

TITLE 11: BUSINESS REGULATIONS

Chapter

110.GENERAL BUSINESS REGULATIONS

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MERCHANTS**

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CHAPTER 110: GENERAL BUSINESS REGULATIONS

Section

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§ 110.01 REGULATING PUBLIC DANCES.

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

OUTDOOR. Both “public dance” and “public dancing place” refer to ***OUTDOOR*** for the purpose of this section.

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.

(B) *Permit required.*

(1) *Permits are required for outdoor dances.* Indoor dances do not require a permit.

(2) *Application for permit.*

(a) Application shall be submitted on the form provided by the city and submitted at least three weeks before the date of the proposed dance or in ample time for County Sheriff’s office review and Council approval.

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(b) The application shall set forth the name and address of the applicant; person responsible; any business, committee, or organization sponsoring the dance; the dance location; the date of the dance; the time of its beginning and end; proof of insurance; and licensed peace officer requirements. Proof of insurance required shall be submitted with the application and no permit shall be issued until proof of insurance has been received. No permit shall be issued until proof of County Sheriff's office requirements has been received.

(3) *Fees.* Permit application fee shall be required to be submitted with the application. Permit application fee will be set and approved by resolution.

(4) *Insurance.* Proof of insurance required shall be submitted with the application and no permit shall be issued until proof of insurance has been received.

(5) *Liquor license required.* No person shall give, hold, conduct, or permit any public dance where liquor will be served without obtaining a license from the city.

(6) *Licensed peace officer presence.*

(a) No public dance with liquor being available shall occur without a least one licensed peace officer or more. It shall be the County Sheriff's office that will determine the number of officers required based on the application.

(b) The County Sheriff's office will determine and regulate if officers will be required when no liquor is available. Peace officers will be 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.

(7) *Permit to be posted.* When a permit is issued, the holder of the permit shall keep the permit on the premises on which the dance is being held during the time the dance is occurring, and be able to show the permit on demand.

(9) *Conditions of issuance.* The City Council shall have the authority to set terms and conditions, and hours, as it deems appropriate when considering permit applications. The City Council has the right to deny any application.

(C) *Regulations.*

(1) *Hours.* No dance shall occur between the hours of 12:30 a.m. and noon without prior approval.

(2) *Noise.* All public dances shall be subject to the city's provisions regulating noise.
(Ord. 143, passed 7-14-2016)

§ 110.02 LICENSING OF OUTDOOR ADVERTISING SIGNS.

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

DISPLAY. Includes erecting, constructing, posting, painting, printing, writing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever.

OUTDOOR ADVERTISING SIGNS. Any card, cloth, paper, metal, painted glass, wooden, plaster, stone, or other sign of any kind or character displayed for informational or advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure, or thing whatsoever.

OUTDOOR ADVERTISING STRUCTURE. Any structure of any kind or character not attached to any building, and erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be displayed, including also outdoor advertising statuary.

SIGN. Any outdoor advertising sign or outdoor advertising structure.

(B) *Signs for which permits are required.*

(1) The owner or occupant of any premises on which there is displayed a sign having an area of six square feet or more, or the owner of such sign (other than signs authorized by divisions (C)(1), (C)(2), and (C)(3)(c) below shall file application with the City Clerk-Treasurer before any such sign is displayed. At the time of the filing of an application with the Clerk-Treasurer for permission to display a sign, the applicant shall accompany such application with a description thereof, and a sketch showing the size, location, manner of construction, and such other information as shall be necessary fully and completely to advise the Council of the kind, size, construction, and location of the same.

(2) No sign having an area of six square feet or more shall be displayed at any time unless a permit therefor, which shall specify the location of the sign, shall have been granted by the Council, and the applicant shall have complied with the terms of this section and paid the annual license fee provided herein. Despite the compliance by the applicant with all other provisions of this section, the Council reserves the right to deny the permit applied for if, in the opinion of the Council, the erection of the sign for which a permit is requested would tend to create or increase a traffic condition dangerous to the public. If any permit is denied on the grounds specified in the preceding sentence, a statement of such grounds shall be set forth in the resolution of the Council authorizing the denial of the permit.

