

## **TITLE XI: BUSINESS REGULATIONS**

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## CHAPTER 110: GENERAL REGULATIONS AND LICENSING

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### 110.01 DEFINITIONS.

For the purpose of this title, 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.

**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.

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

**SALE, SELL and SOLD.** All forms of barter and all manner or means of furnishing merchandise to persons.

(1994 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 Clerk upon forms that have been formulated by the city for those purposes.

(B) All initial applications shall be accompanied by a payment of a single \$25 fee to cover the cost of investigation as herein provided.

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

- (1) Applicant=s name and citizenship;
- (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 next preceding the date of application;
- (5) Names and addresses of applicant=s employers, if any, for the three years next 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 next preceding the date of application; and
- (9) Other information as the Council shall deem necessary considering the nature of the business for which license application is made.

(D) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in the application, or any willful omission to state any information called for on the application form, shall, upon discovery of the 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.

(E) The City Clerk 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 an extent as he or she deems necessary. For the investigation, the City Clerk may enlist the aid of the Chief of Public Safety. The Council shall not consider an application before the investigation has been completed.

(F) Applications for renewal licenses may be made in an abbreviated form as the Council may by resolution adopt.

(1994 Code, ' 6.02) Penalty, see ' 10.99

**' 110.03 ACTION ON APPLICATION FOR LICENSE.**

(A) *Granting.* The Council 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.

(B) *Issuing.* If an application is granted, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, 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 beginning January 1 and ending December 31. 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. In order to effectuate the change in license year, the City Clerk is hereby authorized to credit the applicant for any unearned portion of a license fee, or charge a pro-rated amount only.

(C) *Transfer.* No license shall be transferable between persons without prior consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (C).

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

(E) *Refusal and revocation.* The Council may, for any reasonable cause, refuse to grant any application or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Clerk, without action by the Council, upon licensee=s affidavit that the original has been lost, and upon payment of a fee of \$5 for issuance of the duplicate. All duplicate licenses shall be clearly marked ADUPLICATE@.  
(1994 Code, ' 6.03)

**' 110.04 CARRYING.**

(A) All 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 the sticker.

(B) All licensees shall display their licenses upon demand by any officer or citizen.  
(1994 Code, ' 6.04)

**' 110.05 VIOLATION FOR PROPERTY OWNERS.**

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.  
(1994 Code, ' 6.05) Penalty, see ' 10.99

**' 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.  
(1994 Code, ' 6.06)

**' 110.07 LICENSE FEES.**

License fees for all licenses required in this chapter shall be adopted, and from time to time amended and revised, by resolution of the Council, which resolution, bearing the effective date thereof, shall be kept on file in the office of the City Clerk, and open to public inspection. The fees when so adopted shall be uniformly enforced.  
(1994 Code, ' 6.07)

**' 110.08 CONDITIONAL LICENSES.**

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place the conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

(1994 Code, ' 6.09)

**' 110.09 POSTING AND DISTRIBUTING PRINTED MATTER.**

(A) *Posting.* It is unlawful for any person to attach any printed matter of any kind to any public or private building, bridge, fence, railing, utility pole or billboard, or any other public or private property in the city without first having obtained a license therefor.

(B) *Distribution.* It is unlawful for any person to distribute any printed matter door-to-door or place-to-place within the city without first having obtained a license therefor.

(C) *Prohibitions.* It is unlawful for any person to attach any printed matter to any property not owned or controlled by him or her without the permission of the owner, or insert printed matter in the vehicle without permission.

(D) *Exceptions.* The provisions of this section shall not apply to posting notices required by law, or to the distribution of newspapers, or to churches, lodges, schools or other recognized non-profit organizations and colleges distributing bills advertising meetings or athletic or other events, or to any fair association distributing its own advertising matter.

(1994 Code, ' 6.10) Penalty, see ' 10.99

**' 110.10 LICENSE DENIAL AND FIXING RATES; HEARING.**

(A) *Right to deny.*

(1) The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this chapter where the business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience.

