

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LIQUOR REGULATIONS

111. COMMERCIAL AMUSEMENTS

112. PEDDLERS AND SOLICITORS

CHAPTER 110: LIQUOR REGULATIONS

Section

General Provisions

- 110.01 Adoption of state law by reference
- 110.02 City may be more restrictive than state law
- 110.03 Definitions
- 110.04 Nudity on the premises of licensed establishments prohibited
- 110.05 Consumption in public places

Licensing

- 110.20 Number of licenses which may be issued
- 110.21 Term and expiration of licenses
- 110.22 Kinds of liquor licenses
- 110.23 License fees; pro rata
- 110.24 Council discretion to grant or deny a license
- 110.25 Application for license
- 110.26 Description of premises
- 110.27 Applications for renewal
- 110.28 Transfer of license
- 110.29 Investigation
- 110.30 Hearing and issuance
- 110.31 Restrictions on issuance
- 110.32 Conditions of license
- 110.33 Hours and days of sale
- 110.34 Minors on premises
- 110.35 Restrictions on purchase and consumption
- 110.36 Suspension and revocation

Municipal Liquor Stores

- 110.50 Application of this subchapter
- 110.51 Existing municipal stores continued
- 110.52 Location
- 110.53 Operation
- 110.54 Proof of financial responsibility
- 110.55 Issuance of other licenses

- 110.99 Penalties

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

The provisions of M.S. Chapter 340A, as they 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 intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

§ 110.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

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. Chapter 340A, as it may be amended from time to time.

§ 110.03 DEFINITIONS.

In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

LIQUOR. As used in this chapter, without modification by the words “intoxicating” or “3.2 percent malt,” includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full 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. To be a “restaurant” as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves 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 unless it meets the definitions of “small establishment”, “medium establishment” or “large establishment.”

§ 110.04 NUDITY ON THE 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, breasts, 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.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of § 110.99(B).

Penalty, see § 110.99

§ 110.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2 percent malt 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, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Penalty, see § 110.99

LICENSING**§ 110.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.**

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of license which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses

may be issued up to the number of licenses authorized by M.S. Chapter 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

§ 110.21 TERM AND EXPIRATION OF LICENSES.

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

§ 110.22 KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 110.20. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 110.55.

(A) 3.2 percent malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2 percent malt liquor off-sale license.

(C) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 110.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety.

The fee for club licenses established by the Council under § 110.23 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 110.23, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, 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 nonprofit corporation that 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.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 110.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 110.23 shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

§ 110.23 LICENSE FEES; PRO RATA.

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

(B) The Council may establish from time to time the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees 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. If the application is denied, the license fee shall be returned to the applicant.

(E) 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.

§ 110.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

§ 110.25 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from

time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined 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. This proof will be filed with the city and the Commissioner of Public Safety. 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. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

Penalty, see § 110.99

§ 110.26 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

§ 110.27 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

§ 110.28 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the 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 code applying to applications for a license shall apply.

Penalty, see § 110.99

§ 110.29 INVESTIGATION.

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary

background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

§ 110.30 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

§ 110.31 RESTRICTIONS ON ISSUANCE.

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

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

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

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) 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.

Penalty, see § 110.99

§ 110.32 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) Within 90 days after employment, every person serving liquor in an establishment which has an “on-sale” license shall receive training regarding the serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training of the servers 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 inspections, to enter, inspect, and search the premises of the licensee during business hours 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.

Penalty, see § 110.99

§ 110.33 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 percent 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 percent 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.

Penalty, see § 110.99

§ 110.34 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 percent 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 percent 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.

Penalty, see § 110.99

§ 110.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, 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, which has been approved by the Council, and no person shall consume liquor in any such place.

Penalty, see § 110.99

§ 110.36 SUSPENSION AND REVOCATION.

(A) The Council may 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 14.70, as it 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) 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, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(C) The provisions of § 110.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.
Penalty, see § 110.99

MUNICIPAL LIQUOR STORES

§ 110.50 APPLICATION OF THIS SUBCHAPTER.

This subchapter, consisting of §§ 110.50 through 110.55, applies only to a city that has in existence on the effective date of this chapter a municipal liquor store.

§ 110.51 EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in § 110.55, no intoxicating liquor may be sold at retail elsewhere in the city.

Penalty, see § 110.99

§ 110.52 LOCATION.

The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.

§ 110.53 OPERATION.

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this chapter from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this chapter and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

(C) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

(D) *Financial statement.* The Council shall provide within 90 days following the end of the calendar year for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement shall be published in accordance with the provisions of M.S. § 471.6985, as it may be amended from time to time.

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in § 110.33. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease.

Penalty, see § 110.99

§ 110.54 PROOF OF FINANCIAL RESPONSIBILITY.

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. § 340A.409, as it may be amended from time to time.

§ 110.55 ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. § 340A.404, Subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue on its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this section is governed by M.S. § 340A.413, as it may be amended from time to time, as limited by the provisions of this chapter. The issuance of these licenses is governed by the provisions of this chapter.

(B) *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

(C) *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt liquor licenses in its sound discretion as provided in this chapter.

§ 110.99 PENALTIES.

(A) Any person violating the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council may impose a civil penalty of up to \$2,000 for each violation of M.S. Chapter 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 14.70, as it 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.

(C) In no event shall a penalty be less than:

(1) For a first violation, the mandatory minimum penalty shall be the administrative penalty imposed pursuant to Chapter 31 of this Code.

(2) For a second violation in 12 months the mandatory minimum penalty shall be the appropriate administrative penalty in division (C)(1) above, plus suspension of the liquor license for two days.