(C) *Special regulations for open development district.* In the city, no new signs shall be erected on any premises except:

(1) Signs less than 24 square feet in area and displaying the name only of the property or premises upon which displayed or of the owner or lessee thereof; or pertaining only to the sale, rental, or lease of such premises;

(2) Street and traffic signs and signs on municipal buildings; or

(3) The following signs upon the securing of a permit, if required herein, for each such sign:

(a) Signs advertising the sale of a subdivision or of lots therein and located thereon;

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(b) Directional and informational signs of a public or quasi-public nature, including signs serving as directional signs to properties not situated adjacent to the street upon which such signs are located;

(c) Signs and bulletin boards of the city; also of churches, libraries, museums, schools, or memorial buildings;

(d) 1. Signs which are located not less than 500 feet from any dwelling, other than a dwelling owned by the person who also owns the land upon which the sign is located. If any sign is now or hereafter erected or placed in accordance with the terms of this division (C) and thereafter a dwelling, other than a dwelling owned by the person who also owns the land upon which the sign is located, is erected or acquired at a place which is less than 500 feet from said sign, such sign shall within one year after notice of such fact by the Clerk-Treasurer of this city to the owner thereof or to the owner of the land on which the sign is located, be removed.

2. Notwithstanding the provisions of this division (C), the Council shall have the power to grant a permit for any sign now or hereafter located within 500 feet of any dwelling, if the granting of such permit would not unreasonably contravene the purposes of this section and Chapter 153 of this code of ordinances. Any permit granted by the Council pursuant to the provisions of the preceding sentence shall be subject to revocation by the Council upon written notice to the owner thereof, or the owner of the land upon which the sign is located.

3. Within one year after such notice of revocation of such permit, such sign shall be removed. If any sign is not removed within the time specified in any notice provided for hearing, the city may remove such sign and collect the cost of removal from the owner of the land on which such sign is located, or from the owner of the sign, by action brought in any court of competent jurisdiction; and

(e) Signs located on a tract or parcel of land on which there is conducted a business permitted by the zoning ordinance, if such sign advertises the business conducted or product sold on such tract or parcel of land.

(D) *Rules and regulations for new signs.* No sign for which a permit is required shall be displayed, erected, constructed, altered, or moved, unless the following requirements have been complied with in good faith.

(1) (a) No outdoor advertising structure shall exceed 25 feet in height above the ground or the roadway level, whichever may be higher, and every such structure, other than statuary, shall have an opening of at least two feet between the lower edge thereof and the ground, which space shall not be closed in any manner while the structure stands.

(b) The owner, lessee, or manager thereof, and the owner of the land on which the same is located, shall keep all grass, weeds, and other growths cut and cleaned up between the structure and the street, and also for a distance of six feet behind at the ends of the structure.

(2) No outdoor advertising structure shall approach at any point nearer than three feet to any building or the side of any lot without the written consent of the owner of such building or land so affected, nor nearer to any street line than the established or customary uniform building line upon the street where such structure shall be erected.

(3) No sign shall exceed 1,000 square feet in area.

(4) All signs shall be constructed in such a manner of such material that they shall be safe and substantial according to plans and specifications to be approved by the Council; provided, that nothing in this section shall be interpreted as authorizing the erection or construction of any sign not now permissible under the zoning or building ordinance of the city.

(5) No sign shall contain any indecent or offensive picture or written matter.

(6) The Council, in granting permits for illuminated signs, shall specify the design thereof and the hours during which the same may be kept lighted, when, in its discretion, it shall determine such action to be necessary to prevent the creation of a nuisance.

(7) No sign shall be displayed on any public street.

(8) (a) No sign shall be displayed within 50 feet of any street or highway sign, or of any traffic sign or signal, or of any crossroad or crosswalk, except when a permit therefor is approved by the Council.

(b) A permit will be issued under this division (D)(8) only if:

1. The sign will not interfere with the ability of drivers and pedestrians to see any street or highway sign, or any traffic sign or signal, or any crossroad or crosswalk; and

2. The sign will not distract drivers or offer any confusion to any street or highway sign, or any traffic sign or signal.

(E) *Removal of signs violating this chapter.*

(1) Every sign which may be or become out of order, rotten, or unsafe, and every sign which shall be erected contrary to the provisions of this section, shall be removed or otherwise properly secured, in accordance with the terms of this section, by the owners thereof or by the owner of the ground on which said sign shall stand, upon receipt of notice so to do mailed to them by the Clerk-Treasurer.

(2) (a) Signs not conforming to the requirement of divisions (C) and (D)(8) above shall be removed immediately. In case of failure to comply, the Clerk-Treasurer shall notify by mail the owner thereof or the owner of the land on which said sign is located, or both, of his or her duty to remove said sign, and if said sign is not removed within 30 days after the mailing of such notice, the city may remove such sign and collect the cost of removal from the owner of the land on which such sign is located, or from the owner of the sign, by action brought in any court of competent jurisdiction.

