity is prohibited, as provided in this section, on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material.
(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.04 PYROTECHNICS PROHIBITED.

It is unlawful for any licensee or any other person to permit, allow or use pyrotechnics, fireworks, flares or signals of any kind in or on the licensed premises.
(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.05 PURCHASE AND CONSUMPTION RESTRICTIONS; EXCEPTIONS.

(A) *Liquor in unlicensed places.*

(1) Except as provided in division (C) below, no person, business establishment or club shall display, mix, sell, serve or prepare liquor, directly or indirectly, for consumption in any public place or place of business unless the person, business establishment or club, has a license to sell liquor on-sale from the city or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, has been approved by the Council. No person shall consume liquor in any unlicensed place.

(2) Subject to the approval of the state's Commissioner of Public Safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by state law.

(3) No on-sale or off-sale license shall be effective or valid beyond the licensed premises. No alcoholic beverages shall be sold, served or consumed outside of the licensed premises as described in the application for a license and as approved by the city.

(B) Consumption in public places; possession of opened containers in certain areas prohibited.

(1) Except where and when the consumption and display of liquor is lawfully permitted, no person shall consume liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter or any municipal liquor dispensary, if one exists in the city.

(2) Except where the consumption and display of liquor is lawfully permitted, no person shall have in his or her possession while within a motor vehicle or while upon any public highway, street, alley, sidewalk, parking lot or in any park within the city any bottle, can or other receptacle containing liquor which has been opened, or the seal of which has been broken, or the contents of which has been partially removed.

(C) Exception to public consumption prohibition of beer, wine and liquor.

(1) It shall not be illegal for a person of legal age to have in his or her possession or to consume liquor within a public park or in a public building in the city if the item was purchased from a bona fide club or organization which has received a temporary on-sale license from the city and the possession or consumption is at the location and on the date and during the hours provided for the sale of the item as required by the license.

(2) It shall not be illegal for a person of legal age to have in his or her possession or to consume liquor in a public park or building when the item is offered free of charge to the consumer as part of an organized social event and under the following conditions.

(a) The liquor offered or provided cannot be sold at any cost; all items must be offered or provided free of charge (tip jars or passing of the hat for items is strictly prohibited).

(b) The person or party offering or providing the liquor agrees to defend and indemnify the city for any claims that arise as a result of the event.

(c) The person or party offering or providing the liquor agrees to hold the city harmless.

(d) The person or party offering or providing the liquor has obtained a permit for the event from the city.

(Ord. 83, passed 12-17-2003; Ord. 96, passed 11-18-2008) Penalty, see § 110.99

§ 110.06 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale; except that, persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment, except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.07 ENFORCEMENT.

It shall be the duty of all law enforcement officers of the city to enforce the provisions of this chapter, to search premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this chapter and to prepare the necessary processes and papers therefor.

(Ord. 83, passed 12-17-2003)

LICENSE REQUIREMENTS AND CONDITIONS

§ 110.20 TERM AND EXPIRATION OF LICENSE.

(A) Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31, of each year unless another date is provided by ordinance.

(B) All licenses shall expire on the same date. Temporary licenses expire according to their terms.

(C) Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

(Ord. 83, passed 12-17-2003)

§ 110.21 ON-SALE LICENSES.

(A) The City Council is authorized to issue the following “on-sale” licenses and permits:

(1) 3.2 percent malt liquor license, pursuant to M.S. § 340A.403, subd. 1, and M.S. § 340A.411, as they may be amended from time to time, which may be issued only to restaurants, hotels and clubs, as defined in this chapter;

(2) Temporary 3.2% malt liquor license, pursuant to M.S. § 340A.403, subd. 2, as it may be amended from time to time, which may be issued only to clubs, charitable, religious or non-profit organizations;

(3) Intoxicating liquor license, pursuant to M.S. § 340A.404, subd. 1, as it may be amended from time to time, which may be issued only to hotels and restaurants as defined in this chapter;

(4) Exclusive liquor store intoxicating liquor license pursuant to M.S. § 340A.412, subd. 14, as it may be amended from time to time;

(5) Temporary intoxicating liquor license, pursuant to M.S. § 340A.404, subd. 10, as it may be amended from time to time, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious or other non-profit corporation which has existed for at least three years. No license shall be for longer than four consecutive days and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year. The license may authorize on-sales on premises other than the premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the city;

(6) Wine license, pursuant to M.S. § 340A.404, subd. 5, as it may be amended from time to time, which may be issued only to restaurants having facilities for seating at least 30 guests at one time, and shall permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food;

(7) Sunday intoxicating liquor license, pursuant to M.S. § 340A.504, subd. 3, as it may be amended from time to time, which may be issued only to a licensee which has been issued an intoxicating liquor license;

(8) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety pursuant to the requirements and provisions of M.S. § 340A.414, as it may be amended from time to time. A one-day permit may be issued pursuant to M.S. § 340A.414, subd. 9, as it may be amended from time to time, not to exceed ten permits in any one year;

(9) Bed and breakfast wine license, pursuant to M.S. § 340A.404, subd. 5(c), as it may be amended from time to time; and

(10) Combination on-sale/off-sale license pursuant to M.S. § 340A.406, as it may be amended from time to time.