(3) For a third violation in 12 months the mandatory minimum penalty shall be the appropriate administrative penalty in (C)(1) above plus suspension of the liquor license for five days.

(D) Revocation or suspension of a license by the Council shall be preceded by a public hearing in accordance with M.S. 340A.415. The City Council shall conduct the hearing. The hearing notice shall be given at least ten days prior to the hearing, include notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

(Am. Ord. 110-A, passed 12-3-07)

CHAPTER 111: COMMERCIAL AMUSEMENTS

Section

- 111.01 Circuses, carnivals, shows and other entertainment
- 111.02 Deposit required
- 111.03 License fee for public entertainment or exhibition
- 111.04 Dances or dancing parties

- 111.99 Penalty

§ 111.01 CIRCUSES, CARNIVALS, SHOWS AND OTHER ENTERTAINMENT.

(A) (1) Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by resolution.

(2) Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided, that the entertainment is not for profit.

(B) In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the Administrator or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The Administrator shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the police department or the fire department.

(C) No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

Penalty, see § 111.99

§ 111.02 DEPOSIT REQUIRED.

(A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the Administrator or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be forfeited to the city to the extent of actual costs to the city for restoration and cleaning up of the grounds.

(B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place.

Penalty, see § 111.99

§ 111.03 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for the license shall be in an amount as established by resolution of the City Council.

§ 111.04 DANCES OR DANCING PARTIES.

(A) *Regulation of public dances.* All public dances held in this city shall be conducted in accordance with the provisions of this section.

(B) *Definitions.* The terms stated below shall have the following meanings:

PUBLIC DANCE. Any dance where the general public may participate, whether or not a charge for admission for dancing is made.

PUBLIC DANCING PLACE. Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.

(C) *Permits.* No person shall conduct a public dance in this city unless a permit has been obtained from the Administrator prior to the holding of the dance. The fees for a permit shall be as established by resolution of the City Council. In addition to this fee, the applicant shall pay the cost to the city of providing a police officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of police officers required to be present at any dance. No permit shall be issued until the fee and the cost of for providing the police officer or officers has been paid.

(D) *Application.* Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the Administrator submitted to the Administrator at least ten days before the date of the proposed dance. The application shall set forth the name and address of the applicant who shall be the person responsible for conducting the public dance and any business, committee or organization sponsoring the dance, the place where the dance is to be held, the date of the

dance and the time of its beginning and end. Proof of all insurance required by this section shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit application and no permit shall be issued until the fees for the use of the city building or other city property have also been paid.

(E) *Insurance.* All insurance policies required for the event, including any insurance required by law for the sale of alcoholic beverages, shall list the city as a named insured and provide a provision to defend, indemnify and hold harmless the city and any of its employees from any claims arising from the event.

(F) *Location.* The applicant shall make sure that adequate parking is available for the persons wishing to attend the dance and make sure that the location is safe and accessible. This information shall also be provided to the Administrator before a permit shall be issued.

(G) *Permit to be posted.* When a permit is issued, the holder of the permit shall post the permit in a prominent location on the premises on which the dance is to be held during the time the dance is occurring. The applicant shall be present at all times while the dance is occurring.

(H) *Liquor license required.* No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Chapter 340A, as it may be amended from time to time, without obtaining a license from the city.

(I) *Peace officer presence.* No public dance shall occur without at least one peace officer, or more if more are required under the criteria established by the City Council, present at the public dancing place during the duration of the dance and after the dance, until all of the participants have left the public dancing place.

(J) *Hours.* No public dance shall occur between the hours of 1:00 a.m. and noon.

(K) *Minors denied admission.* No person under the age of 21 shall be allowed to be present by the permit holder or any peace officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.

(L) *Certain behavior prohibited.* No person present at any public dance shall engage in any disorderly conduct as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person shall be immediately removed from the dance by the peace officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the peace officer present shall terminate the dance and remove all persons from the public dancing place.

(M) *Lighting.* In order to protect the safety of persons attending a public dance, public dancing places shall be adequately illuminated and dancing therein while lights are extinguished, dimmed or turned low so as to give inadequate or imperfect illumination is hereby prohibited. All exit areas shall be illuminated at all times during the public dance with light having intensity of not less than one

footcandle at floor level. Illumination of less than 0.5 footcandles in any area where dancing is occurring, permitted or encouraged is prohibited.

(N) *Noise*. All public dances shall be subject to the provisions of any ordinance of this city which regulates noise.

§ 111.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor and sentenced under the provisions of § 10.99. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Ord. 50, passed 12-1-69)

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

- 112.99 Penalty

§ 112.01 DEFINITIONS.

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

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

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

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

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term "canvasser."

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

§ 112.03 LICENSING; EXEMPTIONS.

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

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

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

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

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

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

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

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

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

(D) *Fee.* All applications for a license under this chapter shall be accompanied by resolution.

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

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

(G) *License exemptions.*

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

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

(3) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
Penalty, see § 112.99

§ 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.

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

§ 112.05 SUSPENSION AND REVOCATION.

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

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

(B) *Multiple persons under 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 Administrator 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 timeframe, 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 § 112.99

§ 112.06 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 § 112.99

§ 112.07 REGISTRATION.

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

Penalty, see § 112.99

§ 112.08 PROHIBITED ACTIVITIES.

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

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

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

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

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

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

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

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

Penalty, see § 112.99

§ 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 § 112.99

§ 112.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to the provisions as provided in § 10.99. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Ord. 50, passed 12-1-69)