(b) The collection of such cost of removal pursuant to this division (E)(2) shall not

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prevent the imposition of any other penalties for violation of this section.

(3) Existing signs not conforming to the requirements of division (D)(5) above shall be removed with notice as being detrimental to public safety.

(F) *Removal by the city.* In the event of the failure of the owner of any sign or the owner of the ground on which the sign is located to remove or repair such sign within the time stated in any notice issued pursuant to the provisions of this section, but not less than ten days, the same may be removed by the city at the expense of the owner of such sign, or the owner of the ground upon which such sign stands, and the amount of such expense may be collected by the city by action brought in any court of competent jurisdiction.

(G) *License fee.*

(1) Except as hereinafter provided, there is hereby imposed an annual license fee for each sign exceeding six square feet in area (other than signs authorized by divisions (C)(1), (C)(2), and (C)(3)(c) above), which fee shall be equivalent to \$0.01 for each square foot of surface of such sign or the sum of \$1, whichever shall be greater; provided, that the maximum annual license fee hereunder shall be the sum of \$10.

(2) Such fee shall be payable at the time of application for a permit for such sign, and on or before April 1 of each year thereafter. The annual license fee provided herein shall not be payable with respect to any outdoor advertising sign painted on the roof or walls of any building except that at the time of application for the original permit hereunder for such sign there is hereby imposed, and there shall be paid, an original permit fee in the sum of \$1.

(Ord. 5-3, passed 4-2-1969) Penalty, see § 110.99

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Unless otherwise indicated, any person who violates any of the provisions or § 110.01 shall be guilty of a petty misdemeanor.

(Ord. 143, passed 7-14-2016)

CHAPTER 111: PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

Section

111.01 Definitions and interpretations

111.02 Exceptions to definitions

111.03 Prohibited activities

111.99 Penalty

§ 111.01 DEFINITIONS AND INTERPRETATIONS.

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

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

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.

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, or 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 **SOLICITOR** 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 ten consecutive days.

(Ord. 130, passed 2-28-2013)

§ 111.02 EXCEPTIONS TO DEFINITIONS.

(A) (1) For the purpose of the requirements of this section, 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 item(s) being sold by the wholesaler.

(2) 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 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 types 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. The terms also shall not apply to nonprofit organizations such as Girl Scouts of America or Boy Scouts of America.

(Ord. 130, passed 2-28-2013)

§ 111.03 PROHIBITED ACTIVITIES.

The practice of going in and upon private residences or residents' properties in the city by peddlers, solicitors, and transient merchants not having been requested or invited to do so by the owner or owners, occupant, or occupants of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of or peddling the same, is hereby declared to be a nuisance.

(Ord. 130, passed 2-28-2013) Penalty, see § 111.99

§ 111.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor.

(Ord. 130, passed 2-28-2013)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

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INTOXICATING LIQUOR LICENSING**§ 112.01 PROVISIONS ON STATE LAW ADOPTED.**

The provisions of M.S. Ch. 340A, as it may be amended from time to time, otherwise referred to as the “Liquor Act”, relating to the definitions of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor, to the extent not specifically contradicted by provisions herein, are adopted and 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. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 are adopted.

(Ord. 153, passed 5-25-2017)

§ 112.02 LICENSE REQUIRED.

(A) *General requirements.* No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this chapter. Liquor licenses shall be of six kinds: “on-sale”, “on-sale brewer taproom”, “off-sale”, “off-sale brewer malt liquor”, “club”, and “special Sunday” licenses.

(B) *Specific licenses.*

(1) *On-sale licenses.* “On-sale” licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit “on-sale” of liquor only.

(2) *On-sale brewer taproom licenses.* “On-sale brewer taproom” licenses shall be issued to sell malt liquor that has been projected for consumption on the premises in accordance with M.S. § 340A.301, subd. 6(b), as it may be amended from time to time.

(3) *Off-sale licenses.* “Off-sale” licenses shall be issued only to exclusive liquor stores and holders of “on-sale” licenses, and shall permit “off-sale” of liquor only.

(4) *Off-sale brewer malt liquor licenses.* “Off-sale brewer malt liquor” licenses shall be issued only to sell malt liquor that has been produced and packaged on the licensed premises in accordance with M.S. § 340A.301, subd. 6(d), as it may be amended from time to time.

(5) *Special club licenses.* Special club licenses shall be issued only to incorporated clubs as defined in M.S. § 340A.101, subd. 7, as it may be amended from time to time, which have been in existence for ten or more years or to congressionally chartered veterans' organizations, which have been in existence for three years.