(2) The Council may also consider the location of the business in making the determination; provided, however, that before making the determination, the Council shall hold a public hearing thereon pursuant to the notice to interested parties and the public as it may deem necessary or proper in action calling for the hearing.

(B) *Rates.* Where, under specific provisions of this chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, the rates shall be uniform for each category or class of service, and no licensee or proprietor of a regulated business shall claim or demand payment in excess thereof.

(C) *Hearing.*

(1) Any applicant or licensee under this chapter who challenges denial of a license or rates

fixed or approved by the Council shall have a right to a hearing before the Council upon written request therefor.

(2) Notice of time, place and purpose of the hearing shall be given to those persons and by means as the Council may determine in calling the hearing.  
(1994 Code, ' 6.11)

**' 110.11 INSURANCE REQUIREMENTS.**

(A) Whenever insurance is required by a section of this chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Clerk a policy or certificate of public liability insurance showing:

(1) That the limits are at least as high as required;

(2) That coverage is effective for at least the license term approved; and

(3) That the insurance will not be cancelled or terminated without 30 days= written notice served upon the City Clerk.

(B) Cancellation or termination of the coverage shall be grounds for license revocation.  
(1994 Code, ' 6.12)

**' 110.12 RENEWAL OF LICENSES.**

(A) Applications for renewal of an existing license shall be made at least 30 days prior to the date of expiration of the license, and shall contain information as is required by the city.

(B) This time requirement may be waived by the Council for good and sufficient cause.  
(1994 Code, ' 6.13)

## CHAPTER 111: BUSINESSES REGULATED

### Section

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### 111.01 MECHANICAL AMUSEMENT DEVICES.

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

**COIN AMUSEMENT.** Any machine which, upon the insertion of a coin, token or slug, operates or may be operated by the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

**GAME OF SKILL.** Any device, excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, the object of which is to secure a special number or numbers or a high or low total score or any other method used to indicate a winner which may be played by the public generally at a price paid either directly or indirectly for the privilege, whether a prize is offered for the game or not.

**MECHANICAL AMUSEMENT DEVICE.** Includes both games of skill and coin amusement as herein defined.

**OPERATOR.** The person who keeps or allows amusement devices to be kept on premises

owned by him or her or under his or her control which may be played by the public generally at a price paid either directly or indirectly for this privilege.

**OWNER.** Any person who owns and places amusement devices by whatever arrangement on the operator's premises.

(B) *License required.* It is unlawful for any person to keep or maintain a mechanical amusement device for use by the public without first having obtained a license therefor from the city.

(C) *Transfer.* Notwithstanding provisions of this chapter to the contrary, a license shall be transferable to a different location upon filing notice with the City Clerk of the transfer and payment of the duplicate license fee.

(D) *Unlawful use and devices.* It is unlawful for any person to: sell or maintain a machine or device which is for gambling or contains an automatic pay-off device; give any prize, award, merchandise, gift or thing of value to any person on account of operation of the device; sell or maintain, or permit to be operated in his or her place of business, any mechanical amusement device equipped with an automatic pay-off device; or equip any mechanical amusement device with an automatic pay-off device.

(E) *License restrictions.* No license shall be granted to an applicant for more than 12 games of skill at any established business.

(1994 Code, ' 6.20) Penalty, see ' 10.99

#### ' 111.02 BILLIARDS, POOL AND BOWLING.

(A) *License required.* It is unlawful for any person to keep or maintain any pool, billiard, snooker or other game table, or any bowling alley (bowling lane), available for public use without first having obtained a license from the city.

(B) *Practices prohibited.* It is unlawful for any:

(1) Minor to play pool, billiards, snooker or other table game where beer or liquor is sold or consumed, unless accompanied by his or her parent or guardian; or

(2) For any licensee to cause or permit any minor to play pool, billiards, snooker or other similar table game where beer or liquor is sold or consumed unless the minor is accompanied by his or her parent or guardian.

(1994 Code, ' 6.21) Penalty, see ' 10.99

#### ' 111.03 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, which fee may be in the form of a club membership, or payment of money, directly or indirectly.

***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 an 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, as herein defined, 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 or the city and held on its property and no license shall be required for any such sponsored dance.

(C) *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) *Obscenity and immorality prohibited.* It is unlawful for any person to dance, or for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene or indecent manner or for any licensee to suffer or permit any person so to act or speak in any public dancing place.

(3) *Certain persons prohibited.* No person to whom a permit has been issued shall permit to be or remain in any public dancing place any intoxicated person, any prostitute, any person of known immorality or any unmarried person under the age of 16 years, unless the person is accompanied by a parent or guardian, nor any unmarried person more than 16, and under the age of 18 years unless the person is accompanied by a parent or guardian or presents the written consent of his or her parent or guardian to the officer in charge of the dance, and every written permit shall be retained by the officer.

(4) *Police officer.* Before issuance of a dance license, the applicant must make arrangements for and show evidence of privately retaining at least one regular city police officer or auxiliary police officer to be present at every public dance during all of the time the 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.

(1994 Code, ' 6.22) Penalty, see ' 10.99

**' 111.04 SHOWS.**

(A) *License required.* It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license therefor from the city.

(B) *Exceptions.*

(1) Performances presented in the local schools and colleges, under the sponsorship of the schools and colleges, and primarily for the students thereof only;

(2) Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only; and

(3) Any performance or event in, or sponsored by, bona fide local church and non-profit organizations, provided that the organization shall be incorporated.

(1994 Code, ' 6.23) Penalty, see ' 10.99

' **111.05 PEDDLERS.**

(A) *Purpose.* This section is not intended to interfere with legitimate business activities of peddlers as the same are herein defined, whether the same be local or interstate. These provisions are intended only to, as nearly as possible, ferret out the illegitimate or confidence operators and to regulate and control all those who would use their unique presence on property within the city, either in person or by means of a telephone contact, or their unique proximity to its residents, for purposes of harassment, nuisance, theft or other unlawful activities.

(B) *Definition.* The term **PEDDLER** as used in this section, means and includes door-to-door, street-to-street, place-to-place or temporary vendors of sales or services without a fixed, determined and permanent location at which he or she transacts his or her business, carries on his or her occupation or practices his or her profession, and includes, but is not limited to, persons commonly referred to as peddlers, solicitors, transient merchants and canvassers.

(C) *License not required.* No license shall be required of peddlers but the applicant shall register with the office of the Department of Public Safety and furnish to it the personal background information and data as to his or her business and mode of operation as may reasonably be required of him or her. It is unlawful for any person to engage in the business of a peddler without having first registered as herein required.

(D) *Hours of solicitation.* The hours of solicitation for peddlers in the city shall be as follows: May 1 to October 31, from 9:00 a.m. to 8:00 p.m. and from November 1 to April 30, from 9:00 a.m. to 5:00 p.m. (1994 Code, ' 6.25) Penalty, see ' 10.99

' **111.06 TRANSIENT PHOTOGRAPHERS.**

(A) *Definition.* The term **TRANSIENT PHOTOGRAPHER** as used in this section means a person who does not maintain a studio within the city equipped for finishing processes except an isolated case of making a portrait or taking a photograph, and the isolated case shall involve no more than one order per calendar month.

(B) *License required.* It is unlawful for any person to engage in the business of a transient photographer without first having obtained a license therefor from the city.  
(1994 Code, ' 6.26) Penalty, see ' 10.99

**' 111.07 JUNK DEALERS.**

(A) *Definition.* The term **JUNK** as used in this section, means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags and wood.

(B) *License required.* It is unlawful for any person to deal in junk without having a license therefor from the city.

(C) *Restrictions.*

(1) No license shall be issued to an applicant who shall have been convicted within one year of the date of application of a violation of this section, nor to any person who has within the five preceding years been convicted of a felony or a misdemeanor involving stolen property.

(2) Every licensee shall maintain a record of the name and residence address of every person with whom a transaction is consummated, the date of the purchase and the amount paid. The record shