

**TITLE XI: BUSINESS REGULATIONS**

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## CHAPTER 110: ALCOHOLIC BEVERAGES

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***INTOXICATING AND 3.2% MALT LIQUOR*****§ 110.01 STATE LAW ADOPTED BY REFERENCE; RESTRICTIVENESS.*****(A) Adoption of state law by reference.***

(1) The provisions of M.S. Ch. 340A, as it may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this subchapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this subchapter is adopted. Without limiting the foregoing, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the required license or permit as set forth in this subchapter.

(2) Rental of or permission to use a public facility is not a commercial transaction for the purposes of this subchapter.

***(B) 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 subchapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

(Ord. 2017-02, passed 2-21-2017)

**§ 110.02 DEFINITIONS.**

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

***3.2% MALT LIQUOR.*** Non-intoxicating malt liquor which contains no more than 3.2% alcohol by weight.

***CITY.*** The City of Parkers Prairie, Minnesota.

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

**EXCLUSIVE LIQUOR STORE** may serve food under M.S. § 340A.412, subd. 14(b), as it may be amended from time to time, so long as service of those food items does not require a license under M.S. § 157.16, as that statute may be amended from time to time.

**LIQUOR.** As used in this subchapter, without modification by the words “intoxicating” or a “3.2% malt” includes both intoxicating liquor and 3.2% 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 “Category 1 establishment”, “Category 2 establishment” or “Category 3 establishment”, as defined in M.S. § 157.16, subd. 3(d), 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 subchapter unless it meets the definitions of a “Category 1 establishment”, “Category 2 establishment” or “Category 3 establishment”.  
(Ord. 2017-02, passed 2-21-2017; Ord. 2018-01, passed - -2018; Ord. 2019-01, passed 2-19-2019)

### § 110.03 NUDITY ON PREMISES PROHIBITED.

(A) (1) 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 subchapter. 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.

(2) (a) 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.

(b) The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this subchapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) (1) 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.

(2) 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% malt liquor license or any other license issued under this subchapter or the imposition of a civil penalty under the provisions of § 110.99(B)(2) of this chapter.

(Ord. 2017-02, passed 2-21-2017) Penalty, see § 110.99

#### § 110.04 CONSUMPTION IN PUBLIC PLACES.

(A) *Consumption generally.* Subject to divisions (B) and (C) below or any temporary off-premise community festival liquor license issued pursuant to this chapter, no person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk or parking lot, or in any public place other than on the premises of an establishment licensed under this subchapter, in the city's municipal liquor dispensary or where the consumption and display of liquor is lawfully permitted.

(B) *Consumption at Prairie Event Center.* Intoxicating liquor or 3.2% malt liquor may be sold, possessed, displayed and consumed at the Prairie Event Center under the following circumstances only:

(1) When it is dispensed or sold by a vendor that has been authorized by the City Council to dispense or sell it at conventions, banquets, conferences, meetings and social affairs conducted at the Prairie Event Center, and only during such a convention, banquet, conference, meeting, social affair that is hosted by a user or user group that has executed a written lease or similar use agreement with the city;

(2) Individuals may consume their personal intoxicating liquor or 3.2% malt liquor at the Prairie Event Center only if attending a meeting of a civic group which has entered into an agreement with the city to rent meeting space at the Prairie Event Center at least 12 times per year. For these purposes, a **CIVIC GROUP** is:

(a) Any state non-profit corporation organized pursuant to M.S. Ch. 317A, as it may be amended from time to time, and with tax exempt status pursuant to I.R.C. § 501(c)(3) or 501(c)(4), being 26 U.S.C. §§ 501(c)(3) or 501(c)(4); or

(b) Any local chapter of a nationally-recognized non-profit corporation with the tax-exempt status.

(3) Under no circumstances may intoxicating liquor or 3.2% malt liquor be stored at the Prairie Event Center when an event specified in this division (B) is not taking place. All intoxicating liquor and/or 3.2% malt liquor must be removed from the Prairie Event Center immediately after the conclusion of each event.

(C) *Consumption in city parks.* Intoxicating liquor or 3.2% malt liquor may not be possessed, displayed or consumed in any city park, except in those permanent city park shelters which, in

consultation with the Chief of Police, the City Council may designate via prominent signage as locations where the possession, display and consumption is permitted.

(Ord. 2017-02, passed 2-21-2017; Ord. 2018-01, passed - -2018; Ord. 2018-03, passed 7-16-2018) Penalty, see § 110.99

### § 110.05 CHARITABLE PURPOSES.

No person shall conduct a silent auction, raffle or other fund raising event pursuant to M.S. § 340A.707, as it may be amended from time to time, with prizes or awards of wine, beer or intoxicating liquors without notifying the City Clerk-Administrator-Treasurer of the event at least ten days prior to the occurrence of the event. The event holder shall provide the city with the following information: the person or organization holding the event; the day, time and location of the event; type of fundraising event (silent auction, raffle or otherwise); type and amount of wine, beer, intoxicating liquor to be awarded as prizes; and the charitable purposes to which the event proceeds will be donated.

(Ord. 2017-02, passed 2-21-2017) Penalty, see § 110.99

### § 110.06 LICENSES.

(A) *Number of licenses which may be issued.*

(1) *On-sale licenses.* The number of on-sale licenses which may be granted under this subchapter is four, 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 on-sale licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of on-sale 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. For the purposes of calculating this cap, the exclusions set forth in M.S. § 34A0A.413, subd. 4, as it may be amended from time to time, shall apply.

(2) *Off-sale licenses.* The number of off-sale licenses of off-sale licenses which may be granted under this subchapter is four.

(3) *Combination licenses.* A combination license is both an “off-sale” and an “on-sale” license, and counts against both caps established in divisions (A)(1) and (A)(2) above.

(B) *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.

(C) *License fees; pro rata.*

(1) To obtain a license authorized by this subchapter, the applicant must pay any license fee and other fee established by the City Council. No license or other fee established by the City Council shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(2) The Council may, by ordinance, 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 subchapter. 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.

(3) The fee for all licenses, except temporary licenses and renewals, granted after the commencement of the license year shall be prorated on a quarterly basis. For example, the fee for any license issued before or during the first quarter of any calendar year (January 1 through March 31) will be 100% of the established fee; the fee for any license issued during the second quarter of any calendar year (April 1 through June 30) will be 75% of the established fee.

(4) 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.

(5) 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.

(D) *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 subchapter.

(E) *Application for license.*

(1) *Form.* Every application for a license issued under this subchapter, including any applications for renewal, 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 division (E). The form shall be verified and filed with the city. No person shall make a false statement in an application.

(2) *Financial responsibility.* Prior to the issuance of any license under this subchapter, including any renewals thereof, 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 division (E) 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 subchapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

(F) *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.

(G) *Applications for renewal.* In order to renew an annual license issued under this subchapter, the licensee must file an application for renewal by no later than October 1. 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.

(H) *Transfer of license.* No license issued under this subchapter may be transferred without the approval of the Council. Any transfer of stock or membership units of a corporate or limited liability company licensee, as the case may be, is deemed to be a transfer of the license and a transfer of stock or membership units 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 to any application for the transfer of a license.

(I) *Investigation.*

(1) *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 direct the city's Chief of Police to conduct a preliminary background and financial investigation of the applicant, or the city 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. 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.

(2) *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.

(J) *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; provided, however, that, if allowed by state law, the Council may waive the public hearing requirement for applications for license renewals. 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.

(K) *Restrictions on issuance.*

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

(2) An on-sale and an off-sale license or a combination license may be issued to one person pursuant to M.S. § 340A.406, as it may be amended from time to time.

(3) 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.

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

(5) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, limited liability company or partnership, all of the shareholders, members or partners, as the case may be, shall be residents of the state.

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

(L) *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.

(1) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(2) 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 subchapter and the law equally with the employee.