(6) *Special Sunday on-sale licenses.* Special "on-sale" licenses for the sale of intoxicating liquor on Sunday shall be issued only to bowling centers, hotels, restaurants, clubs, and brewer taprooms as defined in M.S. § 340A.101, as it may be amended from time to time. All sales at such establishments shall be in accordance with M.S. § 340A.504, subd. 3, as it may be amended from time to time.

(Ord. 153, passed 5-25-2017)

§ 112.03 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license to sell liquor shall state the name of the applicant, his or her age, representations as to his or her character, with such references as the Council may require, his or her citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place, the nature of applicant's interest in the place of business, and such other information as the Council may require. In addition to containing such information, the application shall be in the form prescribed by the Director of Alcohol and Gambling Enforcement and the Commissioner of Public Safety and shall be verified and filed with the City Clerk-Treasurer. No person shall make a false statement in an application.

(B) *Liability insurance.* No retail license may be issued, maintained, or renewed unless the applicant shall file with the City Clerk-Treasurer, which the city must submit to the Commissioner of Public Safety, proof of financial responsibility in such form as meets the minimum requirements under state statutes in effect for any period covered by the license applied for. Said requirements are presently contained in M.S. § 340A.409, as it may be amended from time to time.

(C) *Approval of the security.* The security offered under division (B) above shall be approved by the City Council and in the case of applicants for "off-sale" licenses, by the Director of Alcohol and Gambling Enforcement. Liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in division (B) above is a cause for revocation of the license and will result in immediate suspension.

(Ord. 153, passed 5-25-2017)

§ 112.04 LICENSE FEES.

(A) *Fees.* The fees are set in the city's fee schedule adopted from time to time by the Council.

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(B) *Payment.* Each application for a license shall be accompanied by total payment of fees. A cashier's check or certified check for payment in full of the license fee is required for payment of fees in the event the total fees exceed the amount of \$1,000. If an application for a license is rejected, the Treasurer shall refund the amount paid.

(C) *Term; prorated fee.* Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a prorated fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

(D) *Refunds.* No refund of any fee shall be made except as authorized by statute.
(Ord. 153, passed 5-25-2017)

§ 112.05 GRANTING OF LICENSES.

(A) *Investigation and issuance.* Each application for an "on-sale" license or for transfer of an existing license, shall be referred to the chief law enforcement officer to conduct a preliminary background and financial investigation of the applicant. Opportunity shall be given to any person to be heard for or against the granting of a license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No "off-sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the Director of Alcohol and Gambling Enforcement. An investigation fee not to exceed \$500 shall be charged an applicant if it is conducted within the state, or the actual cost not to exceed \$10,000, if required outside of the state.

(B) *Person and premises licensed; transfer.* Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate license is deemed a transfer of the license and a transfer of 10% or more of stock without ten days' prior written notice to the Council is a ground for revocation of the license.

(C) *Renewals of licenses.* Applications for renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license, and shall be made in the same or abbreviated form as the City Council may require. An investigation may be required prior to approval.
(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.06 HOURS AND DAYS OF SALE.

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.
(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.07 PROHIBITION OF RESALE.

A retail licensee may not sell alcoholic beverages to any person for the purpose of resale or to any

person whom the licensee has reason to believe intends to re-sell the alcoholic beverage without written approval of the Director of Alcohol and Gambling Enforcement.
(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

3.2% MALT LIQUOR LICENSING

§ 112.20 DEFINITION OF TERM.

For the purpose of §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43, the following definition shall apply unless the context clearly indicates or requires a different meaning.

3.2% MALT LIQUOR. As used in §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43, any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.
(Ord. 153, passed 5-25-2017)

§ 112.21 LICENSE REQUIRED.

(A) *Licenses.*

(1) No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any 3.2% malt liquor within the city without having first received a license as hereinafter provided. A holder of an intoxicating liquor license for that type of sale need not also obtain a 3.2% malt liquor license for the same type of sale, either on or off the premises.

(2) Licenses shall be of three kinds:

- (a) Regular on-sale;
- (b) Temporary on-sale; and
- (c) Off-sale.

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

(C) *Temporary on-sale.* Temporary on-sale licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit community organizations for the sale of 3.2% malt liquor for consumption on the premises only. If an organization is unincorporated, it must also supply proof of financial responsibility required by M.S. § 340A.409, as it may be amended from time to time, to apply

to period of license.

(D) *Off-sale.* Off-sale licenses shall permit the sale of 3.2% malt liquor at retail, in the original package for consumption off the premises only.
(Ord. 153, passed 5-25-2017)

§ 112.22 LICENSE APPLICATIONS.

