

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSING AND REGULATIONS

111. ALCOHOLIC BEVERAGES

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CHAPTER 110: LICENSING AND REGULATIONS

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GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

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

APPLICANT. Any person making an application for a license under this chapter.

APPLICATION. A form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

BOND. A corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

BUSINESS. Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this chapter.

LICENSE. A document issued by the city to an applicant permitting him or her to carry on and transact a business.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

LICENSEE. An applicant who, pursuant to his or her application, holds a valid, current, unexpired, and unrevoked license from the city for carrying on a business.

SALE, SELL, and SOLD. All forms of barter and all manner or means of furnishing merchandise to persons.
(2005 Code, § 6.01)

§ 110.02 APPLICATIONS.

All applications shall be made as follows:

(A) All applications shall be made at the office of the City Administrator upon forms that have been formulated by the city for such purposes.

(B) All such applications must be subscribed, sworn to, and include, but not limited to, the following:

(1) Applicant's name and citizenship;

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- (2) Applicant's present address and length of time he or she has lived at that address;
- (3) Applicant's occupation and length of time so engaged;
- (4) Applicant's addresses and occupations for the three years last preceding the date of application;
- (5) Names and addresses of applicant's employers, if any, for the three years last preceding the date of application;
- (6) Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense;
- (7) Type of license and location of premises for which application is made;
- (8) At least four character references if applicant has not resided in the city for two years last preceding the date of application; and
- (9) Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

(C) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this chapter, or any part hereof.

(D) The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he or she deems necessary. For such investigation the City Administrator may enlist the aid of the Sheriff. The Council shall not consider an application before such investigation has been completed.

(E) Applications for renewal licenses may be made in abbreviated form.
(2005 Code, § 6.02) Penalty, see § 110.99

§ 110.03 ACTION ON APPLICATION FOR LICENSE.

(A) *Granting.* The City Administrator may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this chapter.

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(B) *Issuing.*

(1) If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership or lease, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses.

(2) Unless otherwise herein specified, license fees shall be pro-rated on the basis of one-twelfth for each calendar month or part thereof remaining in the then current license year. Licenses shall be valid only at one location and on the premises therein described.

(C) *Transfer.* A license shall not be transferable between persons.

(D) *Termination.* Licenses shall terminate only by expiration or revocation.

(E) *Refusal and revocation.* The City Administrator may, for any reasonable cause, refuse to grant any license or permit or revoke any license or permit. Before revocation of any license, the City Administrator shall give notice to the licensee and grant such licensee opportunity to be heard before the Council. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon licensee's affidavit that the original has been lost or destroyed, and upon payment of a fee of \$20 or the annual fee, whichever is less, for issuance of the duplicate. All duplicate licenses shall be clearly marked "duplicate".

(2005 Code, § 6.03)

§ 110.04 CARRYING OR POSTING.

All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity; provided, however, that in the case of machine or other device licensing, the city may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

(2005 Code, § 6.04)

§ 110.05 PROPERTY OWNER RESPONSIBILITY.

It is unlawful for any person to knowingly permit any real property owned or controlled by him or her to be used, without a license, for any business for which a license is required by this chapter.

(2005 Code, § 6.05) Penalty, see § 110.99

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§ 110.06 RESPONSIBILITY OF LICENSEE.

The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee himself or herself.

(2005 Code, § 6.06)

§ 110.07 CONVICTION OF CRIME; DENIAL OF LICENSE.

A license may be denied to an applicant by the City Administrator solely or in part due to a prior conviction of a crime by an applicant, but the City Administrator may consider evidence of rehabilitation and such other evidence as may be presented, all in accordance with state statutes; provided, however, that an applicant must show his or her present fitness to perform the occupation for which the license is sought.

(2005 Code, § 6.07)

§ 110.08 CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the City Administrator or Council may, upon finding of the necessity therefor, place such conditions and restrictions upon a license as he, she or it, in his, her, or its discretion, may deem reasonable and justified.

(2005 Code, § 6.08)

§ 110.09 FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses (late fee penalties and investigation of applicants) under this subchapter shall be fixed and determined by the Council, adopted by ordinance, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by ordinance. A copy of the ordinance setting forth currently effective license fees shall be kept on file in the office of the City Administrator, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided that any such subdivision or categorization shall be included in the ordinance authorized by this section.

(2005 Code, § 6.09) (Ord. 108, passed 3-18-2019; Ord. 116, passed 5-18-2020)

§ 110.10 DANCES.

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

PUBLIC DANCE. Any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing.

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PUBLIC DANCING PLACE. Any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of any admission fee or price for dancing.

(B) *License required.* It is unlawful for any person to operate a public dancing place, or hold a public dance, without first having obtained a license therefor from the city; provided, that this section shall not be applicable to any dance sponsored by a local school, charitable institution, or youth center and held on its property; and no license shall be required for any such sponsored dance.

(C) *License regulation.* Licenses for public dances are available on an individual basis. In the event an annual license is granted, it shall be the responsibility of the licensee to notify the City Administrator at least 48 hours prior to each public dance to be held. In addition thereto, payment in an amount set by resolution of the Council shall be made to cover police compensation.

(D) *Dance regulations.*

(1) *Sale of liquor prohibited.* It is unlawful for any person to sell or give away, directly or indirectly, any intoxicating liquor or permit or suffer the same to be sold or given away in any public dancing place, unless the premises are properly licensed therefor.

(2) *Illumination.* Every public dancing place shall be illuminated while in public use.

(3) *Certain persons prohibited.* No licensee shall permit any unmarried person under the age of 14 years, unless said unmarried person is accompanied by his or her parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

(4) *Police officer.* At least one city police officer designated by the Sheriff shall be present at every public dance during all of the time said dance is being held.

(5) *Hours of dancing.* Public dances shall not be held or conducted between the hours of 1:00 a.m. and 6:00 a.m. of any day.

(2005 Code, § 6.20) Penalty, see § 110.99

§ 110.11 PEDDLERS, CANVASSERS, AND TRANSIENT MERCHANTS LICENSES.

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

CANVASSER. Any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares, merchandise, or services, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such order or

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whether or not he or she is collecting advance payments on such orders. Such definition shall include any person who, for himself or herself, or for another person, firm, or corporation, hires, leases, uses, or occupies any buildings, motor vehicle, trailer, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop, or other place within the city for the primary purposes of exhibiting samples and taking orders for future delivery.

PEDDLER. Any person, whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, conveying or transporting goods, wares, merchandise, or services or offering or exposing the same for sale, or making sales and delivering articles to purchasers. It shall not include vendors of milk, bakery products, groceries, or ice who distribute their products to regular customers on established routes, but the term shall specifically include transient photographers.

TRANSIENT MERCHANT. Any person, firm, or corporation, whether as owner, agent, consignee, or employees, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, merchandise, or services within the city, and how, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, motor vehicle, trailer, tent, railroad box car or boat, public room in hotels, lodging houses, apartments, shops, or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares, merchandise, and services, either privately or at public auction; provided, that such definition shall not be construed to include any person, firm, or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. The person, firm, or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant, or auctioneer.

(B) *License required.* It is unlawful for any peddler, canvasser, or transient merchant as defined herein, to engage in any such activity within the city without first obtaining a license therefor and complying with all the provisions of this section.

(C) *Exemptions.* The terms of this section shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles, nor to newsboys, nor to the acts of merchants or their employees in delivering goods in the regular course of business, nor shall the terms of this section be held to include or apply to any farmer or truck gardener who shall vend, sell, or dispose of, or offer to sell, vend, or dispose of the products of the farm or garden occupied and cultivated by him or her. Nothing contained in this section shall be held to prohibit any sale required by statute or by order of any court, or to prevent any person conducting a bona fide auction sale pursuant to law.

(D) *Application.* Applicants for a license under this section shall provide, together with general information, the following information:

(1) Name and physical description of applicant;

(2) Complete permanent home and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;

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- (3) A brief description of the nature of this business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods and property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (7) A statement as to whether or not the applicant has been convicted of a felony; and
- (8) The last cities or villages, not exceeding three, where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities.

(E) *Religious, charitable, and school organizations exemption.* Any duly established school, organization, society, association, or corporation desiring to solicit or have solicited in its name, money, donations, or money or property, or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic, or philanthropic purpose shall be exempt from the provisions of this section; provided there is filed a sworn application, in writing, on a form to be furnished by the City Administrator which shall give the following information: name and purpose of the cause for which permit is sought; names and addresses of the officers and directors of the organization; period during which solicitation is to be carried on; whether or not any commission, fees, wages, or emoluments are to be expended in connection with such solicitation and the amount thereof. Upon being satisfied that such duly established school, organization, association, or corporation is a religious, charitable, patriotic, or philanthropic organization, the City Administrator may issue a permit without charge to such duly established school, organization, association, or corporation to solicit in the city. Such duly established school, organization, association, or corporation shall furnish all of its members, agents, or representatives conducting solicitations, credentials in writing, stating the name of the organization, name of agent, and purpose of solicitation. No permit or registration shall be required to engage in door-to-door advocacy, religious proselytizing, political speech, and the distribution of handbills.