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

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

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

(M) *Suspension and revocation.*

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

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

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

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

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

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

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

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

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

(3) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this subchapter 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 City Clerk-Administrator-Treasurer, a hearing before the Council shall be granted within ten days. Any suspension under this division (M)(3) shall continue until the Council determines that the financial responsibility requirements of state law and this subchapter have again been met.

(4) The provisions of § 110.99 of this chapter pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this subchapter.  
(Ord. 2017-02, passed 2-21-2017; Ord. 2019-01, passed 2-19-2019)

### § 110.07 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; except that, the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows; provided, however, that, there shall be no liquor sales or service between the hours of 2:00 a.m. and 10:00 a.m. or after 10:00 p.m. on Sundays or between the hours of midnight (12:00 a.m.) and 8:00 a.m. on Mondays.

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

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

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

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.  
(Ord. 2017-02, passed 2-21-2017) Penalty, see § 110.99

**§ 110.08 MINORS ON PREMISES.**

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

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

(Ord. 2017-02, passed 2-21-2017) Penalty, see § 110.99

**§ 110.09 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, and a license from the city if authorized by the City Council, and no person shall consume liquor in any such place.

(Ord. 2017-02, passed 2-21-2017) Penalty, see § 110.99

**§ 110.10 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.

(Ord. 2017-02, passed 2-21-2017)

**§ 110.11 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. The Council may also issue, in 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 subchapter. The issuance of these licenses is governed by the provisions of this subchapter.

(B) *Off-sale licenses for the sale of intoxicating liquor.* The Council may issue, in its sound discretion, an off-sale license for the sale of intoxicating liquor to exclusive liquor stores or as part of a combination license.

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

(D) *On-sale wine licenses.* The Council may also issue, in its sound discretion, on-sale wine licenses. An on-sale wine license authorizes the sale of wine for consumption on the licensed premises only.

(E) *Holders of both on-sale wine and 3.2% malt liquor licenses.* If a licensee holds an on-sale wine license and an on-sale 3.2% malt liquor license, the licensee may sell intoxicating malt liquors at on-sale without an additional license.

(F) *Temporary on-sale licenses.* The Council may also issue, in its sound discretion, 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 non-profit corporation that has existed for at least three years; a political committee registered under state law; or a state university. 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.

(G) *Consumption and display license.* Pursuant to § 110.09 of this chapter and M.S. § 340A.414, as it may be amended from time to time, the Council may also issue, in its sound discretion, a consumption and display license. It shall be unlawful for any person to:

(1) Transport any intoxicating liquor to unlicensed public premises for the purpose of consumption therein, or consume any intoxicating liquor in unlicensed public premises; or

(2) Display or mix any intoxicating liquor with any beer, soft drink or other liquid or beverage on unlicensed public premises.

(H) *Sunday on-sale of intoxicating liquor.* The Council may also issue, in its sound discretion, a Sunday on-sale license for the sale of intoxicating liquor.

(I) *Temporary off-premises community festival liquor license.*

(1) Pursuant to M.S. § 340A.404, subd. 4(b), as it may be amended from time to time, the city may grant to a holder of an on-sale intoxicating liquor license issued by the city a temporary off-premise community festival liquor license which shall authorize the licensee to dispense intoxicating liquor at a community festival held within the city.

(2) No temporary off-premise community festival liquor license will be granted unless and until the applicant:

(a) Specifies and the City Council approves the area in which the intoxicating liquor will be dispensed and the dates and times of dispensing;

(b) Demonstrates that it has insurance, including the insurance required by M.S. § 340A.409, as it may be amended from time to time, to cover the event;

(c) Demonstrates how it will satisfy any and all safety, security, sanitation and other conditions the City Council may impose; and

(d) Pays any license fee imposed by the City Council.

(3) The holder of a temporary off-premises community festival liquor license shall not dispense or allow the consumption of intoxicating liquor outside the area and time approved by the City Council.

(4) To obtain a temporary off-premises community festival liquor license, a holder of an on-sale intoxicating liquor license issued by the city must submit to the City Clerk-Administrator-Treasurer or his or her designee a verified application containing the name of the licensee and the information specified herein and the application will be considered by the City Council.

(J) *Combination licenses.* The Council may, in its sound discretion, issue a combination license under M.S. § 340A.406, as it may be amended from time to time, in lieu of issuing a separate on-sale and off-sale license to the same person. For the purposes hereof, a combination license is both an on-sale license and an off-sale license. Therefore, when a combination license is issued, it is one of the four on-sale licenses that may be issued per § 110.06(A) of this chapter, and it is one of the four off-sale licenses that may be issued per § 110.06(B) of this chapter; provided, however, that, if the combination license is issued to an establishment that is excluded from the cap per M.S. § 340A.413, subd. 4, as it may be amended from time to time, it shall count toward the off-sale cap in § 110.06(B) of this chapter, but not toward the on-sale cap in § 110.06(A) of this chapter.

(K) *Brewer taproom licenses.* The Council may, in its sound discretion, issue a brewer taproom license under M.S. § 340A.26, as it may be amended from time to time, authorizing the on-sale of malt liquor produced by a brewer for consumption on the premises of or adjacent to one manufacturing location owned by the brewer. The license may only be issued to the holder of a brewer's license under M.S. § 340A.301, subd. 6(c), (i) or (j), as it may be amended from time to time, so long as the brewer seeking the license (or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license) brews no more than 250,000 barrels of malt liquor annually or produces more than 250,000 gallons of wine annually. The brewer may hold only one brewer taproom license, and may not have an ownership interest in a brew pub, as that term is defined in M.S. § 340A.101, subd. 3a, as it may be amended from time to time. The only alcoholic beverages sold or consumed on the premises of the taproom shall be malt liquor produced by the brewer upon or adjacent to the taproom premises. No taproom shall be located across a public right-of-way, such as a street or alley, from the manufacturing location. This license shall be valid on all days of the week consistent with the hours of sale provided in § 110.07 of this chapter.

(L) *Small brewer off-sale.* The Council may, in its sound discretion, issue an off-sale malt liquor license to a brewer licensed under M.S. § 340A.301, subd. 6, clauses (c), (i) or (j), as it may be amended from time to time. The license is subject to the following conditions.

## Parkers Prairie - Business Regulations

(1) The license must be approved by the Commissioner of Public Safety.

(2) Pursuant to M.S. § 340A.28, subd. 2, as it may be amended from time to time, neither the brewer, nor any person having an economic interest or exercising control over the brewer, may brew more than 20,000 barrels of malt liquor annually or produce more than 250,000 gallons of wine annually.

(3) Pursuant to M.S. § 340A.28, as it may be amended from time to time, no more than 750 barrels per annum of malt liquor may be sold off-sale.

(4) Pursuant to M.S. § 340A.28, as it may be amended from time to time, the license is limited to off-sale of malt liquor that has been produced and packaged by the brewer at its licensed premises.

(5) Off-sale shall be limited to the legal hours for off-sale at exclusive liquor stores, as provided in § 110.07 of this chapter; except that, malt liquor may only be sold at off-sale in growlers on Sundays and shall not be sold before 11:00 a.m. or after 10:00 p.m. on Sundays. Any malt liquor sold at off-sale must be removed from the premises before the applicable off-sale closing time.

(6) Pursuant to M.S. § 340A.285, as it may be amended from time to time, malt liquor shall be packaged in 64-ounce “growlers” or in 750 milliliter bottles. Growlers and bottles shall have a twist-type, cork, stopper or plug, and shall have a paper or plastic adhesive band, strip or sleeve extending over the top, forming a seal that must be broken to open the container or bottle. The seal shall bear the name and address of the brewer, and the containers or bottles shall identify the contents as malt liquor, state the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor.