(A) *Form.* Every application for a license to sell 3.2% malt liquor shall be made to the City Clerk-Treasurer on a form supplied by the city and containing such information as the Clerk-Treasurer or the City Council may require. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall 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.

(B) *Proof of financial responsibility.* Prior to the issuance of a 3.2% malt liquor license, the applicant shall demonstrate proof of minimum financial responsibility as defined in M.S. § 340A.409, subd. 1, as it may be amended from time to time, with reference to liability under M.S. § 340A.801, as it may be amended from time to time. Such proof shall be filed with the Director of Alcohol and Gambling Enforcement, except that if a license involves sales of 3.2% malt liquor of a prospective vendor who is not required by law to file such proof with the Director of Alcohol and Gambling Enforcement, such proof shall be filed with the City Clerk-Treasurer. Any liability insurance policy filed as proof of financial responsibility under this division (B) shall conform to M.S. § 340A.409, as it may be amended from time to time.

(C) *Approval of security.* Liability insurance policies required by §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43, but not by state law, shall be approved as to form by the City Attorney. Operation of a business licensed by §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 without having on file with the Director of Alcohol and Gambling Enforcement or the city at all times effective security as required in division (B) above is a cause for revocation or suspension of the license.
(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.23 LICENSE FEES.

(A) *Fees.* The fees are set in the city's fee schedule adopted from time to time by the Council.

(B) *Payment required.* Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the city. Upon rejection of any application for a license, the Treasurer shall refund the amount paid.

(C) *Expiration; pro-rata fees.*

(1) Every license except a temporary license shall expire on the last day of December in each

year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(2) A temporary license shall be issued for a specific period in which a special event to which the sale in incident is being held and such period shall be stated on the license.
(Ord. 153, passed 5-25-2017)

§ 112.24 GRANTING OF LICENSE.

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

(B) *Transfers.* Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Council.
(Ord. 153, passed 5-25-2017)

§ 112.25 HOURS AND DAYS OF SALE.

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.
(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.26 PROHIBITION OF RESALE.

A retail licensee may not sell alcoholic beverages to any person for the purpose of re-sale or to any person whom the licensee has reason to believe intends to re-sell the alcoholic beverage without written approval of the Director of Alcohol and Gambling Enforcement.
(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

GENERAL REQUIREMENTS AND REGULATIONS

§ 112.40 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person who:

(A) Is made ineligible for such a license by state law;

(B) Is under 21 years of age;

(C) Has, within five years prior to the application for such license, been convicted of a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or 3.2% malt liquor;

(D) Is not the actual proprietor of the establishment for which the license is issued;

(E) Is not a citizen or resident alien; or

(F) In the case of “off-sale” intoxicating liquor licenses, anyone who already holds or has an interest in such a license in the city as defined in M.S. § 340A.412, subd. 3, as it may be amended from time to time.

(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.41 PLACES INELIGIBLE FOR LICENSE.

(A) *General prohibition.* No license shall be issued for any place or any business ineligible for such a license under state law, including any premises where a licensee has been convicted of the violation of §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43, or of state liquor or 3.2% malt liquor law, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.

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

(C) *Commercial uses.* No license shall be issued to premises where restricted against commercial use by the city’s zoning ordinance, as codified in Ch. 153 of this code of ordinances.

(D) *Off-sale licenses in 3.2% malt liquor halls prohibited.* No “off-sale” intoxicating liquor license may be issued to a place licensed for the sale of 3.2% malt liquor on the premises unless the place also holds an “on-sale” liquor or combination license.

(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.42 CONDITIONS OF LICENSE.

(A) *General conditions.* Every license shall be granted subject to the conditions in the following divisions and all other provisions of §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 and of any other applicable ordinance of the city or state law.

(B) *Licensee’s responsibility.* Every licensee is responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor or 3.2% malt liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 and the law equally with the employee.

(C) *Sales to intoxicated persons.* No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.

(D) *Persons under age 21; illegal acts.*

(1) *Consumption.* It shall be unlawful for any:

(a) Retail intoxicating liquor or 3.2% malt liquor licensee to permit any person under the age of 21 years to consume alcoholic beverages on the licensee's premises; or

(b) Person under the age 21 years to consume any alcoholic beverages unless in the household of the person's parent or guardian and with the consent of the parent or guardian.

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

(a) To sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of the person under the age of 21 years of age may give or furnish alcoholic beverages solely for consumption in the household of the parent or guardian;

(b) Under the age of 21 years to purchase or attempt to purchase any alcoholic beverages;
or

(c) To induce a person under the age of 21 years to purchase or procure any alcoholic beverages.

