

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110.GENERAL LICENSING AND PERMIT PROVISIONS**

**111.PEDDLERS AND SOLICITORS**

**112.JUNKYARDS; JUNK DEALERS**

**113.LIQUOR REGULATIONS**

**114.TOBACCO REGULATIONS**

**115.SEXUALLY ORIENTED BUSINESSES**

**116.TAXICAB VEHICLES AND DRIVERS**

**117.TATTOOING AND BODY PIERCING**



## CHAPTER 110: GENERAL LICENSING AND PERMIT PROVISIONS

### Section

#### *General Provisions*

- 110.01 Policy; purpose
- 110.02 Fees
- 110.03 Application
- 110.04 Fee increase; notice and hearing

#### *Licensing Procedures*

- 110.15 Licenses required
- 110.16 Application
- 110.17 Fee payment
- 110.18 Bond and insurance
- 110.19 Approval or denial of license
- 110.20 License term
- 110.21 License certificates
- 110.22 Exhibition of license certificate
- 110.23 License transfer restricted
- 110.24 License renewal; conditions
- 110.25 Revocation; denial; suspension
- 110.26 Hearing
- 110.27 Temporary suspensions
- 110.28 Inspections
- 110.29 Late fees

#### *Permit Procedures*

- 110.40 Permits required
- 110.41 Permit application
- 110.42 Approval and issuance
- 110.43 Fee payment
- 110.44 Building permits

#### ***Cross-reference:***

*Electric utility franchises, see §§ 50.01 et seq.*

***GENERAL PROVISIONS*****§ 110.01 POLICY; PURPOSE.**

For activities requiring licenses or permits, the Council establishes a system for issuance, revocation, suspension, and renewal.

**§ 110.02 FEES.**

The fees for licenses and permits are determined by the Council.

**§ 110.03 APPLICATION.**

Where a provision of this code requiring a license or a permit contains no procedure for issuance, revocation, suspension, renewal, or fee, the provisions of this chapter apply.

**§ 110.04 FEE INCREASE; NOTICE AND HEARING.**

Prior to the increase of license fees for intoxicating liquor and 3.2% liquor both on-sale and off-sale, the Council must hold a public hearing on the question of the increase. The City Clerk must mail written notice of the time and date of the hearing to holders of licenses at least 30 days prior to the hearing.

(Am. Ord. 2005-C, passed 5-5-2005)

***LICENSING PROCEDURES*****§ 110.15 LICENSES REQUIRED.**

It is unlawful for a person to engage in a trade, profession, business, or privilege in the city for which a license is required by a provision of this code without first obtaining a license from the city in the manner provided in this chapter.

Penalty, see § 10.99

**§ 110.16 APPLICATION.**

Application for a license is made to the City Clerk upon forms provided by the city. The applicant must state the location of the proposed activity and other facts as are required for or applicable to the granting of the license.

(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 110.17 FEE PAYMENT.**

The fees required for a license must be paid at the office of the City Clerk before the granting of the license. A license fee may not be pro-rated for a portion of a year. A license fee paid may not be refunded unless the application for the license is denied.

(Am. Ord. 2005-C, passed 5-5-2005)

**§ 110.18 BOND AND INSURANCE.**

(A) *Form; approval; filing.* Required bonds must be in form satisfactory to the City Attorney, executed by 2 sureties, or a surety company, and be approved by the City Clerk. Where policies of insurance are required, the policies must be approved as to substance and form by the City Attorney. Satisfactory evidence of coverage by bond or insurance must be filed with the City Clerk before the license is issued.

(B) *Insurance; coverage.* Where policies of insurance are required for a permit or contractor's license, the permittee or licensee must file with the City Clerk a certificate of insurance from an insurance company duly licensed and qualified to do business in this state, on a form approved by the City Attorney.

(1) Where liability insurance is required for a license, the insurance policy certified must provide the following coverage in not less than the amounts hereinafter provided.

(a) *Comprehensive general liability.*

1. For bodily injuries, including death, resulting therefrom sustained by any 1 person, \$300,000, and \$300,000 per any 1 occurrence;

2. Property damage liability of \$100,000 per occurrence; and

3. XCU (excavation, collapse, underground) exclusion deleted where the permittee or licensee's work involves these risks or exposure.

(b) *Comprehensive auto liability.*

1. For bodily injuries, including death, resulting therefrom sustained by any 1 person, \$100,000, and \$300,000 per any 1 occurrence;
2. Property damage liability of \$50,000 per any 1 occurrence; and
3. Hired car and non-ownership coverage.

(2) The insurance may not be cancelled or changed without 30-days' prior written notice to the City Clerk by certified mail. The certification of insurance must be continuous in effect until 30 days after receipt of the written notice of cancellation or change.

(C) *Bond; amount.* Where required, a bond must be in the amount of \$3,000, conditioned that the licensee will comply with the applicable provisions of this code and the laws of the state pertaining to that work and that the licensee will indemnify and save the city harmless from all loss or damage by reason of inadequate work performed by the licensee or by reason of accidents caused by the negligence of the licensee, licensee's agents, or employees.  
(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 110.19 APPROVAL OR DENIAL OF LICENSE.**

Where the approval of a city or state officer or the City Council is required prior to the issuance of a license, the approval must be presented to the City Clerk before the license is issued. A license may not be approved by a city officer or issued by the City Clerk if it appears that the conduct of the activity for which a license is sought will be contrary to the health, safety, or welfare of the public or any regulation, law, or ordinance applicable to that activity. A license may not be issued if real estate or personal property taxes on property to be used in connection with the license have become delinquent until those taxes with interest and penalties have been paid. Unless otherwise provided in this code, every license must be approved by the City Council.  
(Am. Ord. 2005-C, passed 5-5-2005)

**§ 110.20 LICENSE TERM.**

Unless otherwise provided by this code, the term of the license year begins on January 1 and ends on the last day of December. Where the issuance of licenses for periods of less than 1 year is permitted, the effective date of the license is the date of issuance.

**§ 110.21 LICENSE CERTIFICATES.**

License certificates must show the date of issue, the activity licensed, and the term of the license. They must be signed by the City Clerk and impressed with the city seal. The City Clerk must keep a record of all licenses and permits issued.  
(Am. Ord. 2005-C, passed 5-5-2005)

**§ 110.22 EXHIBITION OF LICENSE CERTIFICATE.**

A licensee must carry the license certificate upon the licensee's person at all times when engaged in the activity for which the license was granted. Where the licensed activity is conducted at a fixed place of business or establishment, the certificate must be exhibited at all times in some conspicuous place on the premises. The licensee must present the license certificate when applying for a renewal and upon demand of any police officer or authorized representative of the city.  
Penalty, see § 10.99

**§ 110.23 LICENSE TRANSFER RESTRICTED.**

Unless otherwise provided in this code, a license is not transferable without the authorization of the City Council.  
Penalty, see § 10.99

**§ 110.24 LICENSE RENEWAL; CONDITIONS.**

License renewals are issued in the same manner and subject to the same conditions as original licenses.

**§ 110.25 REVOCATION; DENIAL; SUSPENSION.**

A license issued or to be issued by the city may be denied, suspended, or revoked by the City Council for any of the following causes:

(A) Fraud, misrepresentation, or incorrect statement contained in the application for the license, or made in carrying on the licensed activity;

(B) Conviction of any crime, or misdemeanor, pertaining to the license held or applied for, subject to the provisions of M.S. Ch. 364, as it may be amended from time to time;

**Melrose - Business Regulations**

(C) Conducting the licensed activity in a manner which constitutes a breach of the peace, or a menace to the health, safety, and welfare of the public, or a disturbance of the peace or comfort of the residents of the city, upon recommendation of the appropriate city official;

(D) Expiration or cancellation of any required bond or insurance, or failure to notify the city within a reasonable time of changes in the terms of the insurance or the carriers;

(E) Actions unauthorized or beyond the scope of the license granted;

(F) Violation of any regulations or provisions of this code applicable to the activity for which the license has been granted, or any regulation or law of the state so applicable; or

(G) Failure to continuously comply with all conditions required as precedent to the approval of the license.

**§ 110.26 HEARING.**

A license may not be suspended or revoked until after a hearing is granted to the licensee. The hearing will be held before the City Council upon due notice to the licensee stating the time and place of the hearing, together with a statement of the violation alleged to be the cause for the revocation or suspension of the license.

**§ 110.27 TEMPORARY SUSPENSIONS.**

The City Council may temporarily suspend a license pending a hearing on revocation or suspension when in its judgment the public health, safety, and welfare are endangered by the continuance of the licensed activity.

**§ 110.28 INSPECTIONS.**

The City Health Officer and other appropriate city officials may enter upon the premises where a licensed activity is being conducted for the purpose of inspection at any reasonable hour.

**§ 110.29 LATE FEES.**

(A) *Activity begun without license.* When an activity licensed under this code is begun without a license, the late fee is as set by the City Council.

(B) *Renewal penalty.* A licensee who fails to pay a license renewal fee by the renewal date must pay the late application fee as set by the City Council. This division does not apply to licenses issued for work performed in or on city streets or sidewalks.

(C) *Prosecution.* The payment of the late fees and penalty fees established in this section does not prevent prosecution by the city for operating or conducting a licensed activity without a license. Penalty, see § 10.99

***PERMIT PROCEDURES***

**§ 110.40 PERMITS REQUIRED.**

It is unlawful to conduct any activity in the city for which a permit is required by this code without first obtaining the permit from the city in the manner provided in this subchapter. Penalty, see § 10.99

**§ 110.41 PERMIT APPLICATION.**

Application for a permit is made to the City Clerk or the City Administrator's designee on forms furnished by the city. The application must contain information as to location, nature, extent, and costs of the proposed structure, work, installation, activity, or other purpose, and other information which the Building Official or other duly authorized persons may require under this code. The application must contain a declaration that the facts and representations therein made are true and correct, which statement must be subscribed to by the person or persons, or officers or agents of a corporation, applying for the permit. (Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 110.42 APPROVAL AND ISSUANCE.**

Upon payment to the city by the applicant of the required fee for a permit, and upon approval of the appropriate official, the permit will be issued, except where City Council approval is required, in which case the appropriate officer may issue the permit only after approval is granted by the City Council.

**§ 110.43 FEE PAYMENT.**

(A) *Payment required for permit issuance.* The permit fee and other fees and charges as set by the City Council must be collected by the city before the issuance of any permit, and the City Administrator, Clerk, Building Official, or other persons authorized to issue a permit for which the payment of a fee is required under the provisions of this code may not issue a permit until the fee has been paid.

(B) *Work without permit; double fees.* Except as otherwise specifically provided in this code, if a person begins work of any kind for which a permit from the city is required without having secured the necessary permit therefor, either previous to or on the date of commencement of the work, the person must, when subsequently securing the permit, pay double the fee provided for the permit or the fee plus \$100, whichever amount is less, and is subject to the penalty provisions of this code. (Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 110.44 BUILDING PERMITS.**

Building permit and plan checking fees and charges are those set by the City Council resolution.

## CHAPTER 111: PEDDLERS AND SOLICITORS

### Section

- 111.01 Definitions
- 111.02 Exceptions to definitions
- 111.03 Licensing; exemptions
- 111.04 License ineligibility
- 111.05 License suspension and revocation
- 111.06 License transferability
- 111.07 Registration
- 111.08 Prohibited activities
- 111.09 Exclusion by placard

### § 111.01 DEFINITIONS.

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

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

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

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

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

***TRANSIENT MERCHANT.*** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling, or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property and who does not remain or intend to remain in any 1 location for more than 14 consecutive days.

#### **§ 111.02 EXCEPTIONS TO DEFINITIONS.**

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

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

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 111.07. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas.

**§ 111.03 LICENSING; EXEMPTIONS.**

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

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 111.07.