(Ord. 2017-02, passed 2-21-2017; Ord. 2018-01, passed - -2018; Ord. 2019-01, passed 2-19-2019; Ord. 2019-03, passed 5-20-2019) Penalty, see § 110.99

### § 110.12 FEE SCHEDULE.

The fees for the licenses allowed by this subchapter shall be as follows:

Brewer taproom	\$100
Club on-sale	Statutory maximum per M.S. § 340A.408, as the same may be amended
Combination liquor	\$1,440
Consumption and display license	\$150
Off-sale 3.2% malt liquor	\$25
Off-sale intoxicating liquor	Statutory maximum per M.S. § 340A.408, as the same may be amended

On-sale 3.2% malt liquor	\$65
On-sale intoxicating liquor	\$1,200
On-sale Sunday intoxicating liquor	\$200
On-sale wine	\$150
Small brewer off-sale	\$100
Temporary off-premise community festival liquor	\$100 per event
Temporary on-sale intoxicating liquor	\$50 per event

(Ord. 2017-02, passed 2-21-2017; Ord. 2018-01, passed - -2018; Ord. 2019-01, passed 2-19-2019; Ord. 2019-03, passed 5-20-2019)

***SOCIAL HOSTING***

**§ 110.45 PURPOSE AND FINDINGS.**

(A) The city intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.

(B) The city finds that:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement;

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions;

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user;

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and in some circumstances provide the alcohol;

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove and an ordinance is necessary to help further combat underage consumption; and

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

(Ord. passed - -2013)

#### § 110.46 AUTHORITY.

This subchapter is enacted pursuant to M.S. § 145A.05, as it may be amended from time to time.

(Ord. passed - -2013)

#### § 110.47 DEFINITIONS.

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

**ALCOHOL.** Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

**ALCOHOLIC BEVERAGE.** Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

**EVENT or GATHERING.** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

**HOST or ALLOW.** To aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

**PARENT.** Any person having legal custody of a juvenile:

- (1) As natural, adoptive parent or step-parent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

**PERSON.** Any individual, partnership, co-partnership, corporation or any association of one or more individuals.

**RESIDENCE or PREMISES.** Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling

or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

**UNDERAGE PERSON.** Any individual under 21 years of age.  
(Ord. passed - -2013)

**§ 110.48 PROHIBITED ACTS.**

(A) It is unlawful for any person(s) to:

- (1) Host or allow an event or gathering;
- (2) At any residence, premises or on any other private or public property;
- (3) Where alcohol or alcoholic beverages are present; and
- (4) When the person knows or reasonably should know that an underage person will or does:
  - (a) Consume any alcohol or alcoholic beverage; or
  - (b) Possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(B) A person is criminally responsible for violating division (A) above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(C) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.  
(Ord. passed - -2013) Penalty, see § 110.99

**§ 110.49 EXCEPTIONS.**

(A) This subchapter does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(B) This subchapter does not apply to legally protected religious observances.

(C) This subchapter does not apply to retail intoxicating liquor or 3.2% malt liquor licensees, municipal liquor stores or bottle club permit holders who are regulated by M.S. § 340A.503, subd. 1(a)(1), as it may be amended from time to time.

(D) This subchapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(E) This subchapter does not apply to landlords who are not present during any activities prohibited under § 110.48(A) of this chapter.

(Ord. passed - -2013)

### § 110.50 ENFORCEMENT.

This subchapter can be enforced by any peace officer.

(Ord. passed - -2013)

### § 110.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) (1) Any person violating the provisions of §§ 110.01 through 110.12 of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law.

(2) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of §§ 110.01 through 110.12 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 they may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

(a) For the first violation within any three-year period: \$500;

(b) For the second violation within any three-year period: \$1,000; and

(c) For the third and subsequent violations within any three-year period: \$2,000.

(3) The term **VIOLATION**, as used in § 110.06 of this chapter, includes any and all violations of the provisions therein, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

(C) Violation of § 110.48 of this chapter is a misdemeanor.  
(Ord. passed - -2013; Ord. 2017-02, passed 2-21-2017)



## CHAPTER 111: TOBACCO

### Section

- 111.01 Purpose
- 111.02 Definitions and interpretations
- 111.03 License
- 111.04 Fees
- 111.05 Basis for denial of license
- 111.06 Prohibited sales
- 111.07 Vending machines
- 111.08 Self-service sales
- 111.09 Responsibility
- 111.10 Compliance checks and inspections
- 111.11 Other illegal acts
- 111.12 Violations
- 111.13 Exceptions and defenses
  
- 111.99 Penalty

### **§ 111.01 PURPOSE.**

The city recognizes that many persons under the age of 21 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and the sales, possession and use are violations of both state and federal laws. This chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke, as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. passed 11-17-1997)

### **§ 111.02 DEFINITIONS AND INTERPRETATIONS.**

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

mandatory and the term “may” means permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMPLIANCE CHECKS.** The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products or tobacco-related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco-related devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products or tobacco-related devices.

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

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

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

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

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

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

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

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

**TOBACCO-RELATED DEVICES.** Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

**VENDING MACHINE.** Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

(Ord. passed 11-17-1997)

### § 111.03 LICENSE.

No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related device without first having obtained a license to do so from the city.

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

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

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

(D) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided herein.

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

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

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

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

(Ord. passed 11-17-1997)

#### § 111.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be \$\_\_\_\_\_.

(Ord. passed 11-17-1997)

#### § 111.05 BASIS FOR DENIAL OF LICENSE.

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

(A) The applicant is under the age of 21 years;

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

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

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

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

(Ord. passed 11-17-1997)

**§ 111.06 PROHIBITED SALES.**

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco products or tobacco-related device:

(A) To any person under the age of 21 years;

(B) By means of any type of vending machine, except as may otherwise be provided in this chapter (see § 111.07 of this chapter);

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

(D) By any means of loosies, as defined in § 111.02 of this chapter;

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

(F) By any other means, to any other person and in any other manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.  
(Ord. passed 11-17-1997) Penalty, see § 111.99

**§ 111.07 VENDING MACHINES.**

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment. (Note: this section mirrors both the state and federal laws.)

(Ord. passed 11-17-1997) Penalty, see § 111.99

**§ 111.08 SELF-SERVICE SALES.**

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products or tobacco-related devices by any means where by the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco products or tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products or tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or

tobacco related devices at the time this chapter is adopted shall comply with this section within \_\_\_\_ days following the effective date of this chapter.

(Ord. passed 11-17-1997) Penalty, see § 111.99

#### **§ 111.09 RESPONSIBILITY.**

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the City Clerk-Administrator-Treasurer to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Ord. passed 11-17-1997)

#### **§ 111.10 COMPLIANCE CHECKS AND INSPECTIONS.**

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 21 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce an identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(Ord. passed 11-17-1997)

#### **§ 111.11 OTHER ILLEGAL ACTS.**

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

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

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

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco products or tobacco-related device.

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

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

(Ord. passed 11-17-1997) Penalty, see § 111.99

#### **§ 111.12 VIOLATIONS; NOTICES AND HEARINGS.**

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

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

(C) *Hearing Officer.* The City Council shall serve as the Hearing Officer.

(D) *Decision.*

(1) If the Hearing Officer determines that a violation of this chapter did occur, that decision, along with the Hearing Officer's reasons for finding a violation and the penalty to be imposed under § 111.13 of this chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator.

(2) Likewise, if the Hearing Officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

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

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

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

(Ord. passed 11-17-1997)

### § 111.13 EXCEPTIONS AND DEFENSES.

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

(Ord. passed 11-17-1997)

### § 111.99 PENALTY.

(A) *Licenses and employees.* Any licensee, and any employee of a licensee, found to have violated this chapter shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

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

(C) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempts to purchase, tobacco, tobacco products, or tobacco related devices, shall be \_\_\_\_\_.

(D) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(Ord. passed 11-17-1997)

## CHAPTER 112: PAWNBROKERS

### Section

#### *General Provisions*

- 112.01 Purpose
- 112.02 Definitions

#### *Licensing Regulations*

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- 112.16 Restrictions on license transfer
- 112.17 License and investigation fee
- 112.18 Expiration of license
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- 112.40 Records required
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  - 112.47 Label required
  - 112.48 Prohibited acts
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- 
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**GENERAL PROVISIONS****§ 112.01 PURPOSE.**

(A) (1) The City Council finds that the use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to easily and quickly receive and transfer property stolen by others.