(3) *Possession.* It is unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

(4) *Entering licensed premises.* It is unlawful for a person under the age of 21 to enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage. However, persons having attained the age of 18 may enter an establishment licensed under §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 to perform any work for the establishment, including the serving of alcoholic beverages, consume meals, or attend any social functions that are held in the portion of the establishment where liquor is not sold.

(5) *Misrepresentation of age.* It shall be unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purposes of purchasing alcoholic beverages.

(6) *Proof of age.* Proof of age for purchasing or consuming alcoholic beverages may be established only by valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

(E) *Employment of minors.* No person under the age of 18 shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are served or consumed or

employed for any tasks involving the serving, dispensing, or handling of liquor or 3.2% malt liquor that is consumed on the premises. Persons who have not yet reached the age of 18 may only be employed in an “off-sale” liquor establishment as stock clerks, carry outs, and janitors, or any other capacity not involving the direct sale of liquor.

(F) *Inspections.* Every licensee shall allow any peace officer or any designated official of the city to enter, inspect, and search the premises of the licensee, during business hours, for any reason related to conditions of said license; and after the allowed hours of sale, in the event the officer or official has reasonable and probable cause to believe that persons other than the owner or management and janitorial personnel are present in the licensed premises during the hours prohibited by division (E) above.

(G) *Display during prohibited hours.* Intoxicating liquor or 3.2% malt liquor served to be consumed on the premises may not be on display or consumed in a licensed establishment more than 30 minutes after the time when a sale can legally occur. This restriction on consumption and display shall be in addition to any other regulations contained herein.

(H) *Vacation of premises.* No person except the licensee or janitorial or management personnel of said licensee shall be permitted on the licensed premises of an establishment licensed for “on-sale”; of intoxicating liquor or 3.2% malt liquor more than 30 minutes after the time when a sale can legally occur. As to the employment status of persons on the premises between the aforementioned hours, the burden shall be upon the licensee to establish that persons on the premises are janitorial or management only.

(Ord. 153, passed 5-25-2017) Penalty, see § 112.99

§ 112.43 SUSPENSION AND REVOCATION.

(A) The City Council shall either suspend for up to 60 days or revoke any liquor or 3.2% malt liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69 of the Administrative Procedure Act, as they may be amended from time to time.

(B) Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall affect an immediate suspension of any license issued pursuant to §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 without further action of the City Council. Notice of cancellation, lapse of a current liability policy or bond, or withdrawal of deposited cash or securities 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 bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if such a request is made in writing to the Clerk, a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this section shall continue until the City Council determines that the financial responsibility requirements of §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43 have again been met.

(Ord. 153, passed 5-25-2017)

COMPLIANCE CHECKS AND INSPECTIONS

§ 112.55 PURPOSE.

This subchapter is intended to protect the best interests of the public health, safety, and welfare of the general public and the citizens of the city by regulating liquor sales through training, compliance checks, and establishment inspections.

(Ord. 120, passed 7-23-2009)

§ 112.56 APPLICABILITY.

This subchapter applies to all establishments licensed to allow liquor sales within the city.

(Ord. 120, passed 7-23-2009)

§ 112.57 DEFINITION.

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

HEARING OFFICER. The City Council shall serve as the Hearing Officer.

(Ord. 120, passed 7-23-2009)

§ 112.58 ALCOHOL TRAINING AND EDUCATION REQUIREMENTS.

(A) (1) All licensed owners/managers are required to have on file an up to date training certificate with the city in regards to an accepted alcohol training/education class for the establishment. An up-to-date training certificate must be on file with the city by January 2 of each year.

(2) The training/education classes may be those classes prepared and presented by the state or classes approved, prepared, and presented by the owner's liquor insurance company. Upon completion of these classes, the owners/managers must provide written documentation of attendance and certification of compliance.

(3) Training will be considered up to date for the length of time listed on the training certificate provided to the city. Training certificates received by the city with no listed expiration date will be considered valid for one year.

(B) It is recommended that the owners/managers of the liquor establishment provide and have each server of alcohol, for its establishment, attend classes annually.

(Ord. 120, passed 7-23-2009)

§ 112.59 COMPLIANCE CHECKS AND INSPECTIONS.

(A) *When compliance checks occur.* Compliance checks and inspections will be performed by the County Sheriff's Deputies with aid from appropriate personnel.

(B) *Compliance checks and inspections.*

(1) (a) All licensed premises shall be open to inspection by the County Sheriff's office during regular business hours.