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 20 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which the applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) The full address of the applicant's permanent residence;
- (5) The telephone number of the applicant's permanent residence;
- (6) The full legal name of any and all business operations owned, managed, or operated by the applicant, or for which the applicant is an employee or agent;
- (7) The full address of the applicant's regular place of business (if any);
- (8) Any and all business-related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days they will be conducting business in the city (maximum 14 consecutive days);

**Melrose - Business Regulations**

(12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;

(13) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;

(15) Proof of any requested county license, if a county license is required;

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

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

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

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

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

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established by City Council resolution.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, within 2 regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within 20 regular business days of receiving a complete application, the City Clerk must issue the license unless there exist grounds for denying the license under § 111.04, in which case the City Clerk must deny the license. If the City Clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the State Court of Appeals for a writ of certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid until December 31 of that year. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

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

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

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.  
(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 111.04 LICENSE INELIGIBILITY.**

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

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

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

(C) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(D) The revocation within the past 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; or

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or 3 complaints filed against the applicant within the preceding 5 years.

#### § 111.05 LICENSE SUSPENSION AND REVOCATION.

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

- (1) Fraud, misrepresentation, or incorrect statements on the application form;
- (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;
- (3) Conviction of any offense for which granting of a license could have been denied under § 111.04; or
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of their right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) *Public hearing.* Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within 3 regular business days of the hearing, the City Council shall notify the licensee of the city's decision.

(E) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (C) of this section.

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

(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 111.06 LICENSE TRANSFERABILITY.**

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

Penalty, see § 10.99

**§ 111.07 REGISTRATION.**

All solicitors, and any person exempt from the licensing requirements of this chapter under § 111.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term *DOOR-TO-DOOR ADVOCACY* includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political, and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.

(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

**§ 111.08 PROHIBITED ACTIVITIES.**

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

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

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

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

**Melrose - Business Regulations**

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

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

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

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

**§ 111.09 EXCLUSION BY PLACARD.**

No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating No Peddlers, Solicitors, or Transient Merchants, or Peddlers, Solicitors, and Transient Merchants Prohibited, or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Penalty, see § 10.99

## CHAPTER 112: JUNKYARDS; JUNK DEALERS

### Section

- 112.01 Definitions
- 112.02 License required
- 112.03 License application procedure
- 112.04 Issuance of license
- 112.05 Term of license; renewal procedure
- 112.06 Fees
- 112.07 Requirements; operating regulations
- 112.08 Inspections
- 112.09 License revocation and suspension
- 112.10 Appeal; hearing
- 112.11 License not transferable

### § 112.01 DEFINITIONS.

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

***BUSINESS PREMISES*** or ***PREMISES***. The area of a junkyard as described in a junk dealer's license or application for a junk dealer's license.

***JUNK***. Old iron, steel, brass, copper, tin, lead, or other base materials; old cordage, ropes, rags, paper, and other waste or discarded material which might be prepared to be used again in some form; and any or all of the foregoing; and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts; but ***JUNK*** does not include materials or objects accumulated by a person as byproducts, waste, or scraps from the operation of that person's own business, or materials or objects held and used by a manufacturer as an integral part of that person's manufacturing process.

***JUNK DEALER***. A person who operates a junkyard within the city.

**JUNKYARD.** A yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs 1 or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from that act or acts are to be used for charity.

### **§ 112.02 LICENSE REQUIRED.**

(A) *Junk dealers; junkyards.* It is unlawful for a person to act as a junk dealer in the city whether personally, by agents, or employees, singly or along with some other business or enterprise, without first having obtained a license from the city. A junk dealer who operates more than 1 junkyard in the city must have a separate license for each junkyard.

(B) *Itinerant junk dealers.* It is unlawful for a person to act as an itinerant junk dealer in the city without first having obtained a license from the City Council in accordance with the provisions of this chapter.

Penalty, see § 10.99

### **§ 112.03 LICENSE APPLICATION PROCEDURE.**

(A) *Application.* An applicant for a license under this chapter must file with the City Clerk a written application signed by the applicant, if an individual, by all partners if a partnership, and by the president or chief officer of a corporation or other organization, upon forms provided by the city, and a fee as set by the City Council. The application must be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths.

(B) *Application content.* The application must include the following information or material:

(1) The name, residence address, and telephone number of each individual owner, partner, or, if a corporation or other organization, each officer and director;

(2) The name, address, and telephone number of all persons employed or intended to be employed at the time of application;

(3) The location and legal description of the business premises as defined in § 112.01;

(4) A sketch of the actual premises to be used in connection with the business, giving distances in feet, and showing adjoining roads, property lines, buildings, and uses;

(5) Plans and specifications of all buildings, improvements, and facilities constructed or to be constructed in the junkyard; and

(6) Further information as the City Council may request to enable it to effectuate the purposes of this code and to arrive at a fair determination of whether the terms of this code have been complied with.

(C) *Investigation; approval.* Upon receipt of an application for a junk dealer's license, the City Clerk must furnish a copy to the City Council. A copy of the application must also be provided to the Chief of Police, the Building Official, and the Fire Chief, in order that they may recommend approval or disapproval to the City Council.

(1) *Chief of Police.* The Chief of Police must approve the application only if the Chief finds that the applicant's business responsibility and moral character are satisfactory and that the agents or officers of the applicant, if any, who will take part in the operation of the business are of good character and reputation and capable of operating the business in a manner consistent with the public health, safety, and morals.

(2) *Building Official.* The Building Official may approve the application only if the Building Official finds that any proposed or existing buildings or equipment with which the junkyard is being or is to be operated conform to the requirements of the Building Code and the requirements of this chapter.

(3) *Fire Chief.* The Fire Chief may approve the application only if the Fire Chief finds the proposed or existing premises and equipment conform to the requirements of this chapter and applicable fire prevention laws.

(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

#### **§ 112.04 ISSUANCE OF LICENSE.**

(A) *Notice.* If any of the findings provided for in § 112.03 are unfavorable to the applicant, the City Clerk must, within 30 days after the filing of the application, notify the applicant that the application is disapproved and that no license will be issued. Upon request, the City Clerk must furnish the applicant with a brief written statement of the grounds upon which the application was disapproved. If the findings in § 112.03 are favorable to the applicant, the City Clerk must, within 30 days after filing of the application, issue a junk dealer's license to the applicant if:

(1) The applicant has obtained from the City Planning and Zoning Commission a certificate to the effect that the junkyard will not be a violation of the existing City Zoning Code; and

(2) The applicant has paid the fees prescribed by this chapter.

(B) *Contents of license.* The license must bear the following language on its face:

IMPORTANT. This license applies only to the premises indicated and authorizes the licensee to operate a junkyard in a lawful place and manner. It is not a substitute for any certificate of occupancy, building permit, or other certificate or permit that might be required by law and it does not relieve the licensee of the responsibility to have all such permits or certificates at all times and comply with all laws affecting the business.

(C) *Records.* The City Clerk must keep a permanent record of all applications filed, and the disposition of those applications, and all licenses issued in accordance with this chapter. (Am. Ord. 2005-C, passed 5-5-2005)

#### **§ 112.05 TERM OF LICENSE; RENEWAL PROCEDURE.**

(A) *Term.* Unless otherwise provided by the City Council, a license or renewal license issued is effective as of the date of its issuance and expires on December 31 of the year of issuance.

(B) *Renewal.* An applicant for a renewal license must file with the City Clerk a written application upon forms provided by the city, signed and sworn to in the same manner required in the case of an original application, and a fee as set by the City Council. The application must contain information as to any anticipated changes in the conduct and operation of the licensed business from the preceding license period, and any other information necessary to determine the applicant's eligibility for a renewal license.

(Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 10.99

#### **§ 112.06 FEES.**

License fees are set by the City Council resolution.

#### **§ 112.07 REQUIREMENTS; OPERATING REGULATIONS.**

(A) *Rules.* A junkyard must conform with the requirements of this section.

(B) *Drainage.* The site must be well-drained, properly graded to ensure prompt drainage of all surface and storm waters, and to ensure freedom from the formation of stagnant pools of water.

(C) *Display of license.* The license must be plainly displayed on the business premises.

(D) *Weeds.* Weeds and vegetation on the premises, other than trees, must be kept at a height of not more than 4 inches.

(E) *Garbage.* Garbage or other waste that does or may give off a foul odor or attract vermin shall not be kept on the premises.

(F) *Public ways.* Junk shall not be stored on a public street, curb, or walkway.

(G) *Storage.* Junk must be stored in piles not exceeding 7 feet in height and must be arranged so as to permit easy access to all the junk for fire fighting purposes.

(H) *Gas and oil.* Gasoline and oil must be removed from any scrapped engines or vehicles on the premises.

(I) *Burning.* Junk or other materials shall not be burned on the premises in any incinerator not meeting the requirements of the Building Code. Junk or other materials may not be burned on the premises in the open, except as allowed by this code and the MPCA.

(J) *Noise.* Noisy processing of junk or other noisy activities shall not be carried on in connection with the licensed business on Sunday, or at any time between the hours of 7:00 p.m. to 7:00 a.m.

(K) *Various regulations.*

(1) The area on the premises where junk is kept (other than indoors) must be enclosed, except for entrances and exits, with a solid, vertical fence, of a minimum height of 8 feet, measured from ground level. The top 12 inches of the fence must consist of 3 evenly spaced strands of barb wire.

(2) The junkyard must be screened to effectively conceal it from the view of adjoining neighbors.

(3) Entrances and exits may not be wider or more numerous than necessary for the conduct of the licensed business.

(L) *Inspection.* The licensee must permit inspection of the business premises by any official or representative of the City Council at any time.

(M) *Purchase from minors.* A licensed junk dealer or the dealer's agent or employee must not purchase or receive junk for use in the licensed business from a person under the age of 18 years, without the written consent of a parent or guardian of that person. The written consent must be kept available for inspection by any official or representative of the City Council for a period of at least 3 years.

(N) *Records*. Each acquisition of junk must be recorded in a permanent type register kept on the business premises, giving the name and residence address of the person from whom the acquisition was made, a description of the junk acquired, and the date of the transaction. This data must be kept available for inspection by any official or representative of the City Council for a period of at least 3 years.

Penalty, see § 10.99

### **§ 112.08 INSPECTIONS.**

The City Council must inspect the junkyards of junk dealers licensed under this chapter at least once a year to determine whether the yards are being operated in accordance with the provisions of this chapter and other applicable provisions of this code and state law.

### **§ 112.09 LICENSE REVOCATION AND SUSPENSION.**

If the city determines that the public interest so requires, the City Council may revoke or suspend the license of any junk dealer when it finds, after due investigation, that:

(A) The junk dealer, or any agent or officer of the dealer who takes part in the operation of the licensed business, or the itinerant junk dealer, is not of good character or reputation or is not capable of operating the licensed business or carrying on the licensed activity in a manner consistent with public health, safety, and good morals;

(B) The junk dealer has failed to comply with the provisions of this code or any provision of law applicable to the premises, equipment, or operation of the licensed business, or the itinerant junk dealer has failed to comply with this chapter or any provision of law applicable to the dealer's equipment or licensed operations;

(C) The licensee has obtained the license through any fraud or misstatement;

(D) The licensed business or activity is being conducted in a manner detrimental to the health, safety, or general welfare of the public, or is a nuisance, or is being operated or carried on in any unlawful manner; or

(E) The licensed business or activity is no longer being operated or carried on.