(B) The City Council may issue a maximum of three on-sale intoxicating liquor licenses under this chapter. The availability of these licenses for issuance in no way shall be deemed to require or commit the City Council to issue any or all of the licenses. The City Council may from time to time by ordinance or resolution establish the maximum number of other on-sale licenses authorized by this chapter and as may be limited by M.S. Ch. 340A, as it may be amended from time to time.

(Ord. 83, passed 12-17-2003)

§ 110.22 OFF-SALE LICENSES.

The City Council is authorized to issue the following off-sale licenses:

(A) 3.2% malt liquor license pursuant to M.S. § 340A.403, subd. 1, as it may be amended from time to time; and

(B) Intoxicating liquor license pursuant to M.S. § 340A.405, subd. 1, or M.S. § 340A.412, subd. 6, as they may be amended from time to time.

(Ord. 83, passed 12-17-2003)

§ 110.23 CLUBS.

Clubs shall not sell 3.2% malt liquor, except to members and to bona fide guests in the company of members.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.24 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city for a liquor license shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time.

(B) The Council may establish from time to time by ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. No liquor license fee shall be increased without providing mailed notice of the hearing on the proposed increase to all affected licenses at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. The license fee is non-refundable even if the application is denied. A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, subd. 5, as it may be amended from time to time. (Ord. 83, passed 12-17-2003)

§ 110.25 LICENSE APPLICATIONS, INVESTIGATIONS, HEARINGS AND PREMISES.

(A) (1) At the time of an original application for a liquor license, the applicant shall pay a minimum investigation fee in an amount to be determined from time to time by resolution of the City Council for each person listed on the application form, which shall include all natural persons, partners, managers, corporate officers and corporate shareowners. This fee shall be paid when an application is filed with the city, and it shall not be subject to refund. If the expenses of any investigation are extraordinary and exceed the minimum investigation fee, the applicant shall pay all reasonable additional expenses incurred by the city for the investigation. Failure to pay the additional expenses within a five-day period shall be cause for the city to discontinue processing of the application. At any time, an additional investigation is required due to a change in ownership or control of a partnership, corporation or other organization a licensee shall pay a minimum investigation fee in an amount to be determined from time to time by resolution of the City Council.

(2) All applications shall be processed by the City Administrator or City Clerk-Treasurer for verification and investigation of the facts set forth therein. The Chief of Police or Sheriff shall investigate the background of all persons listed in the application form or the city may hire other parties to make the investigations as it may deem appropriate. Jointly or separately, they shall submit a written report to the City Council on the results of their investigation. The city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state and with such additional information as the City Council may require. If the City Council deems it in the public interest to have an investigation made on a particular application for renewal of a license, it shall so determine. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the state or others for the investigation. No license shall be issued, transferred or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed actual costs incurred, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

(3) The City Council shall investigate all facts set out in the application for any alcoholic beverage license and not investigated in the preliminary background and financial investigation conducted pursuant to divisions (A)(1) and (A)(2) above. Upon receipt of the report of the preliminary background and financial investigation in regard to an initial application, the City Council shall instruct the Clerk-Treasurer to cause to be published in the official newspaper of the city, at least ten days in advance, a notice of hearing to be held by the City Council on the application for the intoxicating liquor, 3.2% malt liquor or wine license, setting forth the date, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business and such

other information as the Council may direct. At the hearing, an opportunity shall be given to any person to be heard for or against the granting of a license. A license shall not be approved before the next regular meeting of the City Council. After the hearing under this section, the City Council may, in its discretion, require further investigation and/or hearing before issuance or denial of a license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No on-sale wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the state's Commissioner of Public Safety.

(4) If a license is approved, the City Council may withhold its issuance until the applicant has qualified in all respects for the license. If the premises to be licensed is not complete at the time of approval, the Council may approve the license, but withhold its issuance until the premises have been completed in accordance with all representations made by the applicant. In such a case, the Council may rescind its action approving the license if the applicant has not proceeded with reasonable dispatch to complete the subject premises, but the action may only be taken following ten days' notice to the applicant.