(b) Individuals used for the purpose of compliance checks shall be supervised by County Sheriff's Deputies. Individuals used for compliance checks shall not be guilty of unlawful possession of alcohol when such items are obtained as a part of the compliance check.

(2) Individuals used in compliance checks shall not attempt to use a false identification misrepresenting their age, and those lawfully engaged in a compliance check shall answer all questions about their age if asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this subchapter shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes; or required for the enforcement of a particular state or federal law.

(Ord. 120, passed 7-23-2009)

§ 112.60 LIABILITY.

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

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

(C) *Decision.* If the Hearing Officer determines that a violation of this subchapter has occurred, that decision, along with the Hearing Officer's reason for finding a violation and the penalty to be imposed under § 112.99(B)(2), shall be recorded in writing, and a copy of which shall be provided to the licensee/violator, likewise, if the Hearing Officer finds that no violation occurred or finds grounds for not imposing any penalty, such finding shall be recorded and a copy provided to the acquitted violator.

(D) *Appeals.* Appeals of any decision made by the Hearing Officer shall be filed in the District Court for the city in which the alleged violation occurred.

(Ord. 120, passed 7-23-2009) Penalty, see § 112.99

§ 112.99 PENALTY.

(A) Any person violating any provision of §§ 112.01 through 112.07, 112.20 through 112.26, and 112.40 through 112.43, is guilty of a misdemeanor.

(B) (1) Any licensee found to have violated §§ 112.55 through 112.60 shall be charged an administrative fines for the first violation; a second offense; and an administrative fine for a third or subsequent offense at the same licensed premises within a 24-month period. The City Council reserves the right to revoke or suspend the license for a period of three days to 30 days based upon the City Council's review of the circumstances associated with each violation. The City Council shall review each violation on a case by case basis to determine whether a revocation of the licensee's license is appropriate. The penalties in this section are set in the city's fee schedule, adopted from time to time by the Council.

(2) Each violation of § 112.60, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. 120, passed 7-23-2009; Ord. 153, passed 5-25-2017)

CHAPTER 113: SEXUALLY-ORIENTED BUSINESSES

Section

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§ 113.01 PURPOSE.

The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually-transmitted diseases. This chapter is intended to supercede the provisions of M.S. § 617.242, as it may be amended from time to time, and render M.S. § 617.242 inapplicable as authorized by the statute.

§ 113.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989, a copy of which is referenced and included in Appendix II of this chapter. This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of this chapter.

(A) Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on city crime-prevention programs and law enforcement services.

(B) Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.

(C) Sexually oriented businesses can increase the risk of exposure to communicable diseases, including Acquired Immune Deficiency Syndrome (AIDS), for which there is currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments but also the general public.

(D) Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(E) A licensing and regulatory scheme as prescribed in this chapter can facilitate the enforcement of the city's "anti-blight" regulations, and can aid in monitoring sexually oriented businesses for adverse secondary effects on the community.

(F) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

§ 113.03 DEFINITIONS.

The following words and terms have the following meanings when used in this chapter.

SEXUALLY ORIENTED BUSINESS. Shall include the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

(b) Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) A business that engages for any length of time in a sexually oriented use as defined in this section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

SEXUALLY ORIENTED MATERIALS. Visual, printed, or aural materials, and other objects or devices, that:

(1) Contain, depict, simulate or describe specified sexual activities or specified anatomical areas; or

(2) Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities; or

(3) Are designed for sexual stimulation.

SEXUALLY ORIENTED USE. Any of the following activities and businesses, even if the activity exists for only a short-time:

(1) **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) **ADULT BOOKSTORE.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of “sexually oriented business”, as defined in this section.

(3) **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) **ADULT HEALTH/SPORT CLUB.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or

characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(8) ***ADULT MASSAGE PARLOR/HEALTH CLUB.*** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) ***ADULT MINI-MOTION PICTURE THEATER.*** A business or establishment with a capacity of less than 50 persons that, as a prevailing practice, presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) ***ADULT MODELING STUDIO.*** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

(11) ***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) ***ADULT MOTION PICTURE THEATER.*** A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) ***ADULT NOVELTY BUSINESS.*** An establishment or business that has a variety of items for sale if it meets the criteria established in division (1) of the definition of “sexually oriented business” defined in this section.

(14) ***ADULT SAUNA.*** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) ***ADULT STEAM ROOM/BATHHOUSE FACILITY.*** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS. Shall include the following:

- (1) Less than completely and opaquely covered human genitals, pubic area, buttocks, anus, or female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Shall include the following:

- (1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- (5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation or vaginal or anal irrigation.

§ 113.04 EXCEPTIONS.