(2) The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers.

(B) (1) The purpose of this chapter is to prevent pawn businesses from being used as facilities for the commission of crimes and to assure that the businesses comply with basic consumer protection standards, thereby protecting the public health, safety and general welfare of the citizens of the city.

(2) To assist the Police Department in better regulating current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this chapter also implements and establishes the required use of the automated pawn system (APS), as defined in M.S. § 325J.05, as it may be amended from time to time. (Ord. passed 11-20-2006)

**§ 112.02 DEFINITIONS.**

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

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

**ISSUING AUTHORITY.** The City of Parkers Prairie.

**MAILING ADDRESS.** An address where the applicant, spouse, manager, partner and the like receives mail. This may be a street address or a Post Office box.

**MINOR.** Any natural person under the age of 18 years.

**PAWNBROKER.** A person who loans money on deposit or pledge of personal property or other valuable thing; who deals in the purchasing of personal property or other valuable thing on condition of

selling that same back again at a stipulated price or who loans money secured by chattel mortgage or on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a **PAWNBROKER** business includes buying personal property previously used, rented or leased or selling property on consignment, the provisions of this chapter shall be applicable. Any bank, savings and loan association or credit union shall not be deemed a **PAWNBROKER** for purposes of this chapter.

**PAWNSHOP.** Any business establishment operated by a pawnbroker.

**PERSON.** One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or non-profit corporation; a trust; a political subdivision of the state; or any other business organization.

**REPORTABLE TRANSACTION.** Each transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed is reportable, except:

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

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

**STREET ADDRESS.** A complete street address for a residence where the applicant, spouse, manager, partner and the like resides and can be routinely found. May not be a Post Office box. (Ord. passed 11-20-2006)

### **LICENSING REGULATIONS**

#### **§ 112.15 LICENSE REQUIRED.**

No person shall engage in the business of pawnbroker at any location within the city limits without a pawnbroker license issued by the city for that location. (Ord. passed 11-20-2006) Penalty, see § 112.99

#### **§ 112.16 RESTRICTIONS ON LICENSE TRANSFER.**

(A) Each license issued under this chapter shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.

(B) No license issued under this chapter may be transferred to a different location than the one identified in the license application.

(Ord. passed 11-20-2006)

#### **§ 112.17 LICENSE AND INVESTIGATION FEES.**

Annual license fees for a pawnbroker license and the investigation fee for an applicant for a pawnbroker license shall be established from time to time by resolution of the City Council.

(Ord. passed 11-20-2006)

#### **§ 112.18 EXPIRATION OF LICENSE.**

A licenses issued under this chapter shall expire as of midnight on January 31 of the year following the year of issuance.

(Ord. passed 11-20-2006)

#### **§ 112.19 BILLABLE TRANSACTION FEE.**

The billable transaction fee shall be established from time to time by resolution of the City Council and shall be classified according to the medium by which daily reports required by § 112.41 of this chapter are submitted to the Police Department. The billable transaction fee shall reflect the cost of processing transactions from the respective classifications and other related regulatory expenses. The billable transaction fee for modem transactions shall not exceed the billable transaction fee for manual transactions. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to pay the billable transaction fee in a timely manner shall constitute a violation of this chapter. (Ord. passed 11-20-2006) Penalty, see § 112.99

#### **§ 112.20 APPLICATION REGULATIONS.**

(A) In addition to any information that may be required by the county pursuant to M.S. § 471.924, as it may be amended from time to time, every application for a license under this chapter shall be made on a form supplied by the issuing authority and shall contain the following information:

(1) If the applicant is a natural person:

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

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

(c) Whether the applicant is a citizen of the United States or a resident alien;

(d) Whether the applicant has ever been convicted of a felony, crime or violation of any statute or ordinance other than a minor traffic offense; (If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.)

(e) Whether the applicant has ever used or has been known by a name or names used and information concerning dates and places where used;

(f) The street addresses at which the applicant has lived during the preceding five years;

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

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

(i) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all other information concerning each of them required in divisions (A)(1)(a) through (A)(1)(h) above; and

(2) If the applicant is married:

(a) The name, date of birth and residence address of the applicant(s) current spouse;

(b) The type, name and location of every business or occupation in which the applicant(s) current spouse has been engaged during the five preceding years;

(c) The names and addresses of the employers or partners of the applicant(s) current spouse for the preceding five years; and

(d) Whether the applicant(s) current spouse has ever been convicted of any felony, crime or violation of any statute or ordinance other than a minor traffic offense. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.

(3) If the applicant is a partnership:

(a) The name(s), address(es) and dates of birth of all general and limited partners and all information concerning each general partner required in divisions (A)(1)(a) through (A)(1)(h) above;

(b) The name(s) of the managing partner(s) and the interest of each partner in the pawnbroker business;

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(c) A true copy of the partnership agreement shall be submitted with the application; and (If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 112.333.01, as it may be amended from time to time, a certified copy of the certificate shall be attached to the application.)

(d) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions (A)(1)(a) through (A)(1)(h) above.

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

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

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

(c) The name of the manager(s), proprietor(s) or other agent(s) in charge of the business and all information concerning each manager, proprietor or agent required in divisions (A)(1)(a) through (A)(1)(h) above; and

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

(5) For all applicants:

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

(b) Whether the applicant has previously held a pawnbroker, precious metal dealer or secondhand dealer license from any other governmental unit. Identify the governmental unit(s);

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

(d) The location of the business premises;

(e) If the applicant does not own the business premises, a true and complete copy of the executed lease;

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

(g) 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;

(h) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and (If the plans or design are on file with the city, no plans need to be submitted with the application.)

(i) Other information as the issuing authority may require.

(B) All applications for a license under this chapter shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by the person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and, if that of an unincorporated association, by the manager or managing officer thereof. Any falsification on a license application, intentional or unintentional, shall result in the denial of the license.

(C) When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application on forms provided by the issuing authority within 14 days. The application must include all appropriate information required in division (A) above. The investigation fee for a new manager shall be established from time to time by resolution of the City Council.

(D) An application for a license pursuant to this chapter shall be submitted to the City Clerk-Administrator-Treasurer on forms provided by the city. The Clerk-Administrator-Treasurer shall refer the applications to the Police Department and such other appropriate city departments for review, investigation and recommendation. The City Clerk-Administrator-Treasurer shall submit the application for a pawnbroker license to the City Council within 60 days of receipt of the application.  
(Ord. passed 11-20-2006)

**§ 112.21 INVESTIGATION.**

(A) The Police Department shall investigate into the truthfulness of the statement set forth in the application and shall endorse the findings thereon.

(B) The applicant must furnish the Police Department evidence as the Department may reasonably require in support of the statement set forth in the application.  
(Ord. passed 11-20-2006)

**§ 112.22 ISSUANCE OF LICENSE.**

Within 60 days of submission, the City Council shall grant or deny a license application for a pawnbroker license. Failure of the Council to act within 60 days of submission shall constitute approval of the license. Any falsification of, or material omission from, a license application shall constitute good and sufficient cause to deny the application.

(Ord. passed 11-20-2006)

**§ 112.23 CONDITIONS FOR APPROVAL.**

(A) No license shall be issued under this chapter if the applicant, any general partner or managing partner of a partnership, or any manager, proprietor or agent in charge of a corporation or other organization:

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

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

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

(4) Is not of good moral character or repute; and

(5) Holds an intoxicating liquor license under this code.

(B) The following locations shall be ineligible for a license under this chapter.

(1) No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the state, county, school district or city are due, delinquent, or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.03, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may, on request, waive strict compliance with this provision. However, no waiver may be granted for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.

(2) No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for a license under any of the requirements of this code; except that, a property owner who is a minor or who has been convicted of a crime, other than a crime involving theft or falsehood, shall not make the premises ineligible under this division (B)(2).

(3) Pawnbroker operations may be located only as allowed under the zoning chapter of this code of ordinances.