(F) *Bond.* Every applicant shall show to the City Administrator proof that the applicant has in effect a surety bond in an amount established by ordinance of the Council. This bond is intended to provide any citizen of the city that all money paid down as a down payment will be accounted for and applied according to the representations of the licensee and further guaranteeing to any citizen of the city doing business with said solicitor that the property purchased will be delivered on such bond may be brought by the person or persons aggrieved and for whose benefit, among others, the bond is given, but the surety shall be relieved without further liability if such surety pays, pursuant to court order, the face amount of the bond to the Clerk of the courts in which suit commenced.

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(G) *Fees.* The application fees, daily and annual fees shall be established by ordinance of the Council.

(H) *Issuance of license.*

(1) In the event the character, business responsibility, and the surety bond of the applicant are found to be satisfactory, the City Clerk, upon receipt of the license fee, shall deliver to the applicant his or her license. Such license shall contain the signature of the issuing officer and shall show the name and address of said license, the class of license issued and the kind of goods to be sold thereunder, the amount of the fee paid, the date of issuance, and the length the same shall be operative, as well as the license number and other identifying description. Each peddler, canvasser, or transient merchant must secure a personal license. No license shall be used at any time by any person other than the one to whom it is issued. The City Clerk shall keep a permanent record of all licenses issued.

(2) Upon receipt of the completed application and payment of the license fee, the City Clerk, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information 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 ten regular business days of receiving a complete application, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk must issue the license unless there exists grounds for denying the license under § 110.33, in which case the 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's Court of Appeals for a writ of certiorari.

(I) *Loud noises and speaking devices.* No licensee, nor any person in his or her behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

(J) *Use of streets.* No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

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(K) *Exhibition of license.* Licensees are required to exhibit their certificate of license at the request of any citizen.

(L) *Records.* The Sheriff shall report to the City Clerk all convictions for violation of this section and the City Clerk shall maintain a record of each license issued and record the reports of violations therein.

(M) *Revocation of license.*

(1) Licenses issued under the provisions of this section may be revoked by the Council for any general cause after notice of hearing, or for one of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for licenses;

(b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on his or her business as solicitor, canvasser, peddler, transient merchant, itinerant merchants, or itinerant vendor;

(c) Any violation of this section;

(d) Conviction of any crime or misdemeanor; or

(e) Conducting the business of peddler, canvasser, solicitor, transient merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a license shall be given by the City Clerk, in writing, setting forth specifically the ground of complaint and the time and place of hearing. Such notice shall be mailed postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for hearing, or shall be delivered by a Deputy Sheriff in the same manner as a summons at least three days prior to the date set for the hearing.

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

1. Fraud, misrepresentation, or incorrect statements on the application form;
2. Fraud, misrepresentation, or false statements on the application form;
3. Conviction of any offense for which granting a license could have been denied; and
4. Violation of any provisions of this chapter.

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

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

(d) *Public hearing.* Upon receiving the notice provided in division (M)(2)(c) above, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(e) *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in division (M)(2)(c) above.

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

(N) *Reapplication.* No licensee whose license has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous revocation.

(O) *Expiration of license.* All annual licenses issued under the provisions of this section shall expire at 12:00 midnight December 31 in the year when issued. Other than annual licenses shall expire at 12:00 midnight on the date specified in the license.

(2005 Code, § 6.21) Penalty, see § 110.99

§ 110.12 SALVAGE YARD.

(A) *Definition.* The term **SALVAGE YARD** as used in this section, means any place, not within an enclosed building, used for the dismantling or disassembling of motor vehicles, trailers, or farm implements, or the stage, sale, or dumping of dismantled, obsolete, or wrecked motor vehicles or farm implements, or components or parts thereof.

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(B) *License required.* It is unlawful for any person to operate a salvage yard without first having obtained a license therefor from the city.

(C) *License restrictions.*

(1) All salvage yard licenses shall comply with zoning and all other provisions of the city code.

(2) All salvage yards shall be screened from public view. The term **SCREENED** for the purpose of this section, means enclosure on the perimeter of the entire area of the salvage yard from the perimeter ground level to a height of eight feet therefrom with natural or landscape growth, such as trees or shrubs, or a fence, or a combination thereof. Notwithstanding any other provision of the city code, such growth or fence shall be solid and entirely block any view from outside the area between such height dimensions. If a fence is used, it shall be maintained in good condition and painted or stained with landscape colors. If natural or landscape growth is used, it shall be maintained in a live and healthy condition.

(3) The requirements of this division (C) shall not be enforced as to salvage yards existing in the city until one year shall have elapsed after the effective date hereof.

(D) *Civil relief.* The penalty provided for violation of this section shall not preclude the city from seeking injunctive relief.

(2005 Code, § 6.22) Penalty, see § 110.99

§ 110.13 LICENSING AND REGULATION OF PAWNBROKERS.

(A) *Definition.* A **PAWNBROKER** is one who makes a business of lending money upon the security of personal property pledged or deposited in his or her keeping, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

(B) *License required.* No persons shall engage in or carry on the business of pawnbroker without first obtaining a license to carry on such business in compliance with the provisions of this code.

(C) *Application.* Any person, corporation, association, or other entity, either as principal or agent, desiring to engage in or carry on the business or occupation of a pawnbroker within the corporate limits of the city shall file an application for a license for that purpose with the City Administrator, which application shall be made in writing at least 20 days before issuance thereof, wherein the applicant shall state his or her name, his or her proposed place of business, the length of time for which he or she desires to do business, and shall make payment of the required license fee.

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(D) *Records.*

(1) Every person or persons engaged in the occupation of a pawnbroker shall make a record which shall be legibly written in ink or typewritten, in the English language, providing the following information about each article or other thing pawned or pledged: the time of the receipt of the same; the name, residence, and description (race, sex, height, weight, color of eyes, color of hair, date of birth, and driver's license number or state ID number) of the person pawning, pledging, or selling the same; the amount of money loaned or paid therefor; the home or business phone of the person pawning the article; a complete description of the article being pawned or sold; and any other information required by the Sheriff's Department. The records and the article pawned or pledged shall at all reasonable business hours be subject to the inspection of any member of the Sheriff's Department.

(2) Every such pawnbroker, purchasing or receiving on deposit for a loan any article or personal property, shall give to the person selling or depositing such article of personal property, a plain written or printed ticket or receipt for the article of personal property so sold or deposited, showing the terms of such sale or loan and showing a complete description of the article sold or deposited.

(E) *Bond.* Before the license shall be issued to any person or persons as provided in this section, the licensee shall cause to be filed with the City Administrator a surety bond, to be approved by the City Attorney, as to form, in the sum of \$5,000 conditioned that said licensee will comply with all the provisions of this section, and that he or she will account for and deliver to any person legally entitled thereto any and all goods, wares, and merchandise, article or thing which may come into his or her possession while engaged in said business or occupation of a pawnbroker.

(F) *Minors.* It is unlawful and it is a violation of this section for any pawnbroker to purchase or receive on deposit or pledge anything of value as security for a loan of money from any person, male or female, under lawful age, or from persons of unsound mind, or intoxicated persons.

(G) *Redemption period.* Any person pledging an article shall have 90 days to redeem the same before the pledge becomes forfeitable.

(H) *Sheriff's order to hold property.* When the Sheriff, or any other member of the Sheriff's Department designated by the Sheriff, shall notify any such dealer or dealers not to sell any property so received on deposit or purchased by them, or permit the same to be redeemed, such property shall not be sold or permitted to be redeemed until such time as may be determined by the Sheriff or member of the Sheriff's Department designated by the Sheriff so requiring them to be held.

(I) *Hours.* From 9:00 p.m. Saturday to 7:00 a.m. Monday, no property shall be received as pledge or purchase by any pawnbroker; nor on any other day before 7:00 a.m., nor on any day after 9:00 p.m. Further, no pawnbroker shall receive property as pledge or purchase on the following holidays: New Year's Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; and Christmas Day. (2005 Code, § 6.23) Penalty, see § 110.99

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§ 110.14 REQUIREMENTS FOR TRANSIT OPERATORS.

(A) All persons and/or businesses having a contractual relationship with the city for the provision of transit services shall provide to the city evidence of liability insurance in coverage amounts of not less than \$300,000 per claim for injury, death, or property damage by wrongful act or omission, and \$1,000,000 for any number of claims arising out of a single occurrence. The contractor shall hold the city harmless and agrees to defend and indemnify the city, and the city's employees and agents, for any claims, damages, losses, and expenses related to work under the contract. The city shall be named as an additional insured under that insurance for the services provided under the contract. The contractor's insurance shall be the primary insurance for the city and the contractor shall provide a certificate of insurance on the city's approved form which verifies the existence of the insurance required, including provisions to hold the city harmless and defend and indemnify the city.