(5) The issuance of any license hereunder is and shall remain at the sole and absolute discretion of the City Council. No applicant has a right to a license under this chapter.

(6) All licenses shall be and are issued subject to conformance with all provisions of this chapter and all other applicable regulations, ordinances, laws and statutes.

(7) Each license issued hereunder shall be issued to the applicant only. Each such license shall be issued only for the premises described in the application and shall not be effective beyond the compact and contiguous space described therein.

(8) No transfer of a license shall be permitted from place to place or from person to person without complying with all requirements of an original application, including the payment of all fees therefor.

(B) (1) An application form for licenses required by this chapter shall be prepared by the city's Clerk-Treasurer. In addition to any information which may be required by the state's Liquor Control Commissioner, the form shall include, but not be limited to, the following information:

- (a) Name of the applicant;
- (b) Applicant's age;
- (c) Representations as to applicant's character (with such references as the Council may require);
- (d) Applicant's citizenship;

- (e) The type of license the applicant is seeking;
- (f) The business in connection with which the proposed license will operate and its location;
- (g) Whether the applicant is a natural person, partnership, corporation or other form of organization;
- (h) If the applicant is a natural person the requested personal information about the applicant and his or her background;
- (i) If the applicant is a partnership the names and addresses of all partners and the requested personal information about each partner and his or her background. The financial interest of each partner shall be disclosed, and a managing partner shall be designated. A true copy of the partnership agreement shall be submitted with the original application form;
- (j) If the applicant is a corporation or other organization the names and addresses of all officers and the proposed manager, and the requested personal information about each and his or her background. The names, addresses and financial interest shall be disclosed for all corporate shareowners who, together with direct relatives, have a controlling interest of the assets of the corporation, and the requested personal information shall be furnished about each person and his or her background. True copies of the articles of incorporation and corporate bylaws shall be submitted with the original application form;
- (k) The amount of assets which the applicant has in the business premises, fixtures, stock and operating capital shall be disclosed, together with proof of the source of the assets;
- (l) The names and addresses of all persons, other than those listed above, who have any financial interest in the business, premises, fixtures, stock or operating capital, together with the amount and nature of the interest and the terms for payment or other reimbursement thereof. This shall include, but not be limited to, all lessors, mortgagors, lenders, lien holders, trustors and persons who have co-signed notes or otherwise loaned, pledged or extended security to the applicant for any indebtedness;
- (m) The address and legal description of the premise to be licensed and plans of the site and all buildings thereon, showing all appropriate dimensions;
- (n) If the applicant is a natural person the application form shall be executed by that person. If the applicant is a partnership the application form shall be executed by the managing partner and, if the applicant is a corporation or other organization, the application form shall be executed by a corporate or organization officer;
- (o) How long applicant has been in that business;
- (p) How long applicant has been in that business at that place; and

(q) Such other information as the Council may require from time to time.

(2) Every application for any license to sell alcoholic beverages shall also include a copy of each summons received by the applicant under M.S. § 340A.802, as it may be amended from time to time, during the preceding year.

(3) In addition to containing the information prescribed in this section, the application for any license to sell alcoholic beverages shall be in the form prescribed by the state's Bureau of Criminal Apprehension and shall be verified and filed with the Clerk-Treasurer. No person shall make a false statement in an application.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.26 RENEWAL APPLICATIONS.

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

(B) At the earliest practical time after application is made for renewal of an on-sale license by a restaurant or hotel, and in any event prior to the time that the application is approved by the City Council, the applicant shall file with the Clerk-Treasurer a statement made by a certified public accountant that shows the total gross sales and the total food sales of the restaurant or hotel for the year immediately preceding the date of filing of the renewal application. The requirement in this division (B) shall not apply to renewal applications for wine licenses or 3.2% malt liquor licenses.

(C) The Council shall make an investigation of the facts set out in the application and a review of the past operation of the licensee as it may determine appropriate and may call a public hearing and take such other steps as allowed by law before the issuance of a renewal license.

(Ord. 83, passed 12-17-2003)

§ 110.27 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the City Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license and all of the provisions of this chapter applying to applications for a license shall apply.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.28 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.29 OUTDOOR AREAS, PATIOS AND DECKS.

Consumption of alcohol in outdoor areas, patios or decks (hereinafter sometimes referred to as the “outdoor area”) is allowed under this section, but subject to the following conditions.

(A) (1) The applicant for a liquor license or for renewal of a license shall include in the application a request that the license allow the consumption of alcohol in an outdoor area or on a patio or deck in compliance with this section.

(2) Alcohol shall not be sold or served in the outdoor area unless a special event permit has been obtained as provided in division (O) below.