(C) A proprietor or manager of the establishment shall be authorized to accept service of process, civil or criminal, on behalf of the licensee.  
(Ord. passed 11-20-2006)

**§ 112.24 RENEWAL.**

An application for the renewal of an existing license shall be made to the City Clerk-Administrator-Treasurer at least 30, but no more than 60, days prior to the expiration date of the license and shall be made on the forms as the issuing authority requires. Applications for renewal of a pawnbroker license shall be submitted by the City Clerk-Administrator-Treasurer to the City Council in the same manner as for a new license.  
(Ord. passed 11-20-2006)

**§ 112.25 BOND REQUIRED.**

Before a license will be issued, or renewed, every applicant must submit a bond in an amount in accordance with the current city fee schedule on forms acceptable to the issuing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled to any goods which have come into the principal(s) hand through the principal(s) business as a pawnbroker, or in lieu thereof will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled, except upon 30 days' written notice to the city, which shall be served upon the City Clerk-Administrator-Treasurer.  
(Ord. passed 11-20-2006)

**§ 112.26 LICENSEE REQUIREMENTS.**

(A) No licensee shall keep the establishment open for the transaction of business on any day of the week before 7:00 a.m. or after 10:00 p.m.

(B) A license issued under this chapter must be posted in a conspicuous place in the premises for which it is issued.

(C) The license issued is only effective for the compact and contiguous space specified in the approved license application.

(D) A licensee under this chapter shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

(E) No licensee under this chapter may keep, possess or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punch boards, blackjack

tables or pin ball machines which return coins or slugs, chips or tokens of any kind, which are redeemable in merchandise or cash.

(F) No gambling equipment authorized under M.S. §§ 349.11 through 349.61, as they may be amended from time to time, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms.

(G) The purchase of lottery tickets may take place on the licensed premises as authorized by the Director of the Lottery pursuant to M.S. §§ 349.11 through 349.15, as they may be amended from time to time.

(Ord. passed 11-20-2006) Penalty, see § 112.99

### **§ 112.27 DENIAL, SUSPENSION OR REVOCATION.**

In addition to any other penalties that may be lawfully imposed, any license under this chapter may be denied, suspended or revoked for one or more of the following reasons:

(A) The proposed use does not comply with Ch. 152 of this code of ordinances;

(B) The proposed use does not comply with any health, building, building maintenance or other provisions of state or local laws or ordinances;

(C) The applicant or licensee has violated any state statute regulating pawnbrokers;

(D) The applicant or licensee has violated any state or local law relating to moral character and repute;

(E) The applicant or licensee has failed to comply with one or more provisions of this chapter;

(F) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;

(G) Fraud, misrepresentation or bribery in securing or renewing a license;

(H) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant(s) business;

(I) The applicant or licensee has within the preceding five years, violated any law relating to theft, damage to property or trespass, sale of a controlled substance or operation of a business; and

(J) The owner of the premises licensed, or proposed to be licensed, would not qualify for a license under the terms of this chapter.

(Ord. passed 11-20-2006)

*CONDITIONS***§ 112.40 RECORDS REQUIRED.**

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

(A) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on the item;

(B) The purchase price, amount of money loaned upon or pledged therefor;

(C) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;

(D) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee(s) records; (The identifiers shall be consecutively numbered and for the purpose of the reporting requirements under § 112.41 of this chapter shall include any identifiers that may have been voided for any reason.)

(E) Full name, residence address, residence telephone number and date of birth of the person from whom the item of property was received;

(F) The identification number and state of issue for any of the following forms of identification of the seller:

(1) Current valid driver's license;

(2) Current valid Minnesota identification card; and

(3) Current valid photo identification card issued by another state.

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

(H) A color photograph or color video recording of:

(1) Each customer involved in a billable transaction;

(2) Each item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed;

(3) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in a manner that the photograph can be readily matched and correlated with all other records of the transaction so that they relate; (The photographs must be available to the Chief of Police, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial clasp of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises.)

(4) If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close up of that person(s) face; and (Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being video taped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months unless requested by the Police Department to keep the tape longer.)

(5) Within 60 days after notification by the Police Department, the color photograph requirements under this division (H) shall be fulfilled by submitting the photographs as digital images, in a format specified by the Police Department, electronically cross referenced to the reportable transaction they associated with notwithstanding the digital images may be captured from required video recordings. This provision does not alter or amend the requirements hereof.

(I) Renewals, extensions and redemptions; and (For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction and the type of transaction.)

(J) The record required hereunder must, at all reasonable times, be open to inspection by the Police Department. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.  
(Ord. passed 11-20-2006)

#### **§ 112.41 DAILY REPORTS TO POLICE.**

(A) Unless otherwise authorized by the Police Department, licensees must provide to the Police Department the information required in § 112.40 of this chapter by transferring that information from their computer to the Police Department via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority using a dial callback protocol or other procedures that address security concerns of the licensees and the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place on the premises, which informs all patrons that all transactions are reported to the Police Department daily.

(B) Licensees will be charged monthly for billable transactions at the current rate established by the City Council.

(C) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department printed copies of all reportable transactions along with the video tape(s) for that date by 12:00 noon the next business day. If the problem is determined to be in the licensee(s) system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as provided for herein, but may be charged an additional fee as established by the City Council for each transaction submitted in this manner after the close of the first business day following the date of failure. If the problem is determined to be outside the licensee(s) system, the licensee must continue to provide the information as provided for herein, but shall not be subject to an additional charge.

(D) If a licensee is unable to capture, digitize or transmit the photographs required in this division the licensee must immediately take all required photographs with a still camera, immediately develop the pictures cross reference the photographs to the correct transaction, and deliver them to the Police Department by 12:00 p.m. the next business day. Licensees may be subject to an additional charge for each photograph submitted in this manner after the close of the first business day following the failure.

(E) Notwithstanding any other provisions herein, the Police Chief or the Chief's designee, upon presentation of extenuating circumstances, may extend the period before any additional charges are imposed for the manual reporting of billable transactions.  
(Ord. passed 11-20-2006)

**§ 112.42 RECEIPT REQUIRED.**

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

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

- (1) The name, address and telephone number of the licensed business;
- (2) The date and time the licensee received the item;
- (3) Whether the item was pawned, consigned or sold, or the nature of the transaction;
- (4) An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on an item;
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction;

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- (6) The amount advanced or paid;
- (7) The monthly and annual interest rates, including all pawn fees and charges;
- (8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold and the amount necessary to redeem the pawned item on that date;
- (9) Full name, residence address, residence telephone number and date of birth of the pledger or seller;
- (10) The identification number and state of issue from any of the following forms of identification of the pledger or seller:
  - (a) Current valid Minnesota driver's license;
  - (b) Current valid Minnesota identification card; and
  - (c) Current valid photo driver's license or identification card issued by another state.
- (11) The signature of the pledger or seller; and
- (12) All printed statements as required by M.S. § 325J.04(2), as it may be amended from time to time, or any other applicable statutes.  
(Ord. passed 11-20-2006)

**§ 112.43 REDEMPTION PERIOD.**

Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the day of that transaction or any renewal or extension, to redeem the item before it may be forfeited and sold. During the 90-day holding period, items may not be removed from the licensed location, except as provided in § 112.49 of this chapter. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, or to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the Police Department. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction record in accordance with § 112.40 of this chapter.  
(Ord. passed 11-20-2006)

**§ 112.44 HOLDING PERIOD.**

(A) Any item purchased by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction.

(B) An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.  
(Ord. passed 11-20-2006)

#### **§ 112.45 POLICE ORDER TO HOLD PROPERTY.**

(A) *Investigative hold.*

(1) Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises.

(2) The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of the initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to divisions (B) and (C) below whichever comes first.