**§ 112.10 APPEAL; HEARING.**

A person aggrieved by an order of the City Council granting, denying, renewing, or revoking a license for a proposed or existing business or activity subject to the provisions of this chapter, may file a written request for a hearing before the City Appeal Board, within 10 days after issuance of that order. The Board is composed of 3 impartial citizens of the city, selected by the Mayor. The Board must give notice of a public hearing upon this request to be held in not less than 5 days after service of the notice on the person requesting the hearing. The Board must also give notice of the hearing to other persons directly interested in the order in question. At the hearing, the Board will determine whether the granting, denial, renewal, or revocation of the license was in accordance with the provisions of this chapter and will issue written findings of fact, conclusions of law, and an order to carry out its findings and conclusions. These findings of fact, conclusions of law, and order must be filed with the City Clerk and served by the Board upon all parties appearing or represented at the hearing. The City Attorney must furnish assistance and advice to the Board as the City Council requests.

(Am. Ord. 2005-C, passed 5-5-2005)

**§ 112.11 LICENSE NOT TRANSFERABLE.**

A license issued under this chapter is not transferable or assignable and may not be used by a person other than the one to whom it was issued. A junk dealer's license may not be used in any location other than the one described in the application for which it was issued.

Penalty, see § 10.99



## CHAPTER 113: LIQUOR REGULATIONS

### Section

#### *General Provisions*

- 113.01 State law adopted
- 113.02 Definitions
- 113.03 Possession or consumption by minors

#### *Licensing; Operating Regulations*

- 113.15 License required
- 113.16 Special license for Sunday sales
- 113.17 License application
- 113.18 License fees
- 113.19 Investigation and issuance; transfer
- 113.20 Ineligible persons
- 113.21 Ineligible places
- 113.22 License conditions; operating regulations
- 113.23 Restrictions on purchase and consumption
- 113.24 Consumption and display of liquor; permit
  
- 113.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 113.01 STATE LAW ADOPTED.**

Except as provided herein, the provisions of M.S. Ch. 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, financial responsibility, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of alcoholic beverages, are adopted by reference and made a part of this chapter as if set out in full.  
(Ord. 2004-B, passed 2-19-2004)

**§ 113.02 DEFINITIONS.**

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

**3.2% MALT LIQUOR.** A malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight. The term has the meaning given by M.S. § 340A.101, subd. 19, as it may be amended from time to time.

**BEER STORE.** An establishment for the sale of 3.2% malt liquor, cigars, cigarettes, all forms of tobacco, beverages, and soft drinks at retail.

**CLUB.** Any corporation duly organized under the laws of the state for civic, fraternal, social, or business purposes or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization:

(1) That has more than 50 members;

(2) That has, for more than a year, owned, hired, or leased a building or space in a building of an extent and character as may be suitable and adequate for the reasonable and comfortable accommodations of its members;

(3) Whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose;

(4) None of whose members, officers, agents, or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of reasonable salary or wages as may be fixed and voted each year by the directors or other governing body; and

(5) Has kitchen facilities and serves meals with seating for not less than 50 guests at 1 time.

**COMMISSIONER.** The Commissioner of Public Safety for the state.

**HOTEL.** An establishment that:

(1) Has a resident proprietor or manager;

(2) Regularly furnishes food and lodging to transients, in consideration of payment therefor;

(3) Maintains for the use of its guests not less than 10 guest rooms with bedding and other usual, suitable, and necessary furnishings in each room;

(4) Is provided at the main entrance with a suitable lobby, desk, and office for the registration of its guests on the ground floor;

(5) Employs an adequate staff to provide suitable and usual service; and

(6) Maintains, under the same management and control as the rest of the establishment, and has as an integral part thereof, a dining room with appropriate facilities seating not less than 50 guests at 1 time, where the general public is, in consideration of payment therefor, served with meals at tables.

**LIQUOR.** Intoxicating liquor, as the term is defined by M.S. § 340A.101, subd. 14, as it may be amended from time to time.

**LIQUOR SERVICE MANAGER.** The person responsible for overseeing the daily operations of the licensed premises and for compliance with state and local laws.

**PUBLIC PLACE.** A place open to the public or to which the public is invited, but does not include a private residence.

**RESTAURANT.** An establishment, other than a hotel, that:

(1) Sells, prepares, and serves meals for consumption on the premises;

(2) Serves the meals at tables to the public for pay;

(3) Has seating capacity so as to serve not less than 30 persons at one time; and

(4) Has a full food service license from Stearns County.

(Ord. 2004-B, passed 2-19-2004; Am. Ord. 06-25-2009, passed 6-25-2009)

**§ 113.03 POSSESSION OR CONSUMPTION BY MINORS.**

(A) M.S. § 340A.503, Persons Under 21; Illegal Acts, as it may be amended from time to time, is adopted by reference.

(B) A person who gives to, or procures, or purchases alcoholic beverages for a person under the age of 21 years or other person to whom the sale of alcoholic beverages is by law forbidden, is guilty of a misdemeanor.

(C) It is unlawful for a person to assist, procure, or induce a person under the age of 21 years or other person to whom the sale of alcoholic beverages is by law forbidden, to enter or visit any establishment licensed for the sale of alcoholic beverages for the purpose of obtaining alcoholic beverages.

(Ord. 2004-B, passed 2-19-2004) Penalty, see § 113.99

### ***LICENSING; OPERATING REGULATIONS***

#### **§ 113.15 LICENSE REQUIRED.**

(A) *Sales; license required.* No person, except a wholesaler or manufacturer to the extent authorized under state license, may directly or indirectly deal in, sell, or keep for sale in the city any alcoholic beverages without a license to do so as provided in this section. Alcoholic beverage licenses are of 8 kinds: on-sale liquor, on-sale 3.2% malt liquor, temporary on-sale liquor, temporary on-sale 3.2% malt liquor, on-sale wine, off-sale liquor, off-sale 3.2% malt liquor, and club licenses.

(1) *On-sale liquor licenses.* On-sale liquor licenses are issued only to hotels, clubs, restaurants, bowling centers, and exclusive liquor stores. On-sale liquor licenses will permit the sale of liquor for consumption on the licensed premises only.

(2) *On-sale 3.2% malt liquor licenses.* On-sale 3.2% malt liquor licenses are issued only to bona-fide clubs, beer stores, bowling centers, restaurants, and hotels. On-sale 3.2% malt liquor licenses will permit the sale of 3.2% malt liquor for consumption on the licensed premises only.

(3) *Temporary on-sale liquor licenses.* Temporary on-sale liquor licenses are issued, with the approval of the Commissioner of Public Safety, only to bona-fide clubs and charitable, religious, and non-profit organizations for the sale of liquor for consumption on the licensed premises only. Licenses issued pursuant to this division may provide that the organization may contract for liquor catering services with the holder of an on-sale liquor license issued by the city. Temporary on-sale liquor licenses are subject to any conditions and restrictions deemed necessary by the City Council for the protection of the public health, safety, order, and general welfare. Licenses issued pursuant to this division must name the organization as the license holder. The organization is responsible for properly utilizing the license in conformance with this subchapter and law.

(4) *Temporary on-sale 3.2% malt liquor licenses.* Temporary on-sale 3.2% malt liquor licenses are issued only to bona-fide clubs and charitable, religious, and non-profit organizations for the sale of 3.2% malt liquor for consumption on the licensed premises only. Licenses issued pursuant to this division must name the organization as the license holder. The organization is responsible for properly utilizing the license in conformance with this subchapter and law.

(5) *On-sale wine licenses.* On-sale wine licenses are issued only to restaurants and permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. The holder of an on-sale wine license who is also licensed to sell 3.2% malt liquors at on-sale, and whose gross receipts are at least 60% attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional license.

(6) *Off-sale liquor licenses.* Off-sale liquor licenses are issued only to exclusive liquor stores and permit off-sales of liquor only.

(7) *Off-sale 3.2% malt liquor licenses.* Off-sale 3.2% malt liquor licenses permit the sale of 3.2% malt liquor at retail, in the original package, for consumption off the premises only.

(8) *Club licenses.* Club licenses are issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years and permit on-sale of liquor only.

(B) *Limitation of number of licenses.*

(1) The City Council may grant not more than 10 on-sale liquor licenses at any one time, of which not more than 5 of the on-sale licenses may be issued to exclusive liquor stores.

(2) The City Council may grant not more than 6 off-sale liquor licenses to exclusive liquor stores at any one time.

(Ord. 2004-B, passed 2-19-2004; Am. Ord. 3-16-2006, passed 3-16-2006; Am. Ord. 06-07-2007, passed 6-7-2007; Am. Ord. 06-25-2009, passed 6-25-2009) Penalty, see § 113.99

**§ 113.16 SPECIAL LICENSE FOR SUNDAY SALES.**

*Issuance.* A special license authorizing intoxicating liquor sales in conjunction with the service of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays may be issued by the City Council to a hotel, restaurant, bowling center, or club that has an on-sale liquor license.

(Ord. 2004-B, passed 2-19-2004; Am. Ord. 06-25-2009, passed 6-25-2009)

**§ 113.17 LICENSE APPLICATION.**

(A) *Form.*

(1) The application for a license to sell alcoholic beverages must state:

**Melrose - Business Regulations**

- (a) The name of the applicant;
- (b) The age of the applicant;
- (c) Representations as to character, with references as the City Council may require;
- (d) Citizenship;
- (e) The type of license applied for;
- (f) The business in connection with which the proposed license will operate;
- (g) Its location;
- (h) Whether the applicant is owner and operator of the business;
- (i) How long the applicant has been in that business at that place; and
- (j) Other information as the City Council may require from time to time.

(2) The application must be in the form prescribed by the Commissioner, the city, or both, verified and filed with the City Clerk. A person may not make a false statement in an application.

(B) *Applications from business organizations.* If the applicant for a license is other than a natural person, bona fide club, or charitable, religious, or nonprofit organization, the application must include the names, addresses, and all of the information required by division (A) above for all the owners of the business organization and for the liquor service manager.

(C) *Financial responsibility.*

(1) The applicant must demonstrate proof of financial responsibility as defined in M.S. § 340A.409, with reference to liability under M.S. § 340A.801, as these statutes may be amended from time to time. The proof must be filed with the Commissioner, the City Clerk, or both, as required by state law and city code.

(2) (a) The following applicants for alcoholic beverage licenses must also demonstrate proof of financial responsibility as defined in M.S. § 340A.409, with reference to liability under M.S. § 340A.801, as these statutes may be amended from time to time:

1. Applicants for on-sale 3.2% malt liquor licenses with annual 3.2% malt liquor sales of less than \$25,000;

2. Applicants for on-sale wine licenses with annual wine sales of less than \$25,000;

and

3. Applicants for off-sale 3.2% malt liquor licenses with annual sales of less than \$50,000.

(b) A liability insurance certificate filed as proof of financial responsibility under this division will conform to M.S. § 340A.409, as it may be amended from time to time.

(D) *Approval of security.* The security provided under division (C) must be approved by the City Council, and in the case of applicants for on-sale wine licenses and off-sale liquor licenses, by the Commissioner. Operation of a licensed business without having on file with the city effective security as required by division (C) and this division (D) is grounds for revocation of the license. (Ord. 2004-B, passed 2-19-2004; Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 113.99

**§ 113.18 LICENSE FEES.**

(A) *Fees established.* The fee for an alcoholic beverage license is set by City Council resolution. The City Council may establish a sliding fee schedule to encourage licensees to adopt programs designed to assist law enforcement with the enforcement of federal, state, and local laws regulating the sale of alcoholic beverages.

(B) *Payment.* An application for a license must be accompanied with payment in full of the license fee and background investigation fee. Fees are paid to the City Clerk. If an application for a license is rejected, the city must refund the amount paid for the license.

(C) *Term; pro-rata fee.* Except for a temporary license, a license is issued for a period of 1 year. If the application is made during the license year, a license may be issued for the remainder of the year for a pro-rata fee, with any unexpired fraction of a month being counted as 1 month. The license expires on the last day of February.