(B) The liability insurance coverage must be maintained during the full term of the contract and must provide for 30 days prior to notice to the city in the event of cancellation.
(2005 Code, § 6.24)

§ 110.15 LODGING TAX.

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

LODGER. The person obtaining lodging from an operator.

LODGING. The furnishings for a consideration of lodging by a hotel, motel, or rooming house except where such lodging shall be for a continuous period of 30 days or more to the same lodger(s). The furnishing of rooms owned or provided by religious, educational, or non-profit organizations shall not constitute **LODGING** for purposes of this section.

OPERATOR. A person who provides lodging to others or any officer, agent, or employee of such person.

PERSON. Any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate, or any other combination or individuals. Whenever the term **PERSON** is used in any provision of this section prescribing and imposing a penalty, the term as applied to a corporation, association, or partnership shall mean the officers or partners thereof, as the case may be.

RENT. The total consideration valued in money charged for lodging, whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

(B) *Imposition of tax.* There is hereby imposed a tax of 3% on the rent charged by an operator for providing lodging to any persons after July 13, 1989. The tax shall be stated and charged separately and

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shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the city and shall be extinguished only by payment to the city. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this section to collect from the lodger.

(C) *Collections.* Each operator shall collect the tax imposed by this section at the time rent is paid. The tax collection shall be deemed to be held in trust by the operator for the city. The amount of tax shall be separately stated from the receipt charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

(D) *Exceptions and exemptions.*

(1) No tax shall be imposed on rent paid by a lodger at any hotel, motel, or rooming house where 50% or more of the rent received from all lodgers is for lodging furnished for a continuous period of 30 days or more to the same lodger(s).

(2) No tax shall be imposed on rent for lodging paid by any officer or employee of a foreign government who is exempt by reasons for express provisions of federal law or international treaty.

(3) An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected and such a claim shall be made in writing and under penalty or perjury on forms provided by the city. All such claims shall be forwarded to the city when the returns and collections are submitted as required by this section.

(E) *Advertising tax.* It is unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than \$0.01 shall be considered an additional cent.

(F) *Payment and returns.*

(1) The tax imposed by this section shall be paid by the operator to the city monthly, not later than 25 days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the director may require. The return shall contain the following minimum information:

(a) The total amount of rent collected for lodging during the period covered by the return;

(b) The amount of tax required to be collected and due for the period;

(c) The signature of the person filing the return or that of an agent duly authorized in writing;

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(d) The period covered by the return; and

(e) The amount of uncollectible rental charged subject to the lodging tax.

(2) The operator may offset against the taxes payable with respect to any reporting period, the amount of taxes imposed by the ordinance previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which becomes collectible.

(G) *Examination of return, adjustments, notices, and demands.* The Administrator shall, after return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the city within ten days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be refunded to the person who paid the tax to the city within ten days after determination of such refund.

(H) *Refunds.* Any person may apply to the Administrator for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year after such tax was paid, or within one year from the filing of the return, whichever period is the longer. The Administrator shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the Administrator shall credit the amount of the allowance against any taxes due under this section from the claimant and the balance of said allowance, if any, shall be paid by the Administrator to the claimant.

(I) *Failure to file a return.*

(1) If any operator required by this section to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice on demand, file such return or corrected return within five days of receipt of such written notice and shall at the same time, pay any tax due on the basis thereof. If such persons shall fail to file such return or corrected return, the Administrator shall make a return or corrected return, for such person from such knowledge and information as the Administrator can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid upon within five days of the receipt of written notice and demand for such payment. Any such return or assessment made by the Administrator shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

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(2) If any portion of a tax imposed by this section, including penalties thereon, is not paid within 30 days after it is required to be paid, the City Attorney may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the costs, and disbursement of any action.

(3) Upon showing of good cause, the Administrator may grant an operator one 30-day extension of time within which to file a return and make payment of taxes as required by this section, provided that interest during such period of extension shall be added to the taxes due at the rate of 10% per annum.

(J) *Administration of tax.* The Administrator shall administer and enforce the assessment and collection of the taxes imposed by this section. The Administrator shall cause to be prepared blank forms for the returns and other documents required by this section and shall distribute the same throughout the city and furnish them an application, but failure to receive or secure them shall not relieve any person from any obligation required of him or her under this section.

(K) *Examine records.* The Administrator and those persons acting on behalf of the Administrator authorized in writing by the Administrator may verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this section. Every such operator is directed and required to give to the said Administrator or to his or her duly authorized agent or employee the means, facilities, and opportunity for such examinations and investigations as are hereby authorized.

(L) *Use of proceeds.* One hundred percent of the proceeds obtained from the collection of taxes pursuant to this section shall be used in accordance with M.S. § 477A.018, as may be amended from time to time, to fund a local convention or tourism bureau for the purpose of marketing and promoting the city as tourist or convention center.

(M) *Appeals.*

(1) Any operator aggrieved by any notice, order, or determination made by the Administrator under this section may file a petition for review of such notice, order, or determination. The petition shall contain the name of the petitioner, the petitioner's address, and the location of the lodging subject to the order, notice, or determination.

(2) The petition for review shall be filed with the City Administrator within ten days after the notice, order, or determination for which review is sought has been mailed or served upon the person requiring review.

(3) Upon receipt of the petition, the City Administrator or his or her designee shall set a date for a hearing and give the petitioner at least five days prior written notice of the date, time, and place of the hearing.

(4) At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn.

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(5) The hearing shall be conducted by the City Administrator or his or her designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice, or determination for which review is sought.

(6) The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable sections of this chapter and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order, or determination made by the Administrator.

(7) Any decision rendered by the City Administrator pursuant to this division (M) may be appealed to the Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City Administrator within ten days after the decision has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as it is practical. The Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the Council that findings and conclusions were incorrect, the Council may modify, reverse, or affirm the decision of the City Administrator or his or her designee upon the same standards as set forth in division (M)(6) above.

(2005 Code, § 6.25) Penalty, see § 110.99

§ 110.16 ARBORIST.

(A) *License required.* It is unlawful for any person to engage in the business of pruning, treating, or removing trees for others without a license therefor from the city.

(B) *License fee.* The license fee shall be set by ordinance of the Council.

(C) *Insurance required.* No license shall be issued until the applicant has filed with the City Administrator a policy or certificate of public liability insurance coverage concurrent with the license term in the minimum amounts of \$300,000 for bodily injury and \$300,000 for property damage, indemnifying the city of any person injured, or damage resulting from the pursuit of such endeavors as herein described.

(D) *Exception.* No license shall be required of any recognized public service company or city employee doing such work in the pursuit of their public service endeavors.

(2005 Code, § 6.26) Penalty, see § 110.99

ADULT BUSINESSES

§ 110.30 PURPOSE.

In order to protect the city's community image, property values, public health, safety, welfare, and business environment, the city has found it necessary, in light of the harmful and unwanted secondary

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effects that certain businesses generate, to restrict businesses with secondary effects on neighboring properties and the city are intended to be regulated. This section is not intended to restrict or regulate art.

(2005 Code, § 6.27)

§ 110.31 DEFINITIONS.

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

ADULT BUSINESS. Include any and every type of business, premises, enterprise, establishment, operation, entity, or place which allows, provides for, or is engaged in “adult uses” as defined in this section.

ADULT USES. Include every type and variety of adult bookstore, adult motion picture theater, adult motion picture sales/rental operation, adult mini-motion picture theater, massage parlor, steam room/bathhouse/sauna facility, companionship establishment, rap/conversation parlor, adult health/sport club, cabaret, adult gift or novelty business, motion picture arcade, adult modeling studio, adult hotel/motel, body painting studio, and any other premises, enterprise, establishment, business, operation, or place that is open to some or all members of the public, at, in, on, or from which materials, entertainment, or services are presented, displayed, depicted, described, distributed, sold, or rented that constitute or contain an emphasis on specified anatomical areas or specified sexual activities, and shall include each and every specified adult business. Any activity or material that is classified as obscene under M.S. § 617.241, as may be amended from time to time, does not constitute an **ADULT USE** and are specifically prohibited.

(1) **ADULT USE-ACCESSORY.** An adult use for which the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on specified anatomical areas or specified sexual activities is not a dominant activity. An **ADULT USE-ACCESSORY** typically does not involve or include any activity except the sale or rental of merchandise.

(2) **ADULT USE-EXEMPT.** An adult use wherein the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on specified anatomical areas or specified sexual activities is conducted only on a diminutive scale, such that it is extremely incidental to any dominant activity and, individually or in combination, occupies or comprises less than five square feet of the total floor, wall, and shelf area of the adult use. **ADULT USES-EXEMPT** shall not include or involve any activity except the sale or rental of merchandise, and no external or internal advertising of any adult or sexually-oriented merchandise shall be permitted.