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

(C) *Order to confiscate.*

(1) If an item is identified as stolen or evidence in a criminal case, the Chief or the Chief's designee may:

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

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

(2) When an item is confiscated, the person doing so shall provide identification upon request of the licensee and shall provide the licensee the name and telephone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Chief of Police, or the Chief's designee, shall so notify the licensee.  
(Ord. passed 11-20-2006)

#### **§ 112.46 INSPECTION OF ITEMS.**

At all times during the term of the license, the licensee must allow the Chief of Police, or the Chief's designee(s), to enter without notice the premises where the licensed business is located, including all

off-site storage facilities as authorized in § 112.49 of this chapter, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise, and records therein to verify compliance with this chapter or other applicable laws.  
(Ord. passed 11-20-2006)

#### **§ 112.47 LABEL REQUIRED.**

Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the pawn shop(s) records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn and can be sold, if applicable. Labels shall not be reused.  
(Ord. passed 11-20-2006)

#### **§ 112.48 PROHIBITED ACTS.**

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

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

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

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

(E) No licensee shall lend money on a pledge at a rate of interest above that allowed by law.

(F) No licensee shall knowingly possess stolen goods.

(G) No licensee shall sell pledged goods before the time to redeem has expired.

(H) No licensee shall engage in any transaction involving a motor vehicle as defined in M.S. § 168.002, as it may be amended from time to time.

(I) No person may pawn or sell, or attempt to pawn or sell, goods that they do not have a legal undivided ownership interest in.

(J) No person may make false statements or representations regarding the ownership of items to be sold or pawned, nor may any person provide falsified or altered forms of identification to a pawnbroker.

(Ord. passed 11-20-2006) Penalty, see § 112.99

**§ 112.49 OFF-SITE STORAGE.**

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the Police Department may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § 112.46 of this chapter. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The licensee must either own the building in which the business is conducted or any approve off-site storage facility, or have a lease of the premises which extends for more than six months.

(Ord. passed 11-20-2006) Penalty, see § 112.99

**§ 112.99 PENALTY.**

In addition to sanctions that may be imposed against a licensee under this chapter, any violation of this chapter is a misdemeanor.

(Ord. passed 11-20-2006)



## CHAPTER 113: SEXUALLY-ORIENTED BUSINESSES

### Section

- 113.01 Purpose and intent
- 113.02 Findings
- 113.03 Definitions
- 113.04 Locations and conditions
- 113.05 State law

### § 113.01 PURPOSE AND INTENT.

(A) In the development and adoption of this chapter, it is recognized that:

- (1) There are some adult business uses which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods;
- (2) These business uses have deleterious impact upon property values; and
- (3) These business uses frequently become places of criminality.

(B) It is the further purpose of this chapter to protect the well-being of the youth of the community from objectionable operational characteristics of these uses by regulating and restricting their close proximity to established facilities such as, but not limited to, places of worship, parks, schools, child care and day care facilities and residential areas.

(C) In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this ordinance to inhibit the freedom of speech or the press. The provisions herein have neither the purpose, nor effect, of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. This chapter represents a balancing of the legitimate ends of the city by imposing an incidental, content-neutral place, time and manner of regulation of sexually-oriented entertainment to sexually-oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the

business to carry its financial share of law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter. See *City of Erie v. Pap's A.M.* 529 U.S. 277, 297 (2000) (holding that municipalities may “reasonably rely on the evidentiary foundation set forth in *Renton* and *American Mini Theatres* to the effect that secondary effects are caused by the presence of even one adult entertainment establishment” in a community); *California v. LaRue* 409 U.S. 109, 111 (1972) (describing illicit “sexual conduct between dancers and customers” which included oral copulation and prostitution, as well as public masturbation, indecent exposure, attempted rape, rape, and assaults on law enforcement officers); see also, *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976), *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), and *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991) (noting cases of prostitution linked with nude dancing establishments).  
(Ord. passed 8-15-2005)

### § 113.02 FINDINGS.

(A) The City Council makes the following findings about the effect adult uses and sexually-oriented businesses have had on the communities in the secondary effects reports below and finds that present and future sexually-oriented businesses can have similar impacts on the character of the city’s neighborhoods. See, *Renton v. Playtime Theatres, Inc.* 475 U.S. 41, 51-52 (1986) (finding that municipalities may rely upon the experiences of other cities for regulations designed to prevent future secondary effects).

(B) In making the findings, the City Council accepts the findings of the experiences of other areas about such businesses: *City of St. Cloud, Minnesota*, the *Minnesota Attorney General* (1989), the *City of Los Angeles, California* (1997), the *City of St. Paul, Minnesota* (1983), the *City of Austin, Texas* (1986), *Adams County, Colorado* (1987), *St. Croix County, Wisconsin* (1993), the *City of New York, New York* (1994); *Phoenix, Arizona* (1979); *Indianapolis, Indiana* (1984); *Kansas City, Missouri* (1998); *Oklahoma City, Oklahoma* (1992); *Des Moines, Iowa* (1984); *Seattle, Washington* (1989), and various other cities throughout the country which have studied the impact of adult uses and sexually-oriented businesses. These studies have concluded that adult uses and sexually-oriented businesses have adverse impacts on the surrounding neighborhoods.

(C) Additional land use and crime impact reports, police reports, investigator affidavits, and news reports concerning the secondary effects of sexually-oriented businesses have also reached the same conclusion and the City Council relies upon the findings of secondary effects contained in them as well: *Dallas, Texas* (1997), *Houston, Texas* (1997), *El Paso, Texas* (1986), *Adams County, Colorado* (1987), *Garden Grove, California* (1991), *Tucson, Arizona* (1990), *Sexually-oriented Businesses: An Insider’s View* (2000), *Strip Clubs According to Strippers: Exposing Workplace Sexual Violence* (1998); *Police and Investigator Reports, Gary, Indiana* (2000-2001); and summaries of several of the foregoing secondary effects reports.

(D) The City Council also takes official notice of findings and legal conclusions concerning the secondary effects of adult uses as announced in the aforementioned Supreme Court cases, as well as in

cases from the federal appellate courts and the Minnesota courts, including but not limited to: *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir.2002), cert, denied 2002 U.S. LEXIS 7609 (Oct. 15, 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2002), cert denied 2002 U.S. LEXIS 4232 (June 10, 2002); *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Ambassador Books & Video, Inc. v. City of Little Rock*, 20 F.3d 858 (8th Cir. 1994); *Excalibur Group, Inc. v. City of Minneapolis*, 116 F.3d 1216 (8th Cir. 1997); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Steakhouse, Inc. v. City of Raleigh*, 166 F.3d 634 (4th Cir. 1999); *Di Ma Corp. v. City of St Cloud*, 562 N.W. 2d 312, 316 (Minn. App. 1997); *Minnesota v. Holmberg*, 545 N.W.2d 65 (Minn. App. 1996); *Kismet Investors, Inc. v. Benton County*, 617 N.W.2d 85, 93 (Minn. App. 2000); and, *City of Elko v. EmadAbed, et. al*, N.W.2d 455 (Minn. Ct. App. 2004).

(E) Based on the foregoing, the City Council concludes the following.

(1) Adult uses and sexually-oriented businesses can contribute to an increase in crime in the area where the businesses are located. This can be a burden to city crime prevention programs and law enforcement services.

(2) Adult uses and sexually-oriented businesses can significantly contribute to the deterioration of the residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where the businesses are located. This situation can lessen the amount of desirable housing for residents.

(3) The concentration of adult uses and sexually-oriented businesses in one area can greatly affect the area where the businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually-oriented businesses. Others may perceive the presence of these businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity and residents flee from the area. Lower property values that can result from the concentration of such businesses erode the city's tax base and contribute to the blight.

(4) Adult uses and sexually-oriented businesses have adverse secondary impacts of the type discussed above.

(5) It is necessary to provide for special and express regulations of businesses, establishments or commercial enterprises that operate as, including but not limited to, adult body painting studios, adult bookstores, adult cabarets, adult companionship establishments, adult conversation/rap parlors, adult entertainment facilities, adult establishments, adult massage, health/sport clubs, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, adult saunas/steam rooms/bathhouses and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.