(B) The outdoor area shall be immediately adjacent to the rear of the building or structure comprising the remainder of the licensed premises and shall be no closer than ten feet from any adjacent residential property.

(C) The application shall contain the street address and a scaled drawing or diagram of the location of the premises to be licensed including the outdoor area, patio or deck and describing the proposed fencing and lighting as required herein.

(D) The outdoor area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material.

(E) (1) Any portion of an outdoor area at grade or less than six feet above grade shall be enclosed by an opaque fence at least six feet high (with an emergency exit) so as to require all persons using the outdoor area to enter and exit the area through the building or structure comprising the remainder of the licensed premises. A fence permit as provided by § 154.084 of this code of ordinances.

(2) The fence shall be a non-permanent barrier or temporary in nature to demarcate the limits of the outside area. The fencing shall be of a material that can be readily removed and shall not require permanent attachment to the ground such as concrete footings or similar type of structural attachment. No permanent fencing shall be allowed. The exact type and kind of fencing proposed shall be subject to Council approval prior to issuance of the license.

(F) (1) Any exterior stairway or ramp access to an outdoor area must be gated so as to require all persons using the outdoor area to enter and exit the area through the building or structure comprising the remainder of the licensed premises.

(2) However, if the configuration of the licensed premises is such that the fenced outdoor area constitutes the main entrance used by customers for access to the building or structure, the Council, upon written request by the licensee, may allow access to the main building through the outdoor area under such conditions as the Council may determine appropriate.

(G) If any portion of the outdoor area lies within 200 feet of a residential district, the outdoor area shall be screened in a manner approved by the City Council so as to prevent viewing of the outdoor area from the residential district and to dampen noise and/or deflect noise away from the residential district.

(H) Exterior lighting for the outdoor area shall promote public safety and be designed and installed so that the globe is recessed and enclosed on all sides, except the bottom and no light is cast directly at any other property.

(I) The outdoor area and surrounding landscaping shall be designed to compliment the building or structure comprising the remainder of the licensed premises structure.

(J) The outdoor area shall comply with all applicable laws, zoning district regulations and building codes, including, but not limited to, those relating to handicap accessibility.

(K) The licensee's dram shop liability carrier shall have acknowledged, in writing, that the outdoor area is covered by dram shop insurance.

(L) The outdoor area shall meet all such other requirements as the City Council finds necessary or desirable to protect nearby properties and the public.

(M) Additional requirements applicable to licensed outdoor areas:

(1) An employee must be assigned to supervise the outdoor area at all times if alcohol is allowed to be sold or served in the outdoor area pursuant to a special events permit as provided by division (O) below;

(2) Any activity that would disturb the peace of the surrounding area is prohibited in or on the outdoor area, patio or deck. This includes the prohibition against the use of any device designed to produce, reproduce or amplify sound, including, but not limited to, loud speakers, amplifiers, microphones, radios, televisions or musical instruments; and

(3) The licensee or his or her employees shall:

(a) Remove any person from the outdoor premises that becomes unruly or noisy;

(b) Maintain at least one waste receptacle in the outdoor area;

(c) Maintain at least one fire safe cigarette disposal receptacle in the outdoor area;

(d) Pick up trash and litter generated by the operation of the outdoor area within a reasonable distance from the outdoor area; and

(e) Provide and maintain a fire extinguisher in the outdoor area.

(N) The licensee may allow smoking on or in the outdoor area, patio or deck; provided that, such smoking is in full compliance with the state's Freedom to Breathe Act of 2007, being M.S. §§ 144.411 et seq., as they may be amended from time to time.

(O) The City Council may waive any of the conditions imposed under this section for special events upon written request submitted by the licensee at least 14 days prior to the special event as may be deemed appropriate and reasonable by the City Council. A special events permit shall be obtained from and provided by the city for the event.

(Ord. 96, passed 11-18-2008) Penalty, see § 110.99

§ 110.30 CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) (1) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers.

(2) The training shall be provided by an organization approved by the Council.

(3) Proof of training shall be provided by the licensee.

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

(C) Every licensee shall allow any peace officer, health officer, city employee or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.31 LICENSE SUSPENSION OR REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.69, as they may be amended from time to time. The Council may act as the hearing body under that act or it may contract with the office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time.

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of § 110.03 of this chapter, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (B)(1) above that the licensee has failed to comply with any applicable statute, rule or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one-day suspension in addition to any criminal or civil penalties which may be imposed;

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed;

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed; and

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk-Treasurer, a hearing before the Council shall be granted within ten days. Any suspension under this division (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 110.99(B) of this chapter pertaining to administrative penalty may be imposed in addition to or in lieu of suspension or revocation under this chapter.
(Ord. 83, passed 12-17-2003; Ord. 99, passed 8-2-2011)

§ 110.32 PERSONS INELIGIBLE FOR LICENSE.