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(3) **ADULT USE-PRINCIPAL.** An adult use, in, on, or from which the sole or a dominant activity involves the presentation, display, depiction, description, distribution, sale, or rental of goods, services, entertainment, or materials that constitute or contain an emphasis on specified anatomical areas or specified sexual activities.

(4) For purposes of this section, the term **DOMINANT ACTIVITY** shall mean any activity or activities that, individually or in combination, provide at least 20% of the gross receipts of the adult use's entire business operation at that site, or occupy or comprise up to 10% or more of the total floor, wall, and shelf area within the site or 150 square feet or more of floor, wall, and shelf area within the site.

PROTECTED USE. Include, but not be limited to, the following: licensed day care center or facilities; public or private educational facilities classified as preschools, elementary, junior high, or senior high schools; public libraries; public parks; on-sale liquor establishments; churches and church related facilities; community centers; and residential zoning or uses.

SPECIFIED ADULT BUSINESS. Include, but not be limited to, the following:

(1) **ADULT BOOKSTORE.** A business or commercial enterprise that provides for barter, rental, or sale items consisting of printed matter pictures, slides, records, audio tape, videotape, motion picture film, or other visual or aural media, from which minors are excluded by reason of age or where a substantial or significant portion of such items are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(2) **ADULT GIFT OR NOVELTY BUSINESS.** A business or commercial enterprise that has a principal activity, the sale of devices, implements, equipment, or novelties that are designed, marketed, used, or sold for the primary purpose of stimulating human genitals otherwise providing sexual stimulation.

(3) **ADULT HEALTH CLUB OR ADULT SPORTS CLUB.** A business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health- or sports-related goods, services, or equipment, from which minors are excluded by reason of age or that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(4) **ADULT HOTEL OR MOTEL.** A business or commercial enterprise that provides rooms, facilities, or lodging on a short-term basis and wherein material or entertainment is presented, displayed, provided, or otherwise made available that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(5) **ADULT MINI-MOTION PICTURE THEATER.** A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of less than 50 persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

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(6) **ADULT MODELING STUDIO.** A business or commercial enterprise the primary or dominant activity of which is to provide for its customers to observe, paint, paint upon, sketch, draw, sculpt, photograph, videograph, or otherwise depict or portray, with the intent of providing sexual stimulation or sexual gratification to such customers, specific anatomical areas of one more models or subjects, or one or more models or subjects who are engaging in specified sexual activities.

(7) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited wherein coin-, slug-, electronically-, or mechanically-controlled or operated still or motion picture machines, projectors, or other image-producing devices are provided or maintained to show images to no more than one person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities, whether the individual viewing areas are or are not screened, including, but not limited to, doors and curtains, in any way to obstruct the viewing areas from monitoring.

(8) **ADULT MOTION PICTURE THEATER.** A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of 50 or more persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(9) **ADULT USE OTHER.** Any place to which the public is permitted, a business or commercial enterprise that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(10) **BODY PAINTING STUDIO.** A business or commercial enterprise that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on any specified anatomical area of any person.

(11) **CABARET.** A business or commercial enterprise that provides dancing or other live entertainment, from which minors are excluded by reason of age or where such entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities.

(12) **COMPANION ESTABLISHMENT.** A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion or engaging in activities between an owner, employee, or agent of the enterprise and a customer, if such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(13) **CONVERSATION/RAP PARLORS.** A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion, from which minors are excluded by reason of age or where such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(14) **MASSAGE PARLOR.** A massage parlor or health club which restricts minors by reason of age, and which provides the services of massages, if such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

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(15) **SAUNA, STEAM ROOM, or BATHHOUSE FACILITY.** A business or commercial enterprise that provides one or more steam or heat bathing rooms or sauna or steam room facilities where the services provided are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities, or from which minors are excluded by reason of age.

SPECIFIED ANATOMICAL AREA. Include the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY. Include, but not be limited to, 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, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;
 - (2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
 - (3) Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation;
 - (4) Fondling or touching nude human genitals, pubic region, buttocks, or female breast;
 - (5) Situations involving a person or persons, any of whom are nude, clad in undergarments, or in sexually-revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons;
 - (6) Erotic or lewd touching, fondling, or other sexually-oriented conduct with an animal by a human being; or
 - (7) Human excretion, urination, menstruation, or vaginal or anal irrigation.
- (2005 Code, § 6.27)

§ 110.32 REGULATIONS.

(A) *Adult uses-principal.*

- (1) All adult uses-principal shall require a conditional use permit.
- (2) All adult uses-principal shall be located within the I-Industrial District.

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(3) All adult uses-principal shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the adult use-principal to the property line of a protected use or other adult use, whether the protected use is located in the city or an adjoining community.

(a) A distance of at least 1,000 feet from the following:

1. Licensed day care centers;
2. Public or private educational facilities classified as preschools, elementary, junior high, or senior high schools;
3. Public libraries;
4. Public parks;
5. On-sale liquor establishments;
6. Churches or church-related facilities; and
7. Community centers.

(b) A distance at least 1,000 feet from the following:

1. Other adult uses; and
2. Residential properties.

(4) No adult use-principal shall locate in any building which is also utilized for any personal use.

(5) At the time of application for a conditional use permit, any property that is proposed to be occupied by an adult use-principal must comply with all current zoning, health, fire, and building regulations that apply to the site and building.

(6) No adult use-principal may occupy a lot with a lot width of less than 200 feet. In addition, each adult use-principal shall provide one parking space for each employee on duty, plus parking for customers according to the following schedule:

(a) Motion picture theater: one space per six seats actually provided or the maximum seating capacity of the theater;

(b) Motion picture arcade: one space per machine; and

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(c) All other adult use-principal: one space per 15 square feet of floor area that is open to or used by the public or customers of the adult use-principal.

(7) All adult use-principal shall comply with the following sign requirements.

(a) All signs shall be flat wall signs.

(b) The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street.

(c) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

(d) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

(8) Adult use-principal businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

(B) *Adult use-accessory.*

(1) All adult use-accessory shall require a conditional use permit.

(2) All adult use-accessory shall be located only within the B-2 District, Auto-Oriented Business District.

(3) All adult use-accessory shall be located at least the following specified distances, measured radially in a straight line from the closest point of the building or actual leased space of the adult use-accessory to the property line of a protected use or other adult use, whether the protected use is located in the city or an adjoining community:

(a) A distance of at least 1,000 feet from the following:

1. Residential properties;
2. Licensed day care centers;
3. Public or private educational facilities classified as preschools, elementary, junior high, or senior high schools;
4. Public libraries;
5. Public parks;

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6. On-sale liquor establishments;
7. Churches and church-related facilities; and
8. Community centers.

(b) A distance of at least 1,000 feet from the following: other adult uses.

(4) No adult use-accessory shall locate in any building which is also utilized for any protected use.

(5) Adult uses-accessory shall restrict and prohibit access to minors by the physical separation from areas of general access of items that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(a) *Movie rentals*. Display areas for movies that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities shall be restricted from general view and shall be located within a separate room, the access or entrance to which is in clear view and under control of the persons responsible for the operation or controlled in some other effective manner which meets with the approval of the Zoning Administrator.

(b) *Magazines*. Magazines that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.

(c) *Other adult materials or services*. Adult uses-accessory offering or providing items that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities and that are not specifically cited above shall comply with the intent of this section, subject to the final approval of the City Council.

(6) Adult uses-accessory shall be prohibited from external advertising and signing of items that are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.

(7) At the time of application for the conditional use permit, any property that is to be occupied by an adult use-accessory must comply with all the current zoning, health, fire, and building regulations that apply to the site and building.

(2005 Code, § 6.27) Penalty, see § 110.99

§ 110.33 LICENSE REQUIRED.

No person shall own or operate an adult-oriented business, whether principal or accessory use, within the city unless such person is currently licensed under this section.

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(A) *Persons and locations ineligible for a license.* The issuing authority (City Council) shall issue a license under this section to an applicant unless one or more of the following conditions exist:

(1) The applicant is not 18 years of age or older on the date the application is submitted to the issuing authority;

(2) The applicant failed to supply all of the information requested on the license application;

(3) The applicant gave false, fraudulent, or untruthful information on the license application;

(4) The applicant has had a sexually-oriented (adult business/use) license revoked from the city or any other jurisdiction within a one-year period immediately preceding the date the application was submitted;

(5) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five years;

(6) The adult business/use does not meet the zoning requirements prescribed in this section;

(7) The premises to be licensed as an adult business/use are currently licensed by the city or operating as a tanning facility, tattoo establishment, pawn shop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages; and/or

(8) The applicant has not paid the license and investigation fees required in this section.