(6) The commercial enterprises such as the types described above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training are susceptible to operations contravening, subverting or endangering the morals of the city by being the site of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, permitting and regulations.

(7) Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by law enforcement and other departments and services of the city. It is necessary for the city to provide services to all of the city without concentrating the public services in one area. The concentrated use of city services detracts from and reduces the level of services available to the rest of the city. Thus, these types of establishments can diminish the ability of the city to protect and promote the general health, welfare, morals and safety of the citizens of the city.

(8) The City Council adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the city's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually-oriented businesses have on adjacent land uses and protect and promote the health, safety and welfare of the residents of the city.

(Ord. passed 8-15-2005)

### § 113.03 DEFINITIONS.

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

***ADULT BODY PAINTING STUDIO.*** An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the body of a patron when the body is wholly or partially nude in terms of "specified anatomical areas".

***ADULT BOOKSTORE.*** A business or establishment engaging in the barter, rental or sale of items or merchandise consisting of printed matter, pictures, slides, records, audiotapes, videotapes, computer or video disks, motion picture film or any other similar materials if the shop is not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

***ADULT CABARET.*** An establishment or businesses which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age or if the dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, presentation display, depiction or description of "specified sexual activities" or "specified anatomical areas".

***ADULT COMPANIONSHIP ESTABLISHMENT.*** An establishment or business which excludes minors by reason of age or which provides the service of engaging in or listening to conversation, talk

or discussion between an employee of the establishment or business and a customer, if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT CONVERSATION/RAP PARLOR.*** A conversation/rap parlor which excludes minors by reason of age, which provides the service of engaging in or listening to conversation, talk or discussion, if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT ENTERTAINMENT FACILITY.*** A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are being sold or intended for consumption, and in which may be observed live presentation or entertainment distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT ENTERTAINMENT USES.*** Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios and other adult establishments.

***ADULT ESTABLISHMENT.*** A business engaged in any of the following activities or which utilizes any of the following business procedures or practices, either:

(1) Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage thereat, either by law or by the operators of the business; or

(2) Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel and adult body painting studios.

***ADULT HOTEL OR MOTEL.*** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented or provided in any form which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

***ADULT MASSAGE PARLOR, HEALTH/SPORT CLUB.*** A massage parlor, health/sport club which restricts minors by reason by age or law, and which provides the services of massage, if the service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT MINI-MOTION PICTURE THEATER.*** A business or establishment in an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or law or if the material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

***ADULT MODELING STUDIO.*** An establishment or business whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to the customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by the customers.

***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained 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.

***ADULT MOTION PICTURE THEATERS.*** A business or establishment in an enclosed building with a capacity of 50 or more persons used for presenting visual-media material if the business as a prevailing practice excludes minors by virtue of age or law, or if the material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

***ADULT NOVELTY BUSINESS.*** A business which has as a principal activity the sale of materials or devices which simulate human genitals or devices which are designed for sexual stimulation or which depict or which relate to “specified sexual activities” or “specified anatomical areas”.

***ADULT SAUNA/STEAM ROOM/BATHHOUSE.*** A business which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

***ADULT USES and Sexually-oriented BUSINESS.*** Include, but are not limited to, adult body painting studios, adult bookstores, adult cabarets, adult companionship establishments, adult conversation/rap parlors, adult entertainment facilities, adult establishments, adult massage parlor, health/sport clubs, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, adult saunas/steam rooms/bathhouses and businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public.

**CHURCH.** A building or structure, or group of buildings or structures, which, by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.

***DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON.*** The dominant or principal theme of the object described by the phrase.

***LICENSED CHILD CARE OR DAY CARE FACILITY.*** A business or facility holding a license pursuant to M.S. Ch. 245A, as it may be amended from time to time, and/or Minn. Rules Ch. 9502 or 9503, as amended.

**MINOR.** Any person under the age of 18 years.

***PLACE OF WORSHIP.*** A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

***PUBLIC LIBRARY.*** Any library open to the public organized pursuant to M.S. Ch. 134, as it may be amended from time to time.

***PUBLIC PARK.*** A park, playground, beach or recreation or community center in the city-owned or leased or used wholly or in part by the city, county, state, school district or Federal Government for recreational purposes.

***SCHOOL.*** An elementary, middle or secondary school, as defined in M.S. § 120A.05, as it may be amended from time to time, or a non-public school or a non-sectarian non-public school, as defined in M.S. § 123B.41, subd. 9 and subd. 10, as it may be amended from time to time.

***SPECIFIED ANATOMICAL AREAS.***

(1) Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast(s) below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES.***

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism; sapphism; zooerasty;

(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 region, buttocks or female breast;

(5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons;

(6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

(Ord. passed 8-15-2005)

#### **§ 113.04 LOCATIONS AND CONDITIONS.**

(A) No adult use or sexually-oriented business shall be located closer than 500 feet from any other adult use or sexually-oriented business. The 500 feet shall be measured in a straight, horizontal line from the nearest point of the property line of the legal parcel upon which the business is located to the nearest point of the property line of the legal parcel upon which the nearest adult use or sexually-oriented business is located, without regard to city, township or county boundaries or intervening structures or objects.

(B) No adult use or sexually-oriented business shall be located closer than 500 feet from any residential structure, place of worship, school, public library, public park, licensed child care or day care. The 500 feet shall be measured in a straight, horizontal line from the nearest point of the property line of the legal parcel upon which the residential structure, place of worship, school, public library, public park, licensed child care or day care is located to the nearest point of the property line of the legal parcel upon which the adult use or sexually-oriented business is located, without regarding to city, township or county boundaries or intervening structures or objects.

(C) No adult use or sexually-oriented business shall be located in, or closer than 500 feet from the border of, any area zoned R-1 Single Family Residential, R-2 Medium Density Residential, R-3 High Density Residential or O Open Development as set forth in Ch. 152 of this code of ordinances. The 500 feet shall be measured in a straight, horizontal line, without regard to city, township or county boundaries or intervening structures or objects, from the nearest point of the property line of the legal parcel upon which the adult use or sexually-oriented business is located.

(D) No adult use or sexually-oriented business shall sell or dispense intoxicating or non-intoxicating liquors, nor shall it be located within 500 feet of a business that sells or dispenses intoxicating or non-intoxicating liquors. The 500 feet shall be measured in a straight, horizontal line from the nearest point of the property line of the legal parcel upon which the adult use or sexually-oriented business is

located to the nearest point of the property line of the legal parcel upon which the business selling or dispensing intoxicating or non-intoxicating liquors is located, without regard to city, township or county boundaries or intervening structures or objects. No adult use or sexually-oriented business shall allow the consumption of non-intoxicating or intoxicating liquors anywhere on the parcel on which the adult use or sexually-oriented business is located.

(E) (1) No adult use or sexually-oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use or sexually-oriented business that is prohibited by any ordinance of the city, the laws of the state or the United States of America.

(2) Nothing in this chapter shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or other ordinances prohibiting the exhibition, sale or distribution of obscene materials generally, or the exhibition, sale or distribution of specified materials to minors.

(F) No adult use or sexually-oriented business shall be conducted in any manner that permits the observation, from any property not approved as an adult use or sexually-oriented business, any materials depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

(G) All adult use or sexually-oriented businesses shall prominently display a sign at the entrance and located within two feet of the door opening device of an adult use or sexually-oriented business or section of the business devoted to adult book or materials which states: “This business sells or displays material containing adult themes. Persons under 18 years of age shall not enter”.

(H) (1) All signs shall be flat wall or freestanding signs. No sign shall be located on the roof or contain any flashing lights, moving elements or electronically or mechanically changing messages.

(2) No sign shall be designed in a manner as to depict or emphasize “specified sexual activities” or “specified anatomical areas” whether through pictures, words or a combination of both.

(3) All other city sign regulations set forth in ordinances by the city shall also regulate the number, size and location of signs allowed for adult use or sexually-oriented businesses.