The provisions of this section shall govern an applicant's initial and continued eligibility for a license pursuant to this chapter, and no license shall be issued to:

(A) A natural person:

(1) Who is not a citizen of the United States or a resident alien and not a resident of the state. If the applicant is a corporation, all shareholders shall be residents of the state;

(2) Who is under 21 years of age;

(3) Who has had an intoxicating liquor or malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns a controlling interest of the capital stock of a corporation 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;

(4) Who is not of good moral character and repute;

(5) Who has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, or who is employed by a manufacturer or wholesaler of intoxicating liquor;

(6) Who has a direct or indirect financial interest in any other establishment within the city that has a license issued under this chapter. The word *INTEREST*, as used in this provision, shall mean a controlling interest of any such establishment;

(7) Who has been convicted of a felony in the past ten years; and

(8) Who within the past five years has been convicted of a violation of any law, statute or ordinance regarding the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor.

(B) A partnership, which has a partner ineligible for a license under above natural person section;

(C) A corporation or other organization, which has an officer, shareowner or manager ineligible for a license under the above natural person section. The term *SHAREOWNER*, as used in this provision, shall mean any person who, together with direct relatives, who has a controlling interest of the assets of the corporation;

(D) A restaurant located on property owned by a person ineligible for a license under the above natural person section;

(E) A restaurant located on property upon which taxes, special assessments or other financial claims of the city are delinquent and unpaid;

(F) A restaurant, as defined herein, which does not have a minimum market valuation totaling an amount set from time to time by the City Council on the city fee schedule. The calculation shall be estimated on a per seat basis, as computed by the City Assessor; and

(G) A foreign corporation.

(Ord. 83, passed 12-17-2003; Ord. 86, passed 2-15-2005)

§ 110.33 LICENSE RESTRICTIONS.

The following provisions shall govern the initial issuance of a license and the continued validity of a license issued pursuant to this chapter.

(A) Each license shall be issued only to the applicant and for the premises described in the application.

(B) The licensee shall at all times comply with all provisions of this chapter and with all other applicable laws, statutes and ordinances regarding the manufacture, sale, distribution or possession for sale or distribution of alcoholic beverages, as the same shall be in effect at the time the license is issued and as the same shall exist from time to time thereafter.

(C) All business, liability insurance and financial records of the licensee, including all financial reports and tax returns, shall be available for inspection by the city at all reasonable times.

(D) The business of a licensee who has been issued an intoxicating liquor license, except for which an exclusive liquor store license has been issued shall be conducted in a manner that at least 25% of the gross sales of the business for any license year shall be for the serving of food. The business of a restaurant which is part of a greater operation, such as a hotel or motel, shall be conducted in such a manner that at least 25% of the gross sales of the total operation attributable to the serving of food and intoxicating liquor for any license year shall be for the serving of food. The licensee shall be required to make annual reports showing the percentage of gross sales attributable to food service.

(E) All sales of intoxicating liquor shall be made in areas designed primarily for the service of food, and no such sale shall be made in any area where the purchase of food is not available, except for those premises for which an exclusive liquor store license has been issued.

(F) No alcoholic beverage license shall be issued or renewed for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

(G) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

(H) No license shall be issued to any person or for any place or any business ineligible under state law.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.34 DRAM SHOP LIABILITY FINANCIAL RESPONSIBILITY.

No alcoholic beverage license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as required in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. The proof shall be filed with the city and Commissioner of Public Safety. Applicants for licenses to whom the requirement for proof of financial responsibility applies include applicants as required in M.S. § 340A.409, as it may be amended from time to time. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time.

(Ord. 83, passed 12-17-2003)

§ 110.35 APPROVAL OF SECURITY.

The security offered under this chapter shall be approved by the City Council and, when applicable, by the state's Commissioner of Public Safety. Liability insurance policies required by this chapter, but not by state law shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in this chapter is a cause for suspension or revocation of the license.

(Ord. 83, passed 12-17-2003)

§ 110.36 CONSUMPTION AND DISPLAY PERMITS.

(A) No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner of Public Safety.

(B) The presence of intoxicating liquor on the premises of the business establishment or club shall be prima facie evidence of possession of intoxicating liquor for the purpose of sale. The serving any liquid knowing that it is for the purpose of mixing with intoxicating liquor shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this chapter.