(B) *License application.* The application for a license under this section shall be made on a form supplied by the city and shall require the following information:

(1) What type of entity is attempting to secure a license, whether it is a natural person, corporation, partnership, or other form of organization, and include the name(s) and address(es) of such entity;

(2) The name(s) and address(es) of applicant(s);

(3) The name and street address of the business;

(4) The legal description of the premises to be licensed along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business;

(5) Other documentation to be included if the entity is a:

(a) *Partnership.* A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, a certified copy of such certificate shall be attached to the application; or

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

(6) State whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were obtained; and

(7) The application shall be signed and sworn to by the natural person; in the case of a corporation, by an officer thereof; in the case of a partnership, by one of the general partners; in the case of an unincorporated association, by the manager or managing officer thereof.

(C) *License application verification.* Applications of licenses under this subchapter shall be submitted to the City Council (hereinafter referred to as the “issuing authority”). Within 30 calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the issuing authority shall verify any and all of the information requested of the applicant in the application, including ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this subchapter.

(D) *License application consideration.* No later than 30 calendar days after the completion of the license application verification and investigation by the issuing authority or its agents and employees, as prescribed in division (C) above, the issuing authority shall accept or deny the license application in accordance with this section. If the application is denied, the issuing authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified mail to the applicant at the address provided on the application form. The notice shall inform the applicant of the applicant’s right, within 30 calendar days of receipt of the notice by the applicant, to request an appeal of the determination for reconsideration by the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received, the hearing before the City Council shall take place within 30 calendar days of the receipt of the appeal. If an application is granted for the location where the building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the Building and Zoning Administrator for the licensed premises.

(E) *License fees.*

(1) *Application fee.*

(a) The license application fee shall be \$10,000. This shall be an annual fee.

(b) The license application fee shall be paid in full before the application for a license is considered. All fees shall be paid to the issuing authority for deposit into the General Fund of the city. Upon rejection of any application for a license or upon withdrawal of application before approval of the issuing authority, the license fee shall be refunded to the applicant.

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(c) When the license is for premises where the building is not ready for occupancy, the license period shall commence 90 days after the approval of the license by the issuing authority or upon the date a certificate of occupancy is issued for the building, provided the issuance of said certificate is within the 90-day period. However, if the building is not ready for occupancy within the 90 days after the approval of the license, the license shall be null and void; and the applicant shall be required to file another license application.

(2) *Investigation fee.* An applicant for any license under this section shall deposit with the issuing authority, at the time an original application is submitted, \$1,000 to cover the cost involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section. The investigation fee shall be non-refundable.

(3) *Renewal application.* All licenses issued under this section shall be effective for a period of one year commencing with the date of approval by the issuing authority. An application for the renewal of an existing license shall be submitted to the issuing authority at least 30 calendar days prior to the expiration date of the license. The issuing authority shall verify any and all of the information requested of the applicant on the renewal application, including the order of criminal background checks, and shall conduct any necessary investigation to assure compliance with this subchapter.

(F) *License non-transferable.* The license granted under this section is for the person and premises named on the approved license application. No transfer of license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(G) *License restrictions.*

(1) *Posting of license.* A license issued under this section must be posted in a conspicuous place in the premises for which it was issued.

(2) *Effect of license.* A license issued under this section is only effective for the compact and contiguous space specified in the approved license application.

(3) *Minors.* No license of an adult use-principal business shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of 18 years. Proof of age may be established only by: a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport. The provisions of this restriction shall also be enforced by licensees of an adult use-accessory business as it relates to the areas of the premises licensed for the adult business/use.

(4) *Maintenance of order.* A licensee under this section shall be responsible for the conduct of the business/use being operated and shall not allow any illegal activity to take place on or near the licensed premises, including, but not limited to, prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee, constituting a violation of this section, shall be deemed the act

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or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

(5) *Distance requirements for live adult entertainment.* All performers, dancers, and persons providing live entertainment, distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two feet from the level of the floor on which patrons or spectators are located.

(6) *Interaction with patrons.* No dancer, performer, or person providing live entertainment, distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

(7) *Gratuity prohibition.* No customers, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

(8) *Adult car wash requirements.* Adult businesses/uses that are adult car washes shall meet all of the requirements of this section.
(2005 Code, § 6.27) Penalty, see § 110.99

§ 110.34 SANCTIONS FOR LICENSE/SECTION VIOLATIONS.

(A) *Suspension.* The City Council may suspend a license issued pursuant to this section for a violation of:

(1) Fraud, misrepresentation, or false statement(s) contained in a license application or a renewal application;

(2) Fraud, misrepresentation, or false statement(s) made in the course of carrying on the licensed business or use;

(3) Any violation of this section or related state law;

(4) A licensee's criminal conviction that is directly related to the use or business licensed; or

(5) Conducting the licensed use or business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

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(B) *Revocation.* The City Council may revoke a license if the City Council determines that:

(1) The licensee's license was suspended in the preceding 14 months and an additional cause of suspension as detailed in division (A) above is found by the City Council to have occurred within the 14-month period;

(2) The licensee gave false or misleading information in the material submitted to the city during the application process;

(3) The licensee or an employee or independent contractor of the licensee knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;

(5) A licensee violated any of the provisions of M.S. §§ 617.241 through 617.299, relating to the illegal distribution, possession, or sale of obscene materials;

(6) A licensee or an employee or independent contractor knowingly operated the adult business during a period of time when the licensee's license was suspended;

(7) A licensee has been convicted of a felony or gross misdemeanor or misdemeanor, including, but not limited to, convictions relating to sex offenses, obscenity offenses, adult uses, or violation of this section, for which the time period required has not elapsed;

(8) On two or more occasions within a 12-month period, a person or persons has/have committed an offense, including, but not limited to, offenses relating to sex offenses, obscenity offenses, or adult uses, or in violation of any provision of this section, in or on the licensed premises, for which a conviction has been obtained, and the person or persons were employees or independent contractors of the license at the time the offenses were committed;

(9) A licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or

(10) A licensee is delinquent in payment to the city, county, state, or federal governments for hotel occupancy taxes, ad valorem taxes, state taxes, or other financial obligations.

(C) *Notice of hearing.* A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall provide at least ten days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail at the address listed on the most recent application.

(2005 Code, § 6.27) Penalty, see § 110.99

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§ 110.99 PENALTY.

(A) (1) Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 6.99)

(B) (1) Any person, firm, or corporation who violates any provision of § 110.15 for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 6.25)

(C) Any person who shall willfully fail to make a return required by § 110.15; or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this section after written demand for such payment or who shall refuse to permit

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the Administrator or any duly authorized agents or employees to examine the books, records, and papers under his or her control, or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

(2005 Code, § 6.25)

(D) (1) Any person, firm, or corporation who violates any provision of §§ 110.30 to 110.34 for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Any person, firm, or corporation who violates any provision of this code, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(3) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(4) The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation.

(2005 Code, § 6.27)

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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§ 111.01 DEFINITIONS.

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

ALCOHOLIC BEVERAGE. Any beverage containing more than 0.5% alcohol by volume, including, but not limited to, beer, wine, and liquor as defined in this section.

APPLICANT. Any person making an application for a license under this chapter.

APPLICATION. A form with blanks or spaces to be filled in and completed by the applicant requesting a license.

BED AND BREAKFAST FACILITY. A place of lodging that:

- (1) Provides not more than eight rooms for rent to no more than 20 guests at a time;
- (2) Is located on the same property as the owner's personal residence;
- (3) Provides no meals, other than breakfast served to persons who rent rooms; and
- (4) Was originally built and occupied as, or was converted to a single-family residence prior to being used as a place of lodging.

BEER. Malt liquor containing not less than 0.5% alcohol by volume nor more than 3.2% alcohol by weight. (This definition includes so-called malt coolers with the alcoholic content limits stated herein.)

BREWER. A person who manufactures beer for sale.

CLUB.

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

- (a) Has more than 50 members;

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(b) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and

(c) Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.

(2) No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. Such **CLUB** or congressionally chartered veterans' organization must have been in existence for at least three years.

COMMISSIONER. The Minnesota Commissioner of Public Safety.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of liquor except for the incidental sale of ice, tobacco, beer, beverages for mixing with liquor, soft drinks, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food, and the establishment may offer recorded or live entertainment.

HOTEL. An establishment where food and lodging are regularly furnished to transients and which has: a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and at least 25 guest rooms.

LICENSE. A document issued by the city to an applicant permitting him or her to carry on and transact the business stated.

LICENSE FEE. The fee paid to the city as required by the application and prior to issuance of a license.

LICENSED PREMISES. The space or structure described in the issued license. In the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, **LICENSED PREMISES** means the entire golf course except for areas where motor vehicles are regularly parked or operated.

LICENSEE. An applicant who holds a valid, current, unexpired license from the city for carrying on the business stated.

LIQUOR. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)

MALT LIQUOR. Any beer, ale, or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume.

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MANUFACTURER. Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

MINOR. Any person who has not attained the age of 21 years.

OFF-SALE. The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

ON-SALE. The sale of alcoholic beverages for consumption on the licensed premises only.

PACKAGE and **ORIGINAL PACKAGE.** Any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped, or sealed by a manufacturer or wholesaler.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public with a minimum seating capacity of 30. To be a **RESTAURANT** as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16 and meet the definition of either a “small establishment”, “medium establishment”, or “large establishment” as defined in M.S. § 157.16, Subd. 3d. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a **RESTAURANT** for purposes of this chapter unless it meets the definitions of a small, medium, or large establishment and possesses a food license.

WHOLESALER. Any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

WINE. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. (This definition includes wine coolers with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, **WINE** may contain up to 14% alcohol by volume for consumption with the sale of food. For all other purposes, **WINE** is a product containing not less than 0.5% nor more than 24% alcohol by volume for nonindustrial use.
(2005 Code, § 5.01)

§ 111.02 APPLICATIONS AND LICENSES; PROCEDURE AND ADMINISTRATION.

(A) *Application.* All applications shall be made at the office of the City Administrator upon forms printed by the state’s Department of Public Safety, Alcohol, and Gambling Enforcement Division together with additional information as the Council requires. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

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(B) *False statements.* It is unlawful for any applicant to intentionally make a false statement or omission on any application form. Any false statement on an application form or any willful omission to state any information called for on an application form will warrant an automatic refusal of license or if already issued render the license void.

(C) *Application fees.* The Council may establish in the ordinance establishing fees and charges the fee for liquor licenses. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(D) *Investigation fee.* On an initial application for a license, on an application for transfer of a license, or at the discretion of the Council that it is in the public interest to do so on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation. The applicant shall pay with the application fee a nonrefundable investigation fee. No such fee is required if for a temporary license.

(E) *Granting.* The Council may approve any application for the remainder of the current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this chapter. Prior to consideration of any application for a license, the applicant must pay the license fee and if applicable pay the investigation fee. Upon rejection of any application for a license or upon withdrawal of an application before it is approved by the Council, the license fee will be refunded to the applicant. Failure to pay any portion of a fee when due will be cause for revocation.

(F) *Issuing.*

(1) If an application is approved, the City Administrator will issue a license in the form prescribed by the city or the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division. All licenses, with the exception of consumption and display licenses, will be on a calendar year basis. Consumption and display licenses will be from April 1 to March 31. For licenses which are to become effective other than the first day of the licensed year the application fee will be a pro rata share of the annual license fee.

(2) When a license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period will be the date the building is ready for occupancy. Licenses will be valid only at one location and on the premises there described.

(G) *Transfer.* No license will be transferable between persons or a different location without prior consent of the Council and the filing of a new application.

(H) *Grant or deny.* The Council at its discretion may either grant or deny the application for any license or for the transfer or renewal of any license.

(I) *Revocation or suspension.*

(1) For any license granted under the provisions of this chapter, the Council may revoke, suspend for a period not to exceed 60 days, impose a civil fine not to exceed \$2,000, or any combination

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of these actions, for each violation found that the licensee failed to comply with a state statute or a regulation or provision of the city code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine, or liquor upon premises of the licensee, or if such revocation is mandatory by state statute.

(2) If it appears at a hearing that the violation was not willful, the Council may order suspension, however revocation will be ordered upon the third violation or offense. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing under §§ 14.57 to 14.69 of the Administrative Procedures Act. The hearing will be called by the Council upon written notice to the licensee who was served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place, and purpose thereof.

(3) As additional restrictions or regulations on licensees, the following will also be grounds for such action: that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine, or liquor; that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to the police; or that the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts upon licensed premises.

(J) *Posting.* All licensees shall visibly post their licenses in their places of business.

(K) *Persons disqualified.*

(1) No license under this chapter may be issued or renewed to:

(a) A person who within five years of the license application has been convicted of any felony or a gross misdemeanor or a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages;

(b) A person who has had an alcoholic beverage license revoked within five years of the license application;

(c) A person who at the time of an alcohol violation owns any interest, whether as a holder, partner, or otherwise, of more than 5% of the capital stock of a corporate licensee in the premises or in the business conducted;

(d) A corporation, partnership, association, enterprise, business, or firm in which any person is in any manner involved has an alcohol violation;

(e) A person under the age of 21 years; or

(f) A person not of good moral character and repute.

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(2) No person holding a license from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division as a manufacturer, brewer, or wholesaler may have a direct or indirect interest in a business holding an alcoholic beverage license from the city.
(2005 Code, § 5.02) Penalty, see § 111.99

§ 111.03 LIMITATION ON OWNERSHIP.

No person shall be granted beer or liquor licenses at more than one location. Any person or member of his or her immediate family owning an interest of 5% or more of the entity to which the license is issued will be considered a licensee.
(2005 Code, § 5.03)

§ 111.04 CONDITIONAL LICENSES.

The Council may place conditions and restrictions upon a license as it deems reasonable and justified.
(2005 Code, § 5.04)

§ 111.05 PREMISES LICENSED.

A license issued under the provisions of this chapter shall be valid only for the premises described in the license. All transactions relating to a sale under the license must take place within the space and structure. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.
(2005 Code, § 5.05)

§ 111.06 RENEWAL OF LICENSES.

Application for renewal of an existing liquor license shall be made at least 60 days prior to the date of expiration and shall contain information as required by the city. Renewal of an on-sale license will require the applicant to file an affidavit of sales showing the total gross sale and the total food sales of the restaurant for the past 12 months. A foreign corporation shall file a current certificate of authority.
(2005 Code, § 5.06)

§ 111.07 UNLAWFUL ACTS.

(A) *Consumption.* It is unlawful for any person to consume or any licensee to permit consumption of beer, wine, or liquor on licensed premises more than 20 minutes after the hour when a sale can legally be made.

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(B) *Removal of containers.* It is unlawful for any on-sale licensee to permit any glass, bottle, or other container, containing beer, wine, or liquor in any quantity to remain on any table, bar, stool, or other place where customers are served for more than 20 minutes after the hour when a sale can legally be made.

(C) *Closing.* It is unlawful for any person, other than an on-sale licensee or his or her employees actually engaged in the performance of their duties, to be on the licensed premises more than 30 minutes after the legal time for making liquor sales. This division (C) shall not apply to licensee, employees of the licensee, or patrons of the licensed premises which is a restaurant or hotel for the sole purpose of preparing, serving, or consuming food or beverages other than beer, wine, or liquor.
(2005 Code, § 5.07) Penalty, see § 111.99

§ 111.08 MANAGER.

(A) Before a license is issued to an applicant or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a person who is by normal definition and duties described as the manager. Such manager shall give written consent to:

- (1) Take full responsibility and be in charge of the day to day operations of the licensed premises;
- (2) Take full responsibility of the conduct of the premises relative to the activities and operation authorized by the license; and
- (3) Serve as agent for receipt of notices and other processes relating to the license.

(B) The manager must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager ceases to act in such capacity for the licensee without appointment of a successor, the license issued shall be subject to revocation or suspension.
(2005 Code, § 5.08)

§ 111.09 CONDUCT ON LICENSED PREMISES.

Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.
(2005 Code, § 5.09)

§ 111.10 LICENSE CONDITION AND UNLAWFUL ACT.

All premises licensed shall at all times be open to inspection by any police officers to determine whether or not this chapter and all other laws are being observed. All persons must consent to

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inspections by police officers without a warrant for searches or seizures as a condition to being issued a license. It is unlawful for any licensee, agent, or employee of a licensee to hinder or prevent a police officer from making such inspection.

(2005 Code, § 5.10) Penalty, see § 111.99

§ 111.11 DELINQUENT TAXES AND CHARGES.

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

(2005 Code, § 5.11)

§ 111.12 CONSUMPTION IN PUBLIC PLACES.

It is unlawful for any person to consume or possess in an unsealed container any alcoholic beverage on any city park, street, sidewalk, parking lot, alley, or any public place except on such premises when and where permission has been specifically granted or licensed by the Council.

(2005 Code, § 5.12) Penalty, see § 111.99

§ 111.13 WORKER'S COMPENSATION.

No license to operate a business will be issued until the applicant presents his or her employer's tax identification number and evidence of compliance with the worker's compensation insurance coverage requirement of state statutes by providing the name of the insurance company, policy number, and dates of coverage.

(2005 Code, § 5.13)

§ 111.14 CONFECTIONS CONTAINING ALCOHOL.

It is unlawful for any person to sell a confection containing alcohol to any person under the age of 21 years. For purposes of this section, *CONFECTION CONTAINING ALCOHOL* means a confection containing or bearing not more than 5% alcohol by volume where the alcohol is in a non-liquid form by reason of being mixed with other substances in the manufacture of the confection. It does not include liqueur-filled candy, as defined below, and may be sold only by an exclusive liquor store or a business establishment that derives more than 50% of its gross sales from the sale of confections.

(2005 Code, § 5.14) Penalty, see § 111.99

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§ 111.15 LIQUEUR-FILLED CANDY.

It is unlawful for any person to sell liqueur-filled candy to any person under the age of 21 years. For purposes of this section, *LIQUEUR-FILLED CANDY* means any confectionery containing more than 0.5% alcohol by volume in liquor form that is intended for or capable of beverage use and may be sold only by an eligible licensee or municipal dispensary.

(2005 Code, § 5.15) Penalty, see § 111.99

§ 111.16 SALE BY EMPLOYEE.

Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by an employee authorized to sell alcoholic beverages is the act of the licensee for the purpose of these provisions.

(2005 Code, § 5.16)

§ 111.17 ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.

It is unlawful for any person to introduce upon or have in his or her possession any alcoholic beverage on public elementary or secondary school grounds or school buildings except for experiments in laboratories and for those organizations that have been issued temporary licenses to sell alcoholic beverages.

(2005 Code, § 5.17) Penalty, see § 111.99

§ 111.18 LICENSE FEES.

(A) *Fixing fees.* Except as otherwise stated, all fees for licenses provided for in this chapter, including license fees, investigation, and administration fees, shall be fixed and determined by the Council, adopted by ordinance, and uniformly enforced. Fees may be amended by the Council by ordinance, provided, however, that before any liquor license fee is increased, a 30-day notice must be mailed to all affected licensees and a hearing held. A copy of the ordinance will be kept on file in the office of the City Administrator and open to inspection during regular business hours.

(B) *Refund.* A pro rata share of an annual liquor, beer, or wine license will be refunded to the licensee or to his or her estate if:

- (1) The business ceases to operate because of destruction or damage;
- (2) The licensee dies;
- (3) The business ceases to be lawful for a reason other than a license revocation or suspension;

or

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(4) The licensee ceases to carry on the licensed business under the license. In the event of the death of the licensee, his or her personal representative is hereby authorized to continue operation of said business for not more than 90 days after the death of the licensee.

(2005 Code, § 5.18)

§ 111.19 FINANCIAL RESPONSIBILITY OF LICENSEES.

(A) *Proof.* No alcoholic beverage license shall be issued or renewed until the applicant has provided proof of financial responsibility by filing with the city:

(1) A certificate that there is in effect an insurance policy or pool providing minimum coverages of \$50,000 because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence and \$100,000 for loss of means of support of two or more persons in any one occurrence, \$50,000 for other pecuniary loss of any one person in any one occurrence, and \$100,000 for other pecuniary loss of two or more persons in any one occurrence; and annual aggregate of \$300,000 may be included in the insurance coverage;

(2) A bond of a surety company with minimum coverages as provided in division (A)(1) above;
or

(3) A certificate of the Commissioner of Management and Budget that the licensee has deposited with him or her \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

(B) *Exception.* This section does not apply to licensees who by affidavit establish they have:

(1) On-sale 3.2% malt liquor licenses with sales of less than \$25,000 of 3.2% malt liquor for the preceding year;

(2) Off-sale 3.2% malt liquor licenses with sales of less than \$50,000 of 3.2% malt liquor for the preceding year;

(3) Holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year; or

(4) They are holders of temporary wine licenses issued under law.
(2005 Code, § 5.19)

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§ 111.20 INSURANCE CERTIFICATE REQUIREMENTS.

(A) Whenever an insurance certificate is required by this chapter the applicant shall file with the City Administrator a certificate of insurance showing:

- (1) The limits are at least as high as required;
- (2) Coverage is effective for at least the license term approved; and

(3) The insurance will not be cancelled or terminated without 30 days' written notice served upon the City Administrator.

(B) Cancellation or termination of such coverage shall be grounds for license revocation. The term *CERTIFICATE OF INSURANCE* means the contract between carrier and insured embodying all terms of their agreement as distinguished from a writing which simply outlines the coverage.

(2005 Code, § 5.20)

§ 111.21 MINORS ON PREMISES.

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

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

(2005 Code, § 5.21)

§ 111.22 BEER LICENSE REQUIRED.

It is unlawful for any person to sell, barter, keep for sale, or otherwise dispose of beer as part of a commercial transaction without a license from the city. This section does not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the city. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor on-sale is not required to obtain an on-sale beer license and may sell beer on-sale without an additional license.

(2005 Code, § 5.30) Penalty, see § 111.99

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§ 111.23 HOURS AND DAYS OF SALE.

No sale of on-sale beer shall be made between the hours of 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) and 8:00 a.m. on any weekday, Monday through Saturday inclusive. Neither shall any sale of on-sale beer be made on any Sunday between the hours of 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) and 10:00 a.m. (2005 Code, § 5.31) Penalty, see § 111.99

§ 111.24 TEMPORARY BEER LICENSE.

(A) *Applicant.* A club or charitable, religious, or non-profit organization shall qualify for a temporary on-sale beer license. Such organization shall be duly incorporated as a non-profit or religious corporation under the laws of the state and having its registered office and principal place of activity within the city. Such license may authorize the sale of beer in any school or school buildings.

(B) *Conditions.*

(1) An application for a temporary license must state the exact dates and place of proposed temporary sale.

(2) Not more than three temporary licenses shall be issued to any one organization or for any one location in a 12-month period, nor shall the licenses for any organization total more than seven days in any calendar year.

(3) The Council may grant a temporary beer license on premises owned or controlled by the city. The license may be conditioned, qualified, or restricted as the Council sees fit.

(C) *Insurance required.* No license shall be issued until the city is furnished with a certificate of insurance that the licensee has dram shop coverage, in the amount provided for in § 111.19(A), naming the city as an insured during the license period and that such coverage is in force on the premises where beer is to be served. (2005 Code, § 5.32)

§ 111.25 LIQUOR LICENSE REQUIRED.

(A) It is unlawful for any person to sell, barter, keep for sale, or otherwise dispose of liquor as part of a commercial transaction without a license from the city.

(B) This section does not apply to:

(1) Such potable liquors as are intended for therapeutic purposes and not as a beverage;

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- (2) Industrial alcohol and its compounds not prepared or used for beverage purposes;
- (3) Wine in the possession of a person duly licensed under this chapter as an on-sale wine licensee;
- (4) Sales by manufacturers to wholesalers duly licensed as such by the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division;
- (5) Sales by wholesalers to persons holding liquor licenses from the city; or
- (6) The municipal liquor store.

(C) The city may issue on-sale liquor licenses to hotels, restaurants, bowling centers, and clubs (a club must have existed for at least three years and sales must only be to members and bona fide guests). Any person licensed to sell liquor on-sale will not be required to obtain an on-sale beer license and may sell beer on-sale without an additional license.

(2005 Code, § 5.40) Penalty, see § 111.99

§ 111.26 LIQUOR LICENSE RESTRICTIONS AND REGULATIONS.

(A) *Number of licenses.* The Council shall issue not more than seven on-sale licenses.

(B) *Minimum investment.* No on-sale liquor license shall be granted to any person who does not own or occupy licensed premises of the fair market value of \$75,000 including buildings, fixtures, equipment, and land.

(C) *Off-sale licenses prohibited.* No off-sale intoxicating liquor license shall be issued by the city.
(2005 Code, § 5.41) Penalty, see § 111.99

§ 111.27 HOURS AND DAYS OF LIQUOR SALES.

No on-sale liquor can be made between the hours of 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) and 8:00 a.m. on any weekday, Monday through Saturday inclusive. Neither can any sale of on-sale liquor be made on any Sunday between the hours of 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) and 10:00 a.m. No off-sale shall be made before 8:00 a.m. or after 10:00 p.m. on any weekday Monday through Saturday inclusive. No off-sale shall be made on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day, except that no off-sale shall be made on December 24 after 8:00 p.m.

(2005 Code, § 5.42) Penalty, see § 111.99

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§ 111.28 SUNDAY SALES.

A Sunday liquor license may be issued for on-sale to hotels, motels, restaurants, bowling centers, or clubs, as herein defined, and which have facilities for serving not less than 30 guests at one time, may serve liquor between the hours of 10:00 a.m. and 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) on Monday in conjunction with the serving of food.
(2005 Code, § 5.43)

§ 111.29 TEMPORARY LIQUOR LICENSE.

(A) *License authorized.* The Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. The license may provide that the licensee may contract with the holder of a full-year on-sale license for liquor catering services.

(B) *Applicant.* The applicant for a license under this section must be a club or charitable, religious, or other non-profit organization in existence for at least three years or a political committee registered under M.S. § 10A.14.

(C) *Terms and conditions of license.*

(1) No license is valid until approved by the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division.

(2) No license will be issued for more than three consecutive days.

(3) All licenses and licensees are subject to all provisions of statutes and the city code relating to liquor sales and licensing. The licensee must provide proof of financial responsibility coverage and in the case of catering by a full-year on-sale licensee, the caterer must provide proof of the extension of coverage to the licensed premises.

(4) Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

(5) No more than three temporary licenses for the sale of alcoholic beverages may be issued to any one organization or for any one location in a 12-month period.

(6) The Council may grant a temporary liquor license on premises owned or controlled by the city. The license may be conditioned, qualified, or restricted as the Council sees fit.

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(D) *Insurance required.* No license shall be issued until the city is furnished with a certificate of insurance that the licensee has dram shop coverage, in the amount provided for in § 111.19(A), naming the city as an insured during the license period and that such coverage is in force on the premises where liquor is to be served.

(2005 Code, § 5.44)

§ 111.30 TEMPORARY LIQUOR LICENSE FOR HOLDER OF CATERER'S PERMIT.

(A) *License authorized.* The Council may issue a license for the holder of a caterer's permit to sell on-sale intoxicating liquor incidental to their food service within the city limits. The permit holder must complete an application obtained from the office of the City Administrator which states the location of the premises to be used, the date or dates they will be operating at that location and the business hours they will be open. The permit holder must also notify the County Sheriff in writing of the same.

(B) *Terms and conditions of license.*

(1) No more than three licenses for the sale of alcoholic beverages may be issued to any one holder of a caterer's permit, or for any one location in a 12-month period.

(2) No license shall be issued for more than three consecutive days.

(3) The premises at which the catered event is held shall have a fair market value of at least \$75,000 including buildings, fixtures, equipment, and land plus seating for a minimum of 30 guests.

(4) The permit holder must have a restaurant/food license from the state's Department of Health.

(5) No sales or consumption of alcoholic beverages shall be permitted beyond the building or in the case of a multi-purpose building, beyond that portion of the building available to the catered event.

(6) If required by the County Sheriff, the permit holder shall provide, at his or her expense, policing of the premises by security personnel approved by the Police Chief.

(7) No sales of alcoholic beverages may be made in any temporary structure, including, but not limited to, a tent.

(8) If the primary license ceases to be valid for any reason, the caterer's permit cease to be valid.

(C) *License fee.* The license fee is \$100.

(D) *Hours and days of liquor sales.* Hours of sale and consumption shall comply with those provisions contained in §§ 111.27 and 111.28.

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(E) *Insurance required.* No license shall be issued until the city is furnished with a certificate of insurance that the licensee has dram shop coverage, in the amount provided for in § 111.19(A) of this chapter, naming the city as an insured during the license period and that such coverage is in force on the premises where liquor is to be served.

(2005 Code, § 5.45) Penalty, see § 111.99

§ 111.31 ON-SALE WINE LICENSE REQUIRED.

(A) *License.* It is unlawful for any person to sell, barter, keep for sale, or otherwise dispose of wine on-sale as part of a commercial transaction without a license from the city.

(B) *Exception.* This section shall not apply to:

(1) Sales by manufacturers to wholesalers duly licensed by the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division;

(2) Sales by wholesalers to persons holding on-sale or off-sale liquor license from the city;

(3) Sales by wholesalers to persons holding on-sale wine licenses from the city; or

(4) Sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted.

(C) *Restaurant.* On-sale wine licenses may be issued to restaurants that have facilities for seating at least 25 guests at one time and whose gross receipts are at least 60% attributable to the sale of food. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.

(D) *Bed and breakfast.* An on-sale wine license is not required for a bed and breakfast facility, as defined in § 110.01, to provide, at no additional charge to a person renting a room at the facility, not more than two glasses per day, each containing not more than four fluid ounces of wine and is consumed only on the premises of the facility. The facility may only furnish wine if registered with the Department of Public Safety, Alcohol, and Gambling Enforcement Division.

(E) *Insurance required.* No license shall be issued until the city is furnished with a certificate of insurance that the licensee has dram shop coverage, in the amount provided for in § 111.19(A) of this chapter, naming the city as an insured during the license period and that such coverage is in force on the premises where wine is to be served.

(2005 Code, § 5.60) Penalty, see § 111.99

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§ 111.32 HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.

No on-sale of wine shall be made between the hours of 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) and 8:00 a.m. on any weekday, Monday through Saturday inclusive. Neither shall any sale of on-sale wine be made on any Sunday between the hours of 1:00 a.m. (or 2:00 a.m. if an optional 2:00 a.m. closing license has been obtained from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division) and 10:00 a.m. (2005 Code, § 5.61) Penalty, see § 111.99

§ 111.33 WINE TASTINGS.

(A) *Definition.* A **WINE TASTING** is an event of not more than a four-hour duration at which persons pay a fee or donation to participate and are allowed to consume wine by the glass without paying a separate charge for each glass.

(B) *Wine tastings conducted by charitable, religious, or non-profit organization.*

(1) A charitable, religious, or other non-profit organization may conduct a wine tasting on premises the organization owns or leases or has use donated to it if the organization holds a valid temporary on-sale intoxicating liquor license.

(2) An organization that conducts a wine tasting may use the net proceeds from the wine tasting only for the organization's primary non-profit purpose or donation to another non-profit organization assisting in the wine tasting for their primary nonprofit purpose.

(3) No wine at a wine tasting may be sold or orders taken for off-premises consumption.

(C) *Wine tastings conducted by exclusive liquor store.*

(1) An exclusive liquor store may conduct a wine tasting on the premises of a holder of an on-sale intoxicating liquor license that is not a temporary license or on the premises of a holder of a wine license.

(2) No wine may be sold for off-premises consumption. A participant in the tasting may fill out a form indicating preferences for wine. The form may be held on the premises of the exclusive liquor store to assist the participant in making an off-sale purchase at a later date.

(3) An exclusive liquor store that conducts a wine tasting may only use fees collected to defray the cost of conducting the tasting. (2005 Code, § 5.62)

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§ 111.34 BEER, LIQUOR, AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS, AND UNLAWFUL ACTS.

(A) *Licenses in connection with premises of another.* A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This division (A) does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this chapter.

(B) *Employment of minors.* No person under 18 years of age may sell or serve intoxicating liquor on licensed premises.

(C) *Removal of wine from restaurant.* An establishment licensed to sell liquor or wine at on-sale under this chapter 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 licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described in this provision is not an off-sale of liquor and may be permitted without additional license.
(2005 Code, § 5.65) Penalty, see § 111.99

§ 111.35 CONSUMPTION AND DISPLAY OF LIQUOR.

(A) *License required.* It is unlawful for any private club or public place to allow the consumption or display of liquor or the serving of any liquid for the purpose of mixing liquor without a permit from the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division.

(B) *Consumption and display restrictions and regulations.*

(1) It is unlawful to consume or allow consumption or display of liquor in any private club or public place during days and hours other than those permitted for on-sale by any other on-sale liquor licensee.

(2) Any private club or public place allowing the consumption or display of liquor must be open for inspection at all times by authorized peace officers and it is unlawful to refuse to permit peace officers to inspect the premises.

(3) Liquor sold, served, or displayed in violation of this section shall be subject to seizure for purpose of evidence.

(4) In order to coordinate the expiration of a consumption and display license with a state permit, all licenses shall expire on March 31 of each year.
(2005 Code, § 5.70) Penalty, see § 111.99

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§ 111.36 CONSUMPTION AND DISPLAY - ONE DAY PERMIT.

(A) *Permit required.* Any non-profit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it, must first obtain a permit from the city. It is unlawful for any organization to fail to obtain such permit.

(B) *Term.* The term of the permit will be one day only.

(C) *Limitation on number.* The city shall issue no more than ten permits in any calendar year.

(D) *License fee.* The fee for a one-day permit is \$25.

(E) *Approval.* In addition to Council approval, the permit must be approved by the state's Department of Public Safety, Alcohol, and Gambling Enforcement Division.
(2005 Code, § 5.71) Penalty, see § 111.99

§ 111.37 CLUBS.

(A) *Club license required.* It is unlawful for any club to sell or keep or offer for sale any liquor without a license from the city.

(B) *Club license restrictions and regulations.*

(1) No club shall sell liquor to persons other than its members and their bona fide guests.

(2) All liquor license restrictions, liquor sale regulations, and hours and days of liquor sales, as stated in this chapter and relating to the on-sale of liquor, shall be binding upon all club licensees.
(2005 Code, § 5.80) Penalty, see § 111.99

§ 111.38 MUNICIPAL DISPENSARY.

(A) *Establishment.* A municipal dispensary is hereby established to be operated within the city for the sale of liquor potable as a beverage and containing more than 3.2% of alcohol by weight. The dispensary will be at a place or places as the Council may determine and may be either leased or owned by the city. A person known as the manager will be in charge and he or she will hire store clerks as necessary.

(B) *Dispensary Fund.* A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the dispensary will be paid and from which all operating expenses will be paid. Any surplus accumulating in this Fund may be transferred to the General Fund by resolution of the Council and expended for any municipal purpose.
(2005 Code, § 5.90)

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§ 111.99 PENALTY.

(A) Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this chapter, including state statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) Any person, firm, or corporation who violates any provision of this chapter, including state statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a fine of not more than \$300.

(C) In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) The failure of any officer or employee of the city to perform any official duty imposed by this chapter shall not subject the officer or employee to the penalty imposed for violation.
(2005 Code, § 5.99)

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