(4) No merchandise, photos or pictures of any products or entertainment characterized by an emphasis on visual display of “specified sexual activities” or “specified anatomical areas” on the premises shall be displayed in the window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the adult use or sexually-oriented business is located.

(Ord. passed 8-14-2005) Penalty, see § 10.99

**§ 113.05 STATE LAW.**

Minnesota 2006 Session Law Ch. 240 (codified as M.S. Ch. 617, as it may be amended from time to time) does not apply in the city in lieu of the duly enacted city ordinance regulating adult uses and sexually-oriented businesses.

(Ord. passed 10-20-2008)

## CHAPTER 114: AMUSEMENTS AND RECREATION

### Section

#### *Bingo and Gambling*

- 114.01 State law incorporated
- 114.02 License or permit required
- 114.03 Application
- 114.04 Term of license
- 114.05 Fidelity bond
- 114.06 Copies of reports
- 114.07 Revocation of license

#### *Public Dances*

- 114.20 Definitions
- 114.21 License required
- 114.22 Fee
- 114.23 Application
- 114.24 Security required

### ***BINGO AND GAMBLING***

#### **§ 114.01 STATE LAW INCORPORATED.**

The provisions of M.S. §§ 349.11 through 349.61 (1988), as they may be amended from time to time, are incorporated by reference and made a part hereof as if fully set out herein.  
(Prior Code, § 506.01)

#### **§ 114.02 LICENSE OR PERMIT REQUIRED.**

Any organization authorized by law to conduct bingo or lawful gambling occasions may do so only after applying for and receiving a license from the state's Charitable Gambling Control Board after approval of the City Council.  
(Prior Code, § 506.02)

**§ 114.03 APPLICATION.**

Those interested in conducting lawful gambling which is otherwise exempt from licensing under M.S. § 349.214, as it may be amended from time to time, shall apply for permission for bingo or lawful gambling from the Council. He or she shall state where the games will be played and the dates and hours for which permission to play the game is requested. The organization shall not conduct lawful gambling at any place, date or time other than those specified in the request. The application shall be verified by an officer of the organization and by the designated gambling manager.

(Prior Code, § 506.03)

**§ 114.04 TERM OF LICENSE.**

Length of the licenses shall be for the term listed on the license. Permits shall expire upon the date listed on the permit or 12 months after issuance.

(Prior Code, § 506.04)

**§ 114.05 FIDELITY BOND.**

As a condition of the permit, the Council may require the permit applicant to provide a fidelity bond in the sum of an amount in accordance with the current city fee schedule in favor of the organization. The bond shall be conditioned on the faithful performance by the manager of his or her duties. The bond shall not be cancellable, except upon 30 days' written notice to the city. The Council may, by unanimous vote, agree to waive the fidelity bond requirement.

(Prior Code, § 506.05)

**§ 114.06 COPIES OF REPORTS.**

All licensees shall furnish to the city copies of any and all reports required by law to be filed with the state's Charitable Gambling Control Board. All permittees shall furnish at the request of the city, reports and records on the operation of lawful gambling including, but not limited to, gross receipts, expenses and profits.

(Prior Code, § 506.06)

**§ 114.07 REVOCATION OF LICENSE.**

No license or permittee shall have a vested right in any license or permit issued hereunder, and permits issued may be revoked by the Council at any time. Licenses and permits shall be revoked upon a showing that the licensee violated or caused to be violated any provisions of this subchapter, or of state

law regulating the licensing or conduct of lawful gambling. The license or permit shall also be revoked in the event of any misrepresentation in the license application or any reports required of the licensee to be made.

(Prior Code, § 506.07)

***PUBLIC DANCES***

**§ 114.20 DEFINITION.**

The term ***PUBLIC DANCE*** shall be taken to apply to any individual or business owner in which dancing may be or is carried on other than a private residence; and the term ***PUBLIC DANCE*** shall be taken to apply to every dance held in a public place and open to the public whether an admission fee is charged or not.

(Prior Code, § 505.01)

**§ 114.21 LICENSE REQUIRED.**

No individual or business shall conduct a public dance in the city unless a license has been applied for and approved by the Council.

(Prior Code, § 505.02) Penalty, see § 10.99

**§ 114.22 FEE.**

The license fee shall be according to the fees set by the Council each calendar year.

(Prior Code, § 505.03)

**§ 114.23 APPLICATION.**

Any individual or business owner desiring to hold or conduct a public dance in the city shall make application with the City Clerk-Administrator-Treasurer. The application shall set forth the name and address of the individual or business owner which are to conduct or allow the dance. The application shall be granted if the applicant(s) is of good moral character and reputation in the community and that the applicant(s) has not been convicted of a felony, gross misdemeanor or of violating any ordinance or law regulating dances any place in the United States. The license shall be granted, if in the Council's opinion, health or safety will not suffer therefrom. If the license is issued, a copy of the license shall be posted in a public place in the dance area described and the person named in the license shall be responsible under the law for the manner in which the dance is to be held and conducted.

(Prior Code, § 505.04)

**§ 114.24 SECURITY REQUIRED.**

It shall be a condition of any permit issued under this subchapter that the applicant shall provide, at the applicant's own expense, policing of the building and the immediate surrounding area in or upon which the dance is held by a security guard previously approved by the city's Police Chief. The failure to provide protection shall constitute grounds for the immediate revocation of the license.  
(Prior Code, § 505.05)

## CHAPTER 115: CONTRACTORS

### Section

- 115.01 Purpose
- 115.02 Application
- 115.03 Fee
- 115.04 Licenses
- 115.05 Public service corporations
- 115.06 Liability

### **§ 115.01 PURPOSE.**

It is deemed in the interest of the public and the residents of the city that any person, firm or corporation who engages in the business of building construction or related work, as defined in this chapter, shall first secure a license therefor as provided herein.

(Prior Code, § 510.01)

### **§ 115.02 APPLICATION.**

Applications shall be made to the city office and shall be granted upon proof of the applicant's qualifications therefor and upon filing a bond in the amount of in accordance with the current city fee schedule conditioned upon compliance with the provisions of this city code and the filing of certificates evidencing the holding of public liability insurance in the limits of an amount in accordance with the current city fee schedule per person, an amount in accordance with the current city fee schedule per accident or bodily injury and an amount in accordance with the current city fee schedule for property damages and certificates of worker's compensation insurance as required by law.

(Prior Code, § 510.02)

### **§ 115.03 FEE.**

(A) The license fee shall be annually according to the city fee schedule.

(B) Each license shall expire on January 1 after the same is issued and shall not be prorated.

(Prior Code, § 510.03)

**§ 115.04 LICENSES.**

(A) Licenses shall be obtained by every person engaged in the following business or work in accordance with the ordinances of the city:

(1) General contractors including those involved in erection, alteration, repair or wrecking of buildings; and

(2) Excavation for water and sewer lines and including excavations for footings, basements and grading of lots.

(B) Nothing herein shall be construed as preventing any qualified licensee from having an employee under the licensee's supervision and control perform the work, or from property owners performing their own work providing they adhere to all provisions of the state's Building Code.

(C) A license granted to a general contractor shall include the right to perform all of the work included in the contractor's general contract. The license shall include any or all persons performing the work which is classified and listed in this section; provided that, each person performing the work is in the regular employ of the general contractor and qualified under state law and the provisions of this code to perform the work. In these cases, the general contractor shall be responsible for all of the work so performed. Subcontractors on any work shall be required to comply with the sections of this code pertaining to license, bond, qualifications and the like for the subcontractor's particular type of work.

(D) Public service corporations shall not be required to obtain license for work upon or in connection with his, her or their own property, except as may be provided by other sections of this code. (Prior Code, § 510.05)

**§ 115.06 LIABILITY.**

This chapter shall not be construed to affect the responsibility or liability for any party owning, operating or installing the above described work for damages to [persons or property caused by any defect therein, nor shall the city be held as assuming any liability by persons, firms or corporations engaged in the work.

(Prior Code, § 510.06)