(D) *Term; temporary on-sale liquor license.* A temporary on-sale liquor a license is issued for a period of not more than 3 days. No more than 12 days worth of temporary on-sale liquor licenses shall be issued to any 1 organization in 1 calendar year.

(E) *Term; temporary on-sale 3.2% malt liquor license.* A temporary on-sale 3.2% malt liquor license is issued for a period of not more than 3 days.

(F) *Refunds.* A refund of a fee will not be made except as authorized by law. (Ord. 2004-B, passed 2-19-2004; Am. Ord. 2005-C, passed 5-5-2005; Am. Ord. 06-07-2007, passed 6-7-2007) Penalty, see § 113.99

**§ 113.19 INVESTIGATION AND ISSUANCE; TRANSFER.**

(A) *New license; transfer.* The City Council will investigate all facts set out in the application for a new license and on a transfer of an existing license. Opportunity will be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the City Council will, in its discretion, grant or refuse the application. An on-sale wine license or off-sale liquor license will not be effective until it, together with the security furnished by the applicant, has been approved by the Commissioner.

(B) *Renewal.* On a renewal of a license, the City Council will investigate all facts set out in the application. After the investigation, the City Council will, in its discretion, grant or refuse the application. An on-sale wine license or off-sale liquor license will not be effective until it, together with the security furnished by the applicant, has been approved by the Commissioner.

(C) *Investigation fee.* The background investigation fee for an alcoholic beverage license is fixed by City Council resolution.

(D) *Transfer restricted.* A license may be issued only to the applicant and for the premises described in the application. A license may not be transferred to another person or place without City Council approval.

(Ord. 2004-B, passed 2-19-2004) Penalty, see § 113.99

**§ 113.20 INELIGIBLE PERSONS.**

A license may not be granted to or held by any person who:

(A) Is under 21 years of age;

(B) Has, within 5 years prior to the application for that license, been convicted of a felony, or of violating any state law or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages, and cannot show competent evidence under M.S. § 364.03, as it may be amended from time to time, of sufficient rehabilitation and present fitness to perform the duties of a licensee;

(C) Is a manufacturer of alcoholic beverages or is interested in the control of any place where alcoholic beverages are manufactured;

(D) Is an alien;

(E) Is not of good moral character;

(F) Is or during the period of the license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of liquor at any place unless there has also been issued to the applicant a local license to sell liquor at that place; or

(G) Is not the proprietor of the establishment for which the license is issued.  
(Ord. 2004-B, passed 2-19-2004)

**§ 113.21 INELIGIBLE PLACES.**

(A) *State law.* A license may not be issued for a place or a business ineligible for the license under state law.

(B) *Delinquent taxes and charges.* A license may not be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.  
(Ord. 2004-B, passed 2-19-2004)

**§ 113.22 LICENSE CONDITIONS; OPERATING REGULATIONS.**

(A) *In general.* A license is subject to the conditions in the following divisions and all other provisions of this chapter and of other applicable local ordinances, state law, or regulations.

(B) *Licensee responsibility.* A licensee is responsible for the conduct of the licensed place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell alcoholic beverages is deemed the act of the licensee as well, and the licensee is subject to all penalties provided by this chapter and state law equally with the employee.

(C) *Sales to intoxicated persons.* Alcoholic beverages may not be sold or served to an intoxicated person.

(D) *Employment of minors.* A minor under 18 years of age may not be employed on the premises of a beer store or an exclusive liquor store.

(E) *Gambling.* Gambling and gambling devices are not permitted on a licensed premises. Lawful gambling by organizations licensed by the State Charitable Gambling Control Board is permitted pursuant to an approved premises permit.

(F) *Inspections.* The licensee must allow a law enforcement officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during the business hours.

(G) *Hours of operation.* The sale of alcoholic beverages may not be made at any time when the sale of alcoholic beverages is prohibited by state law. Persons, except the licensee, bona-fide employees,

and law enforcement officers, must be excluded from the licensed premises within 30 minutes after the expiration of the time on any day when alcoholic beverages may be legally sold therein. It is unlawful to permit the consumption or displaying of alcoholic beverages later than 30 minutes after the sales must terminate. It is conclusively presumed that alcoholic beverages remaining on the bar, or in a booth, or on a table in the licensed premises thereafter are for the purpose of consuming the same in violation of this division. The named licensee is responsible for the enforcement of this division, and failure to do so is a violation of this division whether or not the named licensee, or any officer thereof, is physically present when the offense occurs. If the licensee is operating any other lawful business in the building in which the licensed premises are located, alcoholic beverages may not be served, or permitted to be consumed, on the premises where that other business is conducted during the time when the licensed premises must be closed pursuant to law and this division.

(H) *Display during prohibited hours.* An on-sale establishment may not display alcoholic beverages to the public during hours when the sale of alcoholic beverages is prohibited.

(I) *Federal stamp.* A licensee may not possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

(J) *Sales of liquor.* An on-sale 3.2% malt liquor licensee who is not also licensed to sell liquor and who does not hold a consumption or display permit may not sell or permit the consumption or display of liquor on the licensed premises or serve any liquids for the purpose of mixing with liquor. The presence of liquor on the premises of the licensee is prima facie evidence of possession of liquor for the purpose of sale. The serving of any liquid for the purpose of mixing with liquor is prima facie evidence that liquor is being permitted to be consumed or displayed contrary to this section.

(K) *Nudity and sexual conduct prohibited.* The City Council finds that the sale or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incidents of prostitution, public masturbation, indecent exposure, and sexual assault.

(1) In order to protect the health, safety, and welfare of city residents, and pursuant to the City Council's authority to regulate alcoholic beverages under Minnesota Statutes and the Twenty-First Amendment to the U.S. Constitution, no on-sale licensee shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following types of conduct can be seen by patrons of the licensed premises:

(a) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or flagellation;

(b) The actual or simulated touching, caressing, or fondling of the breast, buttocks, anus, or genitals;

(c) The actual or simulated displaying of the pubic hair, anus, vulva, or genitals;

(d) The displaying of films, videos, still pictures, electronic reproduction, or any other visual reproduction or image depicting the acts described in (K)(1)(a) through (K)(1)(c) above; or

(e) The presentation of any female in a manner or attire so as to expose to view any portion of the breast below the top of the areola, or any simulation thereof.

(2) No licensee or their agent shall allow or permit to remain in or about the licensed premises any person who performs acts as set forth in divisions (K)(1)(a) through (K)(1)(e) above.

(3) Violation of this division (K) is grounds for revocation of the license.  
(Ord. 2004-B, passed 2-19-2004) Penalty, see § 113.99

**§ 113.23 RESTRICTIONS ON PURCHASE AND CONSUMPTION.**

*(A) Unlicensed places.*

(1) A person may not mix, prepare, or serve alcoholic beverages for consumption in a public place of business unless the person has a license to sell alcoholic beverages on-sale or a permit from the Commissioner under M.S. § 340A.414, as it may be amended from time to time, and no person may consume alcoholic beverages in any such place.

(2) Alcoholic beverages may not be sold or consumed on a public highway or in an automobile in a public place in the city. It is unlawful to carry an open container of any alcoholic beverages or consume any alcoholic beverages on any public street, alley, parking lot, or sidewalk in the city.

*(B) Licensed places.*

(1) A person to whom the sale of alcoholic beverages is forbidden by state law may not:

(a) Misrepresent that person's age for the purpose of obtaining alcoholic beverages;

(b) Enter any licensed premises in order to procure alcoholic beverages; or

(c) Consume, or purchase, or attempt to purchase, or have another purchase for that person, alcoholic beverages on licensed premises.

(2) A person may not give, procure, or purchase alcoholic beverages for any person to whom the sale of alcoholic beverages is forbidden by state law.

(3) A person may not refuse to show proper identification to a bartender or law enforcement officer when requested to do so. Refusal to do so is a violation of this section, if the person is then in an establishment licensed to sell alcoholic beverages.

(4) All alcoholic beverages sold under an on-sale license issued under § 113.15(A)(1)-(5), and (8) must be possessed and consumed on the premises where purchased. A person may not possess or consume any alcoholic beverages outside of the licensed premises if the alcoholic beverage was purchased under an on-sale license issued under § 113.15(A)(1)-(5), and (8). The licensee is responsible for the enforcement of this provision. Permitting a person possessing alcoholic beverages purchased under an on-sale license issued under § 113.15(A)(1)-(5), and (8) to leave the premises with the alcoholic beverage in possession is a violation of this section by the licensee.

(5) The possession and consumption of alcoholic beverages outside the building of a business issued a license under § 113.15(A)(1), (2), (5), and (8), and § 113.16 is permitted only between the hours of 10:00 a.m. and 10:00 p.m. on Sundays, and between the hours of 8:00 a.m. and 10:00 p.m. on Mondays through Saturdays. Except as provided by § 113.23(C) and § 113.23(D), the possession and consumption of alcoholic beverages outside the building of a business issued a license under § 113.15(A)(1), (2), (5), and (8), and § 113.16 at any other times is prohibited.

(6) A restaurant with an on-sale liquor license or an on-sale wine license may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the premises, provided that the bottle has been opened and the contents partially consumed. The removal of the bottle of wine under the conditions described above is not a violation of this section.

(7) On-sale liquor licenses are subject to the conditions in this chapter, and all other provisions of the city code, other applicable local ordinances, state laws and regulations.

*(C) Community festivals – private property.*

(1) The City Council may authorize the holder of an on-sale liquor license to dispense alcoholic beverages on private property outside of the licensed premises at a community festival.

(2) The application for authorization to dispense alcoholic beverages on private property at a community festival must include:

- (a) The name of the applicant and their license number;
- (b) The date of community festival and the hours during which alcoholic beverages will be served by the applicant;
- (c) A description of the area in which alcoholic beverages will be dispensed and consumed;
- (d) A plan for restricting public access to the area in which alcoholic beverages will be dispensed and consumed;
- (e) Proof of liability insurance to cover the event; and
- (f) Such other information as the Council may require from time to time.

(3) The application must be in the form prescribed by the city, verified, and filed with the City Clerk not less than 2 weeks prior to the event. The application must be accompanied with payment in full of the application fee. The City Clerk will refer the application to the Police Chief and Public Works Director for review. The City Council will, upon receiving the Police Chief's and Public Works Director's recommendation, grant or refuse the application.

(4) The authorization to dispense alcoholic beverages on private property at a community festival is subject to the conditions in this division, all other provisions of this chapter, other applicable local ordinances, state law, or regulation, and any conditions and restrictions deemed necessary by the City Council for the protection of the public health, safety, order, and general welfare.

(5) The dispensing and consuming of alcoholic beverages outside of the area or times stated in the authorization is prohibited. Dispensing and consuming alcoholic beverages on private property at a community festival between the hours of 12:00 a.m. and 12:00 p.m. is prohibited.

(6) The area specified in the authorization for dispensing and consuming alcoholic beverages shall:

- (a) Adjoin the applicant's licensed premises;
- (b) Be located entirely on property owned by the applicant; and
- (c) Be accessible only from the applicant's licensed premises.

(7) During any 1 year license period, no more than 6 authorizations shall be granted to the holder of an on-sale liquor license to dispense alcoholic beverages on private property at a community festival.

(D) *Community festivals — public property.*

(1) The City Council may authorize the holder of an on-sale liquor license to dispense alcoholic beverages on public property outside of the licensed premises at a community festival.

(2) The application for authorization to dispense alcoholic beverages on public property at a community festival must include:

- (a) The name of the applicant and their license number;
- (b) The date of community festival and the hours during which alcoholic beverages will be served by the applicant;
- (c) A description of the area in which alcoholic beverages will be dispensed and consumed;
- (d) Proof of liability insurance to cover the event that names the city as an additional insured; and

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

(3) The application must be in the form prescribed by the city, verified, and filed with the City Clerk not less than 2 months prior to the event. The application must be accompanied with payment in full of the application fee. The City Clerk will refer the application to the Police Chief and Public Works Director for review. The City Council will, upon receiving the Police Chief's and Public Works Director's recommendation, grant or refuse the application.

(4) The authorization to dispense alcoholic beverages on public property at a community festival is subject to the conditions in this division, all other provisions of this chapter, other applicable local ordinances, state law, or regulation, and any conditions and restrictions deemed necessary by the City Council for the protection of the public health, safety, order, and general welfare.

(5) The dispensing and consumption of alcoholic beverages outside of the area or times stated in the authorization is prohibited. Dispensing and consuming alcoholic beverages on public property at a community festival between the hours of 12:00 a.m. and 12:00 p.m. is prohibited.

(6) During any 1 calendar year, no more than 2 authorizations shall be granted to dispense alcoholic beverages on public property at a community festival. (Ord. 2004-B, passed 2-19-2004; Am. Ord. 2005-C, passed 5-5-2005; Am. Ord. 06-07-2007, passed 6-7-2007; Am. Ord. 06-25-2009, passed 6-25-2009; Am. Ord. 8-25-2011, passed 8-25-2011) Penalty, see § 113.99

#### **§ 113.24 CONSUMPTION AND DISPLAY OF LIQUOR; PERMIT.**

(A) *Permit required.* It is unlawful for a club or public place directly, indirectly, or upon any pretense or by any device to allow the consumption or display of liquor, or the serving of any liquid for the purpose of mixing with liquor, without first securing City Council approval, a permit from the Commissioner, and paying the annual fee.

(B) *Fees.* A club or public place desiring to allow the consumption or display of liquor must on or before April 1 of each year pay to the city the fee as set by City Council resolution. The permit issued by the Commissioner must be posted at all times in some conspicuous place upon the premises.

(C) *State law adopted.* The regulatory provisions of M.S. § 340A.414, as it may be amended from time to time, are hereby incorporated and made a part of this section as completely as if set out here in full. (Ord. 2004-B, passed 2-19-2004) Penalty, see § 113.99

**§ 113.99 PENALTY.**

(A) Any person who shall violate any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.

(B) (1) The City Council may impose a civil penalty of up to \$2,000, or suspend for a period not to exceed 60 days, or revoke any alcoholic beverage license, or impose any combination of these sanctions upon a finding that the licensee has failed to comply with an applicable state law, regulation, or ordinance relating to liquor. A suspension or revocation does not take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 through 14.69, as they may be amended from time to time.

(2) The City Council may, after notice and hearing on the proposed schedule, adopt a resolution establishing a sliding schedule of administrative penalties.  
(Ord. 2004-B, passed 2-19-2004)



## CHAPTER 114: TOBACCO REGULATIONS

### Section

- 114.01 Purpose
- 114.02 Definitions
- 114.03 License
- 114.04 Fees
- 114.05 Basis for denial of license
- 114.06 Prohibited sales
- 114.07 Vending machines
- 114.08 Self-service sales
- 114.09 Licensee responsibility
- 114.10 Compliance checks and inspections
- 114.11 Other unlawful acts
- 114.12 Violations; procedures
- 114.13 Exceptions and defenses
  
- 114.99 Penalty

### § 114.01 PURPOSE.

The purpose of this chapter is 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. 1997-H, passed 12-18-1997)

**§ 114.02 DEFINITIONS.**

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, and 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, and tobacco-related devices.

**INDIVIDUALLY PACKAGED.** The practice of selling any tobacco or tobacco products wrapped individually for sale. **INDIVIDUALLY WRAPPED** tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition 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 18 years of age.

**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.

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

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

**SELF-SERVICE MERCHANDISING.** Open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco products, or tobacco-related devices 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, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in a manner so 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. 1997-H, passed 12-18-1997)

### § 114.03 LICENSE.

(A) *License required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related devices without first having obtained a license to do so from the city.

(B) *Application.* An application for a license shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action. If the City Clerk determines that an application is incomplete, it shall be returned to the applicant with notice of the information necessary to make the application complete. The City Council may require a background investigation prior to taking action on the application.

(C) *Approval or denial.* The City Council may either approve or deny the license, or delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant as deemed necessary. If the City Council approves the license, the City Clerk 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 decision.

(D) *Term.* Unless otherwise provided by the City Council, a license or renewal license issued is effective as of the date of its issuance and expires on December 31 of the year of issuance.

(E) *Revocation or suspension.* Any license issued may be revoked or suspended as provided in § 114.12.

(F) *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 allowed.

(G) *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.

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

(I) *Renewals*. The renewal of a license shall be handled in the same manner as the original application. The request for a renewal shall be made at least 2 weeks but no more than 30 days before the expiration of the current license. The issuance of the license 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. 1997-H, passed 12-18-1997; Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 114.99

#### **§ 114.04 FEES.**

No license shall be issued until the appropriate license fee is paid in full. License fees are set by City Council resolution.

(Ord. 1997-H, passed 12-18-1997)

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

(A) The following shall be grounds for denying the issuance or renewal of a license:

(1) The applicant is under 18 years of age;

(2) The applicant has been convicted within the past 5 years of any violation of a federal, state, or local law, city code, or other regulation relating to tobacco or tobacco products, or tobacco-related devices;

(3) 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;

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

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding this type of license.

(B) 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.  
(Ord. 1997-H, passed 12-18-1997)

**§ 114.06 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 devices as follows:

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

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

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

(D) By means of loosies as defined in § 114.02;

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

(F) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, city code, or other regulation.  
(Ord. 1997-H, passed 12-18-1997) Penalty, see § 114.99

**§ 114.07 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 premises.  
(Ord. 1997-H, passed 12-18-1997) Penalty, see § 114.99

**§ 114.08 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 the customer may have access to those items without having to request the item from the licensee or the licensee's employee and where there is not a physical exchange of the tobacco, tobacco products, or tobacco-related devices between the licensee or licensee's employee and the customer. All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

(Ord. 1997-H, passed 12-18-1997) Penalty, see § 114.99

**§ 114.09 LICENSEE RESPONSIBILITY.**

All licensees 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 licensee's employee to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Ord. 1997-H, passed 12-18-1997) Penalty, see § 114.99

**§ 114.10 COMPLIANCE CHECKS AND INSPECTIONS.**

All licensed premises shall be open to inspection by the local law enforcement 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 15 years of age but less than 18 years of age, to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco-related devices when those items are obtained or attempted to be 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 the licensee's employee and shall produce any identification, if any exists, for which requested. 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. 1997-H, passed 12-18-1997) Penalty, see § 114.99

**§ 114.11 OTHER UNLAWFUL ACTS.**

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

- (A) For any person to sell or otherwise provide any tobacco, tobacco products, or tobacco-related devices to any minor;
- (B) For any minor to have in possession any tobacco, tobacco products, or tobacco-related devices. This shall not apply to minors lawfully involved in a compliance check;
- (C) For any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco products, or tobacco-related devices;
- (D) For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, or tobacco-related devices, and for any person to purchase or otherwise obtain these items on behalf of a minor. It shall also 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 devices. This shall not apply to minors lawfully involved in a compliance check; or
- (E) For any minor to attempt to disguise 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. 1997-H, passed 12-18-1997) Penalty, see § 114.99

**§ 114.12 VIOLATIONS; PROCEDURES.**

- (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 the 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.* 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 § 114.99 of this code, shall be recorded in writing, a copy of which shall be provided to the accused violator. If the Hearing Officer finds that no violation occurred or finds grounds for not imposing any penalty, those 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 jurisdiction of the city in which the alleged violation occurred.

(F) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution under the provisions of M.S. § 609.685, as it may be amended from time to time, for any alleged violation of this chapter.

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

(Ord. 1997-H, passed 12-18-1997) Penalty, see § 114.99

### **§ 114.13 EXCEPTIONS AND DEFENSES.**

(A) *Religious exception.* 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.

(B) *Affirmative defense.* It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

(Ord. 1997-H, passed 12-18-1997) Penalty, see § 114.99

### **§ 114.99 PENALTY.**

(A) *General.* Any person who shall violate any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.

(B) *Licensees.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine as established by City Council resolution.

(C) *Other individuals.* Individuals, including the employees of a licensee, other than minors regulated by division (D) of this section, found to be in violation of this chapter shall be charged an administrative fee for the violation as established by City Council resolution.

(D) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, or tobacco-related devices, shall be charged an administrative fee for the violation as established by City Council resolution.

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

(Ord. 1997-H, passed 12-18-1997)

## CHAPTER 115: SEXUALLY ORIENTED BUSINESSES

### Section

- 115.01 Purpose
- 115.02 Findings
- 115.03 Definitions
- 115.04 Exceptions
- 115.05 License required
- 115.06 Person ineligible
- 115.07 Places ineligible
- 115.08 License application
- 115.09 Fees
- 115.10 Granting of licenses
- 115.11 Conditions of license
- 115.12 Restrictions and regulations
- 115.13 Suspensions and revocation of license

### 115.99 Penalty

Appendix I: Resolution adopting the findings of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*  
Appendix II: *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*

### § 115.01 PURPOSE.

The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually-transmitted diseases.

### § 115.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the*

*Regulation of Sexually Oriented Businesses* dated June 6, 1989, a copy of which is referenced and included in Appendix II of this chapter. This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of this chapter.

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

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

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

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

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

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

### § 115.03 DEFINITIONS.

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

***SEXUALLY ORIENTED BUSINESS.*** Shall include the following:

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

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

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

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

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

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

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

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

(3) Are designed for sexual stimulation.

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

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

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

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

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

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

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

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

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

(7) **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

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

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

(11) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to 5 or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

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

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

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

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

**SPECIFIED ANATOMICAL AREAS.** Shall include the following:

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

**SPECIFIED SEXUAL ACTIVITIES.** Shall include the following:

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

**§ 115.04 EXCEPTIONS.**

This chapter does not regulate the following:

(A) Material with significant literary content or social commentary;

(B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business;

(C) A person or organization exempted under M.S. § 617.295, as it may be amended from time to time;

(D) Activity regulated under M.S. § 617.251, as it may be amended from time to time;

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

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

**§ 115.05 LICENSE REQUIRED.**

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

Penalty, see § 115.99

**§ 115.06 PERSONS INELIGIBLE.**

No license may be issued to a person who:

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

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

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

(D) Holds a liquor license under Chapter 113 of this code.

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

(F) Has had a license for a sexually oriented business or similar business revoked anywhere within 5 years of the license application; or

(G) In the case of an individual, is not a resident of the state; in the case of a partnership, the managing partner is not a resident of the state; or in the case of a corporation, the manager is not a resident of the state. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency may, for good cause, be extended by the licensing authority.

Penalty, see § 115.99

**§ 115.07 PLACES INELIGIBLE.**

No license may be issued for:

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

(B) Operation in a zoning district where the business is not allowed pursuant to Chapter 152 of this code;

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

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

Penalty, see § 115.99

**§ 115.08 LICENSE APPLICATION.**

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

(1) The business in connection with which the proposed license will operate;

(2) The location of the business premises;

(3) The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;

**Melrose - Business Regulations**

(4) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;

(5) Whether the applicant is the owner and operator of the business and if not, who is;

(6) Whether the applicant has ever used or been known by a name other than their true name, and if so, what was the name or names, and information concerning dates and places where used;

(7) Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;

(8) Street address at which the applicant and spouse have lived during the preceding 10 years;

(9) Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding 10 years;

(10) Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding 10 years;

(11) Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;

(12) Whether the applicant or spouse has ever been engaged as an employee or in operating a sexually oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;

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

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

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

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

(b) Names and addresses of all officers;

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

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

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

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

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

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

(20) Other information that the city deems appropriate.

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

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

(D) The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides. (Am. Ord. 2005-C, passed 5-5-2005) Penalty, see § 115.99

**§ 115.09 FEES.**

(A) An applicant for a license must pay to the city the investigation fee specified by resolution of the City Council. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of

license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.

(B) The annual fees for a license shall be set from time to time by the City Council.

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

(D) No refund of a fee will be made except as authorized by this code.  
(Am. Ord. 4-06-2006-1, passed 4-6-2006)

### **§ 115.10 GRANTING OF LICENSES.**

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

(B) No license, except for a renewed license, may be issued for a sexually oriented business until the City Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in Chapter 153 of this code, for a zoning ordinance amendment affecting district boundaries. The City Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the City Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An application wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

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

(D) In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.  
(Am. Ord. 4-06-2006-1, passed 4-6-2006)

**§ 115.11 CONDITIONS OF LICENSE.**

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

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

(C) The license must be posted in a conspicuous place in the premises for which it is used.  
Penalty, see § 115.99

**§ 115.12 RESTRICTIONS AND REGULATIONS.**

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

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

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

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

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

(E) No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past 5 years.

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

**Melrose - Business Regulations**

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

(H) A live performer must remain at all times a minimum distance of 10 feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least 2 feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.

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

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

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

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

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

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

Penalty, see § 115.99

**§ 115.13 SUSPENSIONS AND REVOCATIONS OF LICENSE.**

(A) *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under M.S. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding 1 year after becoming due, unless the 1-year period is extended through no fault of the licensee.

(B) *Violations.*

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

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

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

**§ 115.99 PENALTY.**

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



APPENDIX I

**RESOLUTION ADOPTING THE FINDINGS OF THE REPORT  
OF THE ATTORNEY GENERAL'S WORKING GROUP ON  
THE REGULATION OF SEXUALLY ORIENTED BUSINESSES**

WHEREAS because of its small size, the city lacks the resources to investigate and research the impact sexually oriented businesses would have on the character of the city's neighborhoods; and

WHEREAS the city intends to rely on the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989, which is included as Appendix II to Chapter 115 of the city code, as a basis for regulating sexually oriented businesses in this city; and

WHEREAS the members of the City Council have reviewed this Report;

NOW THEREFORE, the City Council of this City hereby accepts the recommendations and conclusions of this Report and adopts the recommendations and conclusions by reference of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989; and by passage of this resolution implements the provisions of city code Chapters 115 and 152.

Signed:

Mayor

Attest:

City Administrator



**APPENDIX II**

***REPORT OF THE ATTORNEY GENERAL'S WORKING GROUP  
ON THE REGULATION OF SEXUALLY ORIENTED BUSINESSES***



## CHAPTER 116: TAXICAB VEHICLES AND DRIVERS

### Section

- 116.01 Definitions
- 116.02 Taxicab vehicle license
- 116.03 Insurance
- 116.04 Investigation and inspection
- 116.05 Addition of other vehicles
- 116.06 Mechanical requirements for taxicabs
- 116.07 General conditions
- 116.08 Reserved
- 116.09 Taxicab driver's license
- 116.10 License application
- 116.11 Investigation and issuance
- 116.12 General conditions of license
- 116.13 Renewal of license
- 116.14 Trip sheets
- 116.15 Display of licenses
- 116.16 Suspension or revocation

### § 116.01 DEFINITIONS.

For the purposes of this chapter the terms defined have the meanings given them.

**PERSON.** Shall mean and include any individual, firm, partnership, association or corporation.

**TAXICAB.** A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than 8 persons and not operated on a fixed route.

**TAXICAB DRIVER.** A person who operates a taxicab.

**TAXIMETER.** A mechanical instrument and device by which the charge for hire is mechanically calculated and upon which such charge is being indicated by means of figures plainly visible.  
(Ord. 2005-B, passed 1-20-2005)

**§ 116.02 TAXICAB VEHICLE LICENSE.**

(A) *License required.* No person may engage in the business of operating taxicabs in the city without first obtaining a license. Any taxicab licensed to operate in another political subdivision of this state may carry passengers to any place or point within the city; but neither the owner nor operator of such vehicle may solicit or pick-up business on the streets of the city or to otherwise operate within the city without being licensed under the provisions of this chapter.

(B) *Contents of application.* Persons desiring to engage in the taxicab business in the city shall submit an application setting forth:

- (1) The name and address of the applicant;
- (2) The experience of the applicant in the transportation of passengers;
- (3) The make, body style, and model year of each vehicle to be operated by the applicant;
- (4) The locations of all proposed depots and taxicab terminals; and
- (5) The color scheme or insignia, if any, to be used to designate the applicant's vehicles.

(C) *Approval of application.* Upon completion of the investigation and inspection required by § 116.04 of this chapter, the City Council will, in its discretion, grant or refuse the application. Applications approved by the City Council shall be issued by the City Clerk upon the applicant paying the required license fee and providing proof of insurance as required by § 116.03 of this chapter.

(D) *License fee.* The annual license fee shall be fixed by resolution of the City Council from time to time.

(E) *Term of taxicab vehicle license.* All licenses issued by the city, unless sooner revoked as hereinafter provided, shall expire on December 31 of each year.  
(Ord. 2005-B, passed 1-20-2005; Am. Res. 05-006, passed 1-20-2005; Am. Ord. 2005-C, passed 5-5-2005)

**§ 116.03 INSURANCE.***(A) General rule.*

(1) No license may be issued, and any existing license shall be immediately revoked by the City Clerk, until the applicant or licensee files with the city a current policy of insurance whereby each vehicle for which a license is required is covered against loss or injury in the following amounts:

- (a) Each passenger, at least \$100,000;
- (b) Each accident, at least \$300,000; and
- (c) Property damage, at least \$50,000.

(2) Such policy of insurance shall contain a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon, and that until the policy is revoked as herein provided, the insurance company will not be released from liability on account of non-payment of premium, failure to renew license at the end of the year, or any act or omission of the named assured.

*(B) Self-insurance.* If the applicant has qualified as a self-insurer under M.S. § 65B.48, as it may be amended from time to time, and has filed with the city a certified copy of a duplicate original of self-insurance certificate issued by the state commissioner of commerce, no policy of insurance shall be required to be filed with the city.

*(C) Notice of cancellation.* Insurance procured pursuant to this section shall provide for notice to the city of the termination or cancellation of coverage. Each license issued to a licensee whose insurance is canceled or terminated shall be suspended automatically until the insurance herein required is provided.

(Ord. 2005-B, passed 1-20-2005; Am. Ord. 2005-C, passed 5-5-2005)

**§ 116.04 INVESTIGATION AND INSPECTION.**

Each application shall be referred to the Chief of Police for investigation of the applicant and any vehicle to be operated in the applicant's taxicab business. The Chief of Police shall determine the operating condition of any such vehicle and make a report to the City Council based on the findings. The City Council may grant licenses applicable only to those vehicles described in the application and approved in the report of the Chief of Police.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.05 ADDITION OF OTHER VEHICLES.**

In the event that a licensee desires to obtain approval of vehicles other than those described in the original application, the licensee shall submit a new application for the other vehicles. The license fee shall be paid as to each additional vehicle, notwithstanding the discontinuance of the use of any previously approved vehicles.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.06 MECHANICAL REQUIREMENTS FOR TAXICABS.**

(A) *General requirements.* No license may be issued unless the taxicab is:

- (1) In a thoroughly safe mechanical condition;
- (2) Plainly marked as a taxicab;
- (3) Equipped with doors that may be easily opened from both inside and out;
- (4) In good appearance - well painted and clean inside;

(5) Equipped with a taximeter in good working order which has a light so placed as to enable the passenger at all times to see the fare registered when operating on the meter basis;

(6) Equipped with a printed card containing the taxicab license number and the authorized fare printed thereon in figures and letters easily seen by passengers seated in the taxicab; and

(7) In compliance with all applicable safety requirements of the State of Minnesota and the city code.

(B) *Taximeters.* No taxicab shall be operated when its taximeter is out of order or for any reason does not correctly register the fare charge; provided that a variance of 3% shall be considered correct. Taximeters may be examined and tested by the Police Department at any time and the Department shall keep a record of all such inspections, approvals, and disapprovals.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.07 GENERAL CONDITIONS.**

(A) *General rule.* No licensee or employees of the licensee may permit more persons to ride in a taxicab than are provided for by its normal seating capacity.

(B) *Rates.* The rates, fares, or charges being charged by the licensee shall, at all times, be kept on file by the licensee with the City Clerk. No change in the filed rates, fares, or charges may be made by the licensee without first filing such revised rates, fares, or charges with the City Clerk at least 30 days prior to the effective date of the changes.

(Ord. 2005-B, passed 1-20-2005; Am. Ord. 2005-C, passed 5-5-2005)

**§ 116.08 RESERVED.**

**§ 116.09 TAXICAB DRIVER'S LICENSE.**

(A) *License required.* No person may operate a taxicab in the city unless the operator possesses a current taxicab driver's license.

(B) *Scope of chapter.* Notwithstanding the provisions of this section, any taxicab driver licensed to operate a taxicab in another political subdivision in this state, may carry passengers from such political subdivision into the city and may freely enter and travel upon the streets and thoroughfares for that purpose, and in such case it shall not be necessary for the driver to obtain a Melrose taxicab driver's license; but such driver may not be permitted to solicit or pick up business on the streets of the city or to otherwise operate within the city without being licensed under the provisions of this chapter. While in the city the foreign driver shall observe all the regulations and conditions of this chapter.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.10 LICENSE APPLICATION.***(A) Requirements.*

(1) A person desiring a taxicab driver's license shall make application to the City Clerk. The applicant must meet the following requirements:

(a) Must possess the required class of license from the State of Minnesota;

(b) Must be over 18 years old, a resident of Stearns County or any county contiguous thereto and able to read and write the English language;

(c) If not a United States citizen, shall furnish information necessary to establish that the applicant is legally in the United States and has the right to obtain employment;

(d) Has obtained and provided a doctor's certificate indicating the applicant is free from any infirmity, physical or mental, which would render the applicant unfit for the safe operation of the licensed vehicle;

(e) Must be clean in dress and person and not addicted to the use of intoxicating liquors or drugs;

(f) Shall provide testimonials to the applicant's good character from 2 reputable citizens of the city who have known the applicant personally and observed the applicant's conduct during the year preceding the date of the application; and

(g) When requested to do so, shall demonstrate knowledge of city and state traffic regulations and skill and ability in driving a vehicle.

(2) The applicant must continue to meet the above requirements during the licensing period. Failure to maintain the above, requirements will be the basis for suspension or revocation of such license.

*(B) Contents.* Eligible applicants shall furnish the following information, in making application:

(1) Name, residence, address, age, height, color of eyes, and year and place of birth;

(2) Places of residence for the 5 years previous to the application date;

(3) Previous employment dates and places;

(4) Whether applicant has previously been denied a taxicab driver's license or had such license revoked and, if so, when, where and for what reason; and

(5) Whether applicant has ever been convicted of a felony or misdemeanor and, if so, the date, place, and type of conviction.

(C) *Approval of application.* Upon completion of the investigation and inspection required by § 116.11 of this chapter, the City Council will, in its discretion, grant or refuse the application. Applications approved by the City Council shall be issued by the City Clerk upon the applicant paying the required license fee.

(D) *Fee.* The annual license fee shall be fixed by resolution of the City Council from time to time.

(E) *Term of taxicab driver's license.* All licenses issued by the city, unless sooner revoked as hereinafter provided, shall be issued for a period of 12 months from the date of issuance. (Ord. 2005-B, passed 1-20-2005; Am. Res. 05-006, passed 1-20-2005; Am. Ord. 2005-C, passed 5-5-2005)

#### **§ 116.11 INVESTIGATION AND ISSUANCE.**

(A) *Investigation.* The application shall be referred to the Chief of Police who shall investigate the applicant and make a report to the City Council. The City Council shall act on the application following its receipt of the Chief of Police's report.

(B) *Issuance.* Taxicab driver's licenses shall be issued only to applicants who have answered fully and truthfully all of the information required in the application, have paid the full license fee, and have cooperated with the city in review of the application. Fraud, deception, or misrepresentation in connection with the securing of a taxi cab driver's license will be the basis for denial or revocation of such license.

(C) *Use of criminal histories and driving records.*

(1) The following criminal convictions will be the basis for denial or revocation of a taxicab driver's license:

(a) Felony convictions in this State or elsewhere in the last 10 years;

(b) Gross misdemeanor convictions in this State or elsewhere within the last 5 years;

(c) Misdemeanor convictions in this State or elsewhere in the last 3 years involving alcohol-related driving offenses, theft, damage to property, check forgery, the use or threat of use of force, possession or sale of a controlled substance, prostitution or indecent conduct; and

(d) Convictions in this state or elsewhere of 3 or more traffic code violations within the preceding 12 months.

(2) For purposes of this chapter, traffic code violations shall be defined pursuant to M.S. Ch. 169 and M.S. Ch. 171, as they may be amended from time to time.

(D) *Rehabilitation.*

(1) A person who has been convicted of a crime, as defined above, shall not be disqualified from obtaining taxicab driver's license if the person can show competent evidence of sufficient rehabilitation pursuant to M.S. § 364.03, as it may be amended from time to time. Sufficient evidence of rehabilitation may be established by the production of:

(a) A copy of the local, state, or federal release order; and

(b) Evidence showing that at least 1 year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or

(c) A copy of the relevant department of corrections discharge order or other documents showing completion of probation or parole supervision.

(2) In addition to the documentary evidence presented, the City Council shall consider any evidence presented by the applicant regarding:

(a) The nature and seriousness of the crime or crimes for which convicted;

(b) All circumstances relative to the crime or crimes, including mitigating circumstances or social conditions surrounding the commission of the crime or crimes;

(c) The age of the applicant at the time the crime or crimes were committed;

(d) The length of time elapsed since the crime or crimes were committed; and

(e) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant since, the applicant's release from any local, state, or federal correctional institution.

(E) *Background investigation fee.* The background investigation fee is established by the City Council in the city's fee schedule.

(Ord. 2005-B, passed 1-20-2005; Am. Res. 05-006, passed 1-20-2005)

**§ 116.12 GENERAL CONDITIONS OF LICENSE.**

(A) *Change of address.* A licensee shall give written notice to the City Clerk when changing residence address.

(B) *Unlawful use.* A licensee shall not permit a person to use the taxicab for any unlawful act.

(C) *Rides.* A licensee shall not permit more persons to ride in a taxicab than are provided for by its normal seating capacity.

(Ord. 2005-B, passed 1-20-2005; Am. Ord. 2005-C, passed 5-5-2005)

**§ 116.13 RENEWAL OF LICENSE.**

Applications for renewal shall be made on forms provided by the city. The renewal application form may be substantially the same as the original application form, except that the applicant shall provide the physician's certificate required as part of the original application every three years after the date the initial license was issued. Renewal applications shall then be processed in the same manner as original applications.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.14 TRIP SHEETS.**

(A) Each licensee shall keep a trip sheet noting the following information for each taxicab trip:

- (1) Starting point and time;
- (2) Termination point and time;
- (3) Amount of fare charges and whether calculated upon meter, hour or trip basis; and
- (4) Licensee's name and number.

(B) Each trip sheet shall be filed in the records of the licensee not later than 24 hours after the termination of a single-day's work by the licensee. The trip sheet file shall be open to inspection by a Police Officer at any time. The file shall be preserved for not less than 4 years by the licensee. Failure to maintain trip sheets or falsification of trip sheets shall constitute a violation of this chapter.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.15 DISPLAY OF LICENSE.**

A taxicab driver licensed under this chapter shall keep the license posted in the taxicab in clear view of passengers.

(Ord. 2005-B, passed 1-20-2005)

**§ 116.16 SUSPENSION OR REVOCATION.**

(A) *Generally.* Taxicab vehicle licenses and taxicab driver's licenses may be revoked or suspended at any time, for cause, by the City Council after notice and opportunity for hearing as hereinafter provided.

(B) *Administrative penalties.* The City Council may impose a civil penalty of up to \$2,000, or suspend for a period not to exceed 60 days, or revoke any license issued pursuant to this chapter, or impose any combination of these sanctions upon a finding that the licensee has failed to comply with an applicable State law, regulation, or city code. A suspension or revocation does not take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as they may be amended from time to time..

(C) *Schedule of administrative penalties.* The City Council may, after notice and hearing on the proposed schedule, adopt a resolution establishing a sliding schedule of administrative penalties.

(Ord. 2005-B, passed 1-20-2005)

## CHAPTER 117: TATTOOING AND BODY PIERCING

### Section

- 117.01 Findings and purpose
- 117.02 Definitions
- 117.03 Business license required
- 117.04 Personal service license
- 117.05 License fee
- 117.06 Investigation fee
- 117.07 Granting of license
- 117.08 Persons ineligible for license
- 117.09 Places ineligible for license
- 117.10 Conditions of license
- 117.11 Health and sanitation requirements
- 117.12 Conflict of provisions
- 117.13 Hindrance
  
- 117.99 Penalty

### § 117.01 FINDINGS AND PURPOSE.

The purpose of this section is to regulate the business of tattooing and/or body piercing in order to protect the general health, safety, and welfare of the community.

(A) The City Council finds that the experience of other cities indicates that there is a connection between tattooing/body piercing and hepatitis and other health problems.

(B) The City Council finds that stringent regulations governing tattooing and body piercing can minimize the hepatitis and disease risk, and therefore protect the general health, safety, and welfare of the community.

(C) It is not the intent to prohibit tattoo and/or body piercing establishments from having a reasonable opportunity to locate in the city.  
(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.02 DEFINITIONS.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

**BODY MUTILATION.** Intentionally modifying the human body by surgical or other means, including the insertion of foreign material into or under the skin, for cosmetic purposes. This definition does not include any medical procedure performed by licensed medical or dental professional.

**BODY PIERCING.** Penetrating or making a hole in or through the human body to place jewelry or objects of metal, plastic, wood, bone, or other foreign material on any area for cosmetic purposes. This definition does not include any medical procedure performed by licensed medical or dental professional or to the puncturing of the lobe of the ear using a pre-sterilized, single-use, stud and clasp ear-piercing system.

**BRANDING.** The use of heat, cold, or any chemical compound to imprint permanent markings on human skin by any means other than tattooing.

**CLEAN.** The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

**GOOD REPAIR.** Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a sanitary, workable, and sound condition.

**OPERATOR.** Any person who performs or practices the art of tattooing and/or body piercing on another person in connection with the operation of a tattoo and/or body piercing establishment and receives compensation from the owner of the business or its patrons.

**OWNER.** Any individual, partnership, firm, company, corporation, or association that owns an establishment where tattooing and/or body piercing is performed.

**SCARIFICATION.** The cutting or tearing of human skin for the purpose of creating a permanent mark or design on the skin.

**TATTOO, TATTOOING.** Any method of placing ink, dye, or other pigments into or under the skin or mucosa with needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This definition includes cosmetic procedures such as eye lining, lip lining, or repigmentation.

(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.03 BUSINESS LICENSE REQUIRED.**

(A) No person, partnership, firm, company, corporation, or association shall operate any establishment where tattooing and/or body piercing is practiced, nor engage in the practice of tattooing and/or body piercing without being licensed under this chapter. Jewelry stores and accessory stores that exclusively provide ear piercing services using piercing guns shall be exempt from this license agreement.

(B) The application for a tattooing and/or body piercing establishment business license shall be submitted on a form provided by the city and shall include:

(1) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, telephone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, telephone numbers, and birth dates of all those persons holding more than 5% of the issued and outstanding stock of the corporation. If the applicant is a limited liability company, the names, residences, telephone numbers, and birth dates of all those persons holding more than 5% of the issued and outstanding membership interests of the company;

(2) The name, address, telephone number, and birth date of the manager of such establishment, if different from the owners;

(3) The address and legal description of the premises where the tattoo and/or body piercing establishment is to be located;

(4) A statement detailing any conviction relating to tattooing and/or body piercing or the operation of a tattoo and/or body piercing establishment by the applicant or manager and whether or not the applicant or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities. In the case of a limited liability company, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding membership interests of the company and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities;

(5) The activities and types of businesses to be conducted;

(6) The hours of operation;

(7) The provisions made to restrict access by minors;

(8) A building plan of the premises detailing all internal operations and activities;

**Melrose - Business Regulations**

(9) Whether the applicant has previously been denied a license of this type by any other government unit;

(10) The names, street addresses, and business addresses of 3 residents of Stearns County who are of good moral character and who are not related to the applicant and not holding any ownership in the premises or business, who may be conferred with as to the applicant's character;

(11) 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;

(12) All applications for a license under this section shall be signed and sworn to in front of a notary public. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by 1 of the general partners; and if that of a limited liability company, by the manager or managing officer thereof. Any falsification on a license application shall result in the denial of a license;

(13) All applications shall be referred to the City Clerk for verification and investigation of facts set forth in the application, including any necessary criminal background checks to assure compliance with this chapter;

(14) Each application shall contain a provision on the application indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the City Clerk by the applicant or licensee. If said changes take place during the investigation, said data shall be provided to the City Clerk in writing; and

(15) The business license shall be issued or denied by the City Council in accordance with this chapter.  
(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.04 PERSONAL SERVICE LICENSE.**

(A) No operator shall perform tattoo and/or body piercing services within the city without being licensed as provided in this chapter. Any person desiring a personal service license shall file a written application on a form provided by the city.

(B) The application shall include the following information:

(1) The business address and all telephone numbers where the service is to be practiced or based;

(2) The name, birth date, complete home address, and telephone number of the applicant;

(3) The applicant's tattoo and/or body piercing experience, including but not limited to whether the applicant, in previously operating in this or another city or state under license or permit, has had such license or permit denied, revoked, or suspended and the reason therefor, and the business activities or occupations subsequent to such action of denial, suspension, or revocation;

(4) All criminal convictions, fully disclosing the jurisdiction in which convicted or arrested and the circumstances thereof;

(5) All applications for a license under this section shall be signed and sworn to by the applicant. Any falsification on a license application shall result in the denial of a license;

(6) All applications shall be referred to the City Clerk for verification and investigation of facts set forth in the application, including any necessary criminal background checks to assure compliance with this chapter;

(7) Each application shall contain a provision on the application indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the City Clerk by the applicant or licensee. If said changes take place during the investigation, said data shall be provided to the City Clerk in writing; and

(8) The personal service license shall be issued or denied by the City Council in accordance with this chapter.  
(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.05 LICENSE FEE.**

(A) The annual license fee shall be as established from time to time by the City Council.

(B) Each application for a license shall be accompanied by payment in full of the required license fee. Upon rejection of any application for a license, the license fee will be refunded to the applicant.

(C) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of 1 year, except that if a portion of the license year has elapsed when application is made, a license may be issued for the remainder of the year for a prorated fee. In computing such fee, any unexpired fraction of a month shall be counted as 1 month.

(D) Once a license has been granted, no part of the fee paid by any licensee shall be refunded, except that a prorated portion of the fee shall be refunded in the event of the complete closure of the business and cessation of business activities for any of the following reasons and upon application to the City Clerk within 30 days from the happening of the event, provided that such event occurs more than 30 days before the expiration of the license:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe;
  - (2) The licensee's illness;
  - (3) The licensee's death; or
  - (4) A change in the legal status making it unlawful for licensed business to continue.
- (Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.06 INVESTIGATION FEE.**

At the time of the original application for a license, the applicant shall deposit an investigation fee as established from time to time by the City Council.  
(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.07 GRANTING OF LICENSE.**

(A) The City Clerk or the City Clerk's designee shall complete the investigation within 60 days after receipt of a complete application and all license and investigation fees.

(B) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this section, then the license shall be issued by the City Council within 30 days after the investigation is completed. Otherwise, the license shall be denied.

(C) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premises without the approval of the City Council. If the licensee is a partnership, limited liability company, or corporation, a change in the identity of the principals of the partnership, limited liability company, or corporation shall be deemed a transfer of the license. Any tattoo and/or body piercing establishment existing at the adoption of this chapter shall be required to obtain an annual license.

(D) If the license is denied, the applicant may request a hearing before the City Council by filing a written request therefor with the City Clerk within 15 days after the applicant has received written notice of denial. If the license application is denied by the City Council after the hearing, the applicant may appeal the decision to the appropriate court of competent jurisdiction. If a tattoo and/or body piercing establishment is lawfully in existence at the time of the adoption of this chapter, the tattoo and/or body piercing establishment may continue in business until the court action is completed. Otherwise, the applicant may not commence doing business until the judicial action has been finally resolved.

(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.08 PERSONS INELIGIBLE FOR LICENSE.**

No license under this chapter shall be issued to an applicant who is a natural person; general or managing partner of a partnership; or manager, proprietor, or agent of a corporation, limited liability company, or other organization, if such applicant:

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

(B) 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 the licensed occupation as prescribed by M.S. § 364.03, subd. 3, as it may be amended from time to time;

(C) Who is overdue or whose spouse is overdue in his or her payment of city, county, or state taxes, fees, fines, or penalties assessed against them or imposed upon them;

(D) Who has been denied a license by the city or any other Minnesota municipal corporation to operate a tattoo and/or body piercing establishment or whose license has been suspended or revoked within the preceding 12 months, or who is residing with any such person; or

(E) Who has not paid the license and investigation fee required by this section.  
(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.09 PLACES INELIGIBLE FOR LICENSE.**

(A) 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. §§ 278.0 through 278.03, as may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding 1 year after becoming due.

(B) No license shall be granted or renewed if the property is not properly zoned or does not qualify as a legal nonconforming use for tattooing and/or body piercing establishments.

(C) No license shall be granted or renewed if the premises is licensed for the furnishing of alcoholic beverages pursuant to Chapter 113 of this code of ordinances.

(D) No license shall be granted or renewed if the premises is licensed to operate a sexually oriented business pursuant to Chapter 115 of this code of ordinances.  
(Ord. 10-19-2006-3, passed 10-19-2006; Am. Ord. 2-15-2007-1, passed 2-15-2007)

**§ 117.10 CONDITIONS OF LICENSE.**

Every license shall be granted subject to the following conditions and all other provisions of this chapter, and of any applicable sections of the city code, the city's zoning ordinances, the Building Code, the Fire Code, the city's health regulations, and all provisions of state and federal law.

(A) No person shall tattoo or pierce any person under the age of 18 except in the presence of, and with the written permission of, the parent or legal guardian of such minor. The consent must include both the custodial and noncustodial parents, where applicable.

(B) The license granted under this chapter is for the owner and the premises or operator named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without first complying with the requirements of an original application, except in the case in which an existing noncorporate licensee is incorporated and incorporation does not affect the ownership, control, and interest of the existing licensed establishment.

(C) All licensed premises shall have the license posted in a conspicuous place at all times.

(D) A tattoo and/or body piercing establishment licensed under this chapter shall not be open for business for tattooing and/or body piercing before 7:00 a.m. or after 10:00 p.m.

(E) The tattoo and/or body piercing establishment license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the City Clerk. No person shall engage in the practice of tattooing and/or body piercing at any place other than the place or location named or described in the application and license. A separate room shall be required for body piercing and tattooing services. The applicant shall submit a drawing to scale of the tattoo and/or body piercing facilities.

(F) No person shall solicit business or offer to perform tattooing and/or body piercing services while under license suspension or revocation by the city.

(G) The licensee shall be responsible for the conduct of the business being operated and shall at time maintain conditions of order.

(H) The licensee shall provide to the City Clerk a list of operators who perform tattooing and/or body piercing at the licensed establishment and shall verify that each operator has received a copy of Health and Safety Requirements and Sanctions for License Violations as appear in this chapter.

(I) All licensees shall have at all times a valid certificate of insurance issued by an insurance company licensed to do business in the State of Minnesota indicating that the licensee is currently covered in the tattoo and/or body piercing business by a liability insurance policy. The minimum limits of coverage for such insurance shall be as follows in divisions (I)(1) and (2). Such insurance shall be kept in force during the terms of the license and shall provide for notification to the city prior to termination or cancellation. A certificate of insurance shall be filed with the City Clerk:

- (1) Each claim, at least \$200,000; and
- (2) Each group of claims, at least \$500,000.

(J) Inspections, as follows.

(1) *Inspection; report.* The Chief of Police, any officer of the Police Department, or any health professional or agency which the city has contracted to do such work may, at any time, enter upon any licensed premises for the purpose of inspection or to determine whether the licensed premises are in compliance with any and all ordinances and regulations adopted by the city. A copy of the inspection report must be furnished to the license holder or operator of the tattoo and/or body piercing establishment.

(2) *Compliance certification.* A health professional who is retained by the licensed operator and acceptable to the city shall inspect the licensed premises in the month of November of each calendar year. Said inspection is to determine compliance with city requirements and a written report documenting findings shall be submitted to the City Clerk within 15 days from the date on which the inspections took place.

(K) Branding, scarification, and body mutilation are prohibited in the city.  
(Ord. 10-19-2006-3, passed 10-19-2006) Penalty, see § 117.99

**§ 117.11 HEALTH AND SANITATION REQUIREMENTS.**

No person shall engage in the practice of tattooing and/or body piercing at any place in the city without complying with the following regulations:

(A) Every place where tattooing and/or body piercing is practiced shall be equipped with an adequate and conveniently located toilet room and hand lavatory for the accommodation of employees and patrons. The hand lavatory shall be supplied with hot and cold running water under pressure; shall be maintained in good repair at all times; and shall be kept in a clean and sanitary condition. Toilet fixtures and seats shall be of a sanitary open front design and readily cleanable. Easily cleanable, covered receptacles shall be provided for waste materials. Every lavatory facility shall be provided with an adequate supply of hand cleansing compound and single-service sanitary towels and hand drying devices.

(B) No person having any communicable blood or skin infection or other communicable diseases of the blood or skin shall practice tattooing and/or body piercing or shall be tattooed or body pierced. Operators shall not tattoo or pierce a skin surface that has a rash, pimples, boils, infections or manifests any evidence of being reddened or inflamed.

**Melrose - Business Regulations**

(C) All disposable needles, razor blades, sharps, or other equipment utilized for penetrating the skin shall be individually pre-packaged and pre-sterilized and stored in a self-sealing sterilizing pouch. No such equipment shall be used for more than 1 customer. Tools and supplies must be stored in a dust-free container. All biohazardous waste shall be disposed of in accordance with law, and disposal procedures shall be approved by the city. Sterilizing solutions and methods may be used for the purpose of sterilizing instruments other than needles, razor blades, sharps, or other equipment utilized for penetrating the skin when such sterilizing solutions and methods are approved by the city.

(D) The following procedures shall be used for skin preparation:

(1) Each operator shall wash his or her hands thoroughly with soap and water and then dry them with a clean towel before and after each tattoo or body piercing. Operators with skin infections of the hand shall not perform any tattooing or body piercing services.

(2) Whenever it is possible to shave the skin, pre-packaged, pre-sterilized, disposable razor blades shall be used.

(3) The skin area to be tattooed or pierced shall be thoroughly cleaned with germicidal soap, rinsed thoroughly with water, and sterilized with an antiseptic solution approved by the city. Only single-service towels and wipes shall be used in the skin cleaning process.

(4) All bandages and surgical dressings used in connection with the tattooing and/or body piercing of any person shall be individually pre-packaged, pre-sterilized, and disposable.

(E) All tables, chairs, furniture, or area on which a patron receives a tattoo or body piercing shall be covered by single-service disposable paper or clean linens, or in the alternative, the table, chair, or furniture on which the patron receives a tattoo and/or body pierce shall be impervious to moisture and shall be properly sanitized after each tattoo or body pierce. Tables and countertops shall be industrial grade Formica or similar material. Drop cloths made of 2-ply paper and plastic shall be available for use as needed.

(F) Every operator shall provide single-service towels or wipes for each customer or person, and such towels and wipes shall be stored and disposed of in a manner acceptable to the city.

(G) Every operator shall wear clean, washable garments and protective disposable gloves when engaged in the practice of tattooing and/or body piercing. If garments are contaminated with blood or body fluids, such garment shall be removed and changed and cleaned or disposed of in a manner acceptable to the city.

(H) Pigments used in tattooing shall be pre-made, commercially prepared and free from bacteria, noxious agents and substances, including mercury. The pigments used from stock solutions for each customer shall be placed in a single-service receptacle, and such receptacle and remaining solution shall be discarded after use on each customer in accordance with procedures approved by the city.

(I) Ear studs or other jewelry designed for earlobe piercing are not appropriate jewelry for other body parts. Jewelry for the other parts of the body shall be made of implant grade, high-quality stainless steel (300 series), solid 14K and 18K gold, niobium, titanium, platinum, or a dense, low-porosity plastic such as monofilament nylon, acrylic, or Lucite. Jewelry shall have no nicks, scratches, or irregular surfaces, which might endanger the tissues. Jewelry shall be pre-sterilized and in a sealed package.

(J) There shall not be less than 150 square feet of floor space at the place where the practice of tattooing and/or body piercing is conducted, and said place shall be so lighted and ventilated as to comply with the standards approved by the city.

(K) No person shall practice tattooing and/or body piercing while under the influence of alcoholic beverages or illicit drugs. No customer shall be tattooed and/or body pierced while under the influence of alcoholic beverages or illicit drugs.

(L) The operator shall provide the person tattooed and/or body pierced with printed instructions on the approved care of the tattoo and/or body pierce during the healing process.

(M) No place licensed as a tattoo and/or body piercing establishment shall be used or occupied as living or sleeping quarters.  
(Ord. 10-19-2006-3, passed 10-19-2006) Penalty, see § 117.99

**§ 117.12 CONFLICT OF PROVISIONS.**

In any case where a provision of this chapter is found to be in conflict with the provisions of any zoning, building, fire, safety, health ordinance or other provision of the city code, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or provision of the city code existing on the effective date of this chapter which established a lower standard for the promotion and protection of the health and safety of the property, the provision of this chapter shall be deemed to prevail. The determination of the applicability of this chapter in light of the above rules of interpretation shall be made by the city and its determination shall be final.

(Ord. 10-19-2006-3, passed 10-19-2006)

**§ 117.13 HINDRANCE.**

Any person hindering the efforts of city officials to investigate possible violations of this chapter shall be guilty of a misdemeanor.

(Ord. 10-19-2006-3, passed 10-19-2006) Penalty, see § 117.99

**§ 117.99 PENALTY.**

(A) Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by law.

(B) The City Council may, upon 10 days written notice to the operator and following a public hearing, revoke the license or suspend the license if the licensee submitted false information or omitted material information in the license process required by this chapter. The City Council may also revoke the license or suspend the license for a violation of:

(1) Any provision of this chapter or any other local law governing the same activity during the license period; or

(2) Any criminal law during the license period which adversely affects the ability to honestly, safely, or lawfully conduct a tattooing and/or body piercing business.  
(Ord. 10-19-2006-3, passed 10-19-2006)