This chapter does not regulate the following:

- (A) Material with significant literary content or social commentary;
- (B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;
- (C) A person or organization exempted under M.S. § 617.295, as it may be amended from time to time;
- (D) Activity regulated under M.S. § 617.202, as it may be amended from time to time;

(E) Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license; and

(F) Movies rated G, PG, PG-13, NC-17, or R.

§ 113.05 LICENSE REQUIRED.

No person may own or operate a sexually oriented business within the city unless the person is currently licensed under this chapter.

Penalty, see § 113.99

§ 113.06 PERSONS INELIGIBLE.

No license may be issued to a person who:

(A) Is not a citizen of the United States or a resident alien;

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

(C) Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually oriented business under M.S. § 364.03, subd. 3, as it may be amended from time to time, or a person not of good moral character and repute;

(D) Holds a liquor license;

(E) In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license;

(F) Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application; or

Penalty, see § 113.99

§ 113.07 PLACES INELIGIBLE.

No license may be issued for:

(A) A place or a business ineligible for a license under city ordinance or state law;

(B) Operation in a zoning district where the business is not allowed pursuant to Chapter 153 of this code;

(C) A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or

(D) Operation on a premises on which taxes, assessments or other financial claims of the city or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

Penalty, see § 113.99

§ 113.08 LICENSE APPLICATION.

(A) The application for a sexually oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:

- (1) The business in connection with which the proposed license will operate;
- (2) The location of the business premises;
- (3) The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;
- (4) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
- (5) Whether the applicant is the owner and operator of the business and if not, who is;
- (6) Whether the applicant has ever used or been known by a name other than his or her true name, and if so, what was the name or names, and information concerning dates and places where used;
- (7) Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
- (8) Street address at which the applicant and spouse have lived during the preceding ten years;
- (9) Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;
- (10) Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;
- (11) Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;
- (12) Whether the applicant or spouse has ever been engaged as an employee or in operating a sexually oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;

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(13) Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;

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

(15) If the applicant is a corporation or other organization, the applicant must submit the following:

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

(b) Names and addresses of all officers;

(c) The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and

(d) A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

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

(17) A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state;

(18) Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;

(19) Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and

(20) Other information that the city deems appropriate.

(B) No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.

(C) Each licensee has the continuing duty to properly notify the City Clerk of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for

revocation or suspension of the license.

(D) The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.

Penalty, see § 113.99

§ 113.09 FEES.

(A) An applicant for a license must pay to the city the investigation fee specified in the city's fee schedule, as that schedule may be amended from time to time. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.

(B) The annual fees for a license are set forth in the city's fee schedule, as that schedule may be amended from time to time.

(C) Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.

(D) No refund of a fee will be made except as authorized by ordinance.

§ 113.10 GRANTING OF LICENSES.

(A) No license may be issued until the County Sheriff has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate this investigation.

(B) No license, except for a renewed license, may be issued for a sexually oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

(C) (1) The City Council may issue a license before an investigation, notice and public hearing for an applicant who:

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(a) Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;

(b) Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;

(c) Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and

(d) Otherwise qualifies and meets the requirements for a license.

(2) In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.

(D) A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.

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

§ 113.11 CONDITIONS OF LICENSE.

(A) A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.

(B) A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.

(C) The license must be posted in a conspicuous place in the premises for which it is used.
Penalty, see § 113.99

§ 113.12 RESTRICTIONS AND REGULATIONS.

A sexually oriented business is subject to the following restrictions and regulations:

(A) No owner, manager or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

(B) No owner, manager or employee may allow a person under the age of 18 to enter the business.

(C) No owner, manager or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch or other means.

(D) No owner or manager may employ a person under the age of 18 on the licensed premises.

(E) No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.

(F) No business may exceed 10,000 square feet in gross floor area.

(G) No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.

(H) A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.

(I) No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:

(1) Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and

(2) Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.

(J) A licensee must not be open for business to the public:

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

(2) Between 1:00 a.m. and 12:00 noon on Sundays.

Penalty, see § 113.99

§ 113.13 SUSPENSIONS AND REVOCATIONS OF LICENSE.

(A) *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.

(B) *Violations.*

(1) The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in division (B)(2) of this section. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in division (B)(2) of this section.

(2) Conviction of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

(C) *Prompt judicial review.* Prompt and final judicial review shall be provided to any applicant or licensee when a license is denied, suspended or revoked.

§ 113.99 PENALTY.

Except as otherwise provided by state law, a person violating a provision of this chapter is subject to the penalties established in § 10.99. A fine or sentence imposed does not affect the right of the city to suspend or revoke the license of the licensee as the Council deems appropriate.