(C) A permit for the consumption and display of intoxicating liquor to be issued by the state's Commissioner of Public Safety, pursuant to M.S. § 340A.414, as it may be amended from time to time, shall be subject to prior approval by the City Council. Application to the city for approval of the permit shall be on the form prescribed by the state. The Council may call a public hearing on the application and grant or refuse approval of the permit.

(Ord. 83, passed 12-17-2003) Penalty, see § 110.99

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be punished as provided in § 10.99 of this code of ordinances.

(B) (1) Any person violating the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, as they may be amended from time to time, is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.

(2) The Council shall imposed a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the

Administrative Procedures Act, M.S. §§ 14.57 to 14.69, as they may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (a) For the first violation within any three-year period: \$500;
- (b) For the second violation within any three-year period: \$750; and
- (c) For the third and subsequent violations within any three-year period: \$1,000.

(3) The term **VIOLATION**, as used in this division (B), includes any and all violations of the provisions of this section, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

(4) The purpose of this division (B) is to establish a standard by which the Council determines penalties for violations of this division (B), and shall apply to all premises licensed under this chapter. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exist substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent the sale of alcohol to minors. When deviating from these standards, the Council will provide written findings that support the penalties selected.

(C) A violation of § 110.03 of this chapter is a misdemeanor punishable as provided by law and is justification for revocation or suspension of any alcoholic beverages license issued under this chapter or the imposition of a civil penalty under the provisions of this chapter.
(Ord. 83, passed 12-17-2003; Ord. 99, passed 8-2-2011)

CHAPTER 111: AMUSEMENTS AND RECREATION

Section

- 111.01 Amusement machines
- 111.02 Games of skill

§ 111.01 AMUSEMENT MACHINES.

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

AMUSEMENT MACHINE. Any machine or device intended for use by the public as a source of amusement, recreation or musical selection, and which requires for its operation the payment of a fee by the user which is inserted directly into the device or machine. However, cigarette, candy, gum, soft drink and similar vending machines are not to be considered as **AMUSEMENT MACHINES** within the meaning of this section.

OPERATOR. The person or persons who keeps or allows the amusement machines to be kept on premises owned by him or her or under his or her control.

OWNER. Any person or persons who owns and places amusement machines by whatever arrangement on the operator's premises.

(B) It shall be unlawful for the owner or operator of any amusement machine, as herein defined, to allow any amusement machine to be maintained or operated within the corporate limits of the city, unless the owner or operator has first obtained a license thereof as hereinafter provided.

(C) Any person or person desiring to maintain or operate an amusement machine within the corporate limits of the city shall make application for a license therefor as herein provided to the city's Clerk-Treasurer and shall pay therefor the sum of \$15 per year for each amusement machine. After referring the license application to the City Council for approval, the city's Clerk-Treasurer shall issue the license, which license shall run for one year at a time with the first year to commence on 7-1-1979. The sum of \$40 per amusement machine shall be paid to the city's Clerk-Treasurer at the time of the

application. In the event that the application shall be refused by the City Council, the fee or fees paid by the applicant shall be refunded to him or her.

(D) Each amusement machine licensed in accordance with this section shall have affixed thereto a license tag furnished by the city evidencing compliance with the terms and conditions of this section. (Ord. 52, passed 6-5-1979) Penalty, see § 10.99

§ 111.02 GAMES OF SKILL.

(A) The term *A GAME OF SKILL*, as used herein, shall include any device played by manipulating special equipment and propelling a ball or balls across a board or field into respective positions whereby a score is established, or the use of a rifle, revolver or any gun, the object of which is to secure a special number or numbers or high total score in any manner whatsoever which may be played by the public generally at a price paid either directly or indirectly for the privilege, whether a present is offered for the game or not. Nothing in this section shall be interpreted as permitting the operation of any game, device constituting a lottery or gambling device and prohibited under the state law.

(B) (1) No person, firm or corporation shall operate or keep for operation any game of skill without having applied for and received a license therefor from the City Council, signed by the Clerk-Treasurer thereof, as herein provided.

(2) Application for the license shall be made to the city's Clerk-Treasurer upon a form to be supplied by the city and shall describe the games of skill and the premises upon which the same are to be kept and give the name of the applicant. The license fee for each game of skill shall be \$5 per month, or any part of a month and a fee for one month shall accompany the application for a license.

(3) Upon the license being granted, the fee therefor shall be payable thereafter in advance on the first day of each month subsequent to the issuance of a license, and the license, when issued, shall remain in force so long as the license fee is paid as required on the first of each month, the license is void without further proceedings. A license is required for each game of skill.

(C) The City Council hereby reserves the right to cancel forthwith any license granted hereunder for any cause.

(D) Every license granted hereunder shall be kept posted in a conspicuous place on or near the game so licensed and shall identify the same by number or description.

(E) (1) No person shall use any device licensed under this section as a gambling device.

(2) No minors under the age of 18 years shall be permitted to play any such devices. (Ord. 29, passed 2-4-1947) Penalty, see § 10.99

CHAPTER 112: ALARM SYSTEMS

Section

- 112.01 Title
- 112.02 Purpose and scope
- 112.03 Definitions
- 112.04 Compliance required
- 112.05 User fees
- 112.06 Enforcement

§ 112.01 TITLE.

This chapter shall be known, cited and referred to as the “Alarm Users Ordinance”, except as herein referred to as “this chapter”.
(Ord. 54, passed 8-31-1982)

§ 112.02 PURPOSE AND SCOPE.

The purpose of this chapter is to protect the public safety services which serve the city from misuse and to provide for the maximum possible service to alarm users. This chapter provides regulation for the use of burglary, robbery, fire and medical alarms and establishes a system of administration and an alarms user’s fee.
(Ord. 54, passed 8-31-1982)

§ 112.03 DEFINITIONS.

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

ALARM SYSTEM. Any equipment or device which emits an audible, visual or electronic signal, upon the detection of a potential burglary, robbery, fire, medical emergency, trespass or property

intrusion. The term **ALARM SYSTEM** does not include anti-theft or tampering alarms installed in any motor vehicle.

ALARM USER. Any person in control of any building, structure, facility or tract of land wherein or whereon an alarm system is used or maintained within the city.

FALSE ALARMS. An alarm signal eliciting a response by public safety personnel when a situation requiring a response does not exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of the alarm system or of his or her employees or agents. **FALSE ALARMS** do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or alarm user.

PERSON. Any human being, any corporation, partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing, or any other legal entity.

PUBLIC SAFETY COMMUNICATIONS CENTER. The central facility used to receive emergency requests for public safety services and general information from the public to be dispatched to public safety personnel.

PUBLIC SAFETY PERSONNEL. All personnel employed by any law enforcement agency, and any firefighting personnel and any ambulance personnel.

SHERIFF. The Carver County Sheriff or his or her designee.
(Ord. 54, passed 8-31-1982)

§ 112.04 COMPLIANCE REQUIRED.

(A) *Compliance.* No person shall locate, install, construct, alter, repair, use or maintain any alarm system within the city, except in full compliance with this chapter and the standards adopted herein.

(B) *Audible alarms.* All audible alarms shall meet the following requirements.

(1) Every person maintaining an alarm system with an audible alarm signal shall post a notice containing the name and telephone number of a person to be notified to render repairs or service to the alarm system during any hour of the day or night upon activation of the alarm system. The notice shall be posted at the main entrance to the premises or near the alarm in a position as to be legible from the ground level adjacent to the building.

(2) Alarm systems with audible alarm signals that sound like police or fire sirens are prohibited.

(3) All alarm systems with audible alarm signals, except for fire alarms, shall have an automatic shut-off, which will silence the audible alarm signal within a period not to exceed 15 minutes.

(C) *Registration.*

(1) All persons using or maintaining any alarm system within the city shall register the alarm system with the Sheriff, utilizing registration forms to be furnished by the Sheriff, no later than the later of the following dates:

(a) The sixtieth day after the effective date of this chapter; or

(b) The thirtieth day after the installation of the alarm system.

(2) Any alteration or modification of any previously registered alarm system shall be registered with the Sheriff, utilizing registration forms to be furnished by the Sheriff, within 30 days of the commencement of the alteration or modification.

(D) *In-house annunciation panel.* Financial institutions having an alarm system with a robbery signal feature shall have an on-premises annunciator panel providing specific annunciation of the sensors at a private monitoring location on the premises. When, in the judgment of the Sheriff, no on-premises monitoring location is feasible, the requirements of this section may be waived by the Sheriff. All alarm systems installed in financial institutions after the effective date of this chapter shall have annunciator panels when installed. All alarm systems currently used by financial institutions shall have the annunciator panels install within one year from the effective date of this chapter.

(E) *Multiple function alarm systems.* Alarm systems that have more than one alarm signal function (burglary, fire and the like) must report specifically which of the functions has been violated, when reporting to the Public Safety Communication Center for the purpose of dispatching public safety personnel to the site of the alarm system.

(F) *Communication center.* No alarm system shall connect directly to the Public Safety Communications Center, except financial institutions and/or public buildings. All other alarms must report to the Public Safety Communications Center in some other manner. No automatic telephone dialing device shall be allowed to dial direct or be programed so that it dials directly into the Public Safety Communications Center.

(Ord. 54, passed 8-31-1982) Penalty, see § 10.99

§ 112.05 USER FEES.

(A) *User fee imposed.*

(1) An alarm user fee is hereby imposed upon any alarm user from whose alarm system emanates more than three false alarms within any 12 consecutive month period.

(2) The fees payable under this section are as follows:

<i>Number of False Alarms Per 12 Consecutive Month Period</i>	<i>Alarm User Fee</i>
1st, 2nd or 3rd	No charge
4th	\$50
5th	\$100
6th	\$150
7th	\$200
8th	\$250
Each additional false alarm in excess of 8	\$300

(B) *Exemptions.*

(1) *Public buildings.* All federal, state, county and/or municipal buildings and all public schools shall be exempt from the alarm user's fee.

(2) *New alarm systems.* All newly installed alarm systems are hereby granted a 30-day probationary period, commencing on the date of first operational use thereof, during which period false alarms will not be counted for the purpose of computing the amount of any alarm user fee imposed by this chapter.

(3) *Alterations to existing alarm systems.* All alarm systems which are altered by the addition to any new alarm feature are hereby granted a 15-day probationary period, commencing on the date of first operational use of the new feature, during which period false alarms will not be counted for the purpose of computing the amount of any alarm user fee imposed by this chapter.

(C) *Payment of alarm user fees.* Subsequent to any false alarm, the Sheriff shall notify the affected alarm user in writing of the date of the false alarm, the apparent reason therefor and the alarm user fee imposed pursuant to this chapter. It shall be the duty of each alarm user to pay all alarm user fees imposed by this chapter to the Sheriff within 30 days of the date of mailing of the Sheriff's fee statement specifying the amount of the alarm user fees. For the purpose of mailing the Sheriff's fee statement under this section, the statement shall be mailed to the affected alarm user at his, her or its address shown on the registration form required by § 112.04(C) of this chapter. One-half of all alarm user fees collected by the Sheriff shall be remitted to the city to defray its administrative and prosecution costs incurred in connection with the enforcement of this chapter. The other half of the alarm user fees shall be retained by the Sheriff to defray his or her administrative costs incurred in enforcing this chapter.

(Ord. 54, passed 8-31-1982)

§ 112.06 ENFORCEMENT.

(A) *User to respond.* If, in the judgment of public safety personnel at the scene of an alarm, it is determined that the alarm user should appear at the location of any alarm for the purpose of admitting public safety personnel to the subject premises to investigate any alarm system signal, or for the purposes of deactivating any alarm system signal, or for the purpose of identifying third parties found on the subject premises during the investigation of any alarm system signal, the alarm user shall appear immediately if so requested by the Sheriff.

(B) *Remedial action by user.* If an alarm user has had more than three false alarms in a 12-month period, the alarm user, upon the written request of the Sheriff, shall be required to submit, in written form, a description of any steps being taken to remedy any problems with false alarms emanating from the alarm user's location.

(C) *Administrative rules/regulations.* The Sheriff shall promulgate such rules/regulations as necessary for the implementation and/or administration of this chapter.
(Ord. 54, passed 8-31-1982)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

- 113.01 Definitions
- 113.02 Exceptions to definitions
- 113.03 Licensing; exemptions
- 113.04 License ineligibility
- 113.05 License suspension and revocation
- 113.06 License transferability
- 113.07 Registration
- 113.08 Prohibited activities
- 113.09 Exclusion by placard
- 113.10 Effectiveness

§ 113.01 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.

§ 113.02 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 § 113.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

§ 113.03 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 § 113.07.

(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-Treasurer. 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.

(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 the fee established by the city, as it may be amended from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk-Treasurer, 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-Treasurer determines that the application is incomplete, the City Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk-Treasurer 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-Treasurer must issue the license unless there exist grounds for denying the license under § 113.04, in which case the Clerk-Treasurer must deny the license application. If the City Clerk-Treasurer 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 Minnesota 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

§ 113.04 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.

(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 Minnesota 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.

§ 113.05 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 § 113.04.

(4) Engaging in prohibited activity as provided under § 113.08.

(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) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk-Treasurer 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) of this section.

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

Penalty, see § 10.99

§ 113.06 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

§ 113.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 113.03, 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-Treasurer 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

§ 113.08 PROHIBITED ACTIVITIES.

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

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

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

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

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

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

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

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

§ 113.09 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

§ 113.10 EFFECTIVENESS.

The provisions of §§ 113.01, 113.02, 113.08 and 113.09 shall automatically apply upon adoption of this chapter. Sections 113.03, 113.04, 113.05, 113.06 and 113.07 shall not be effective until the adoption of a City Council resolution or ordinance authorizing the licensing of persons covered by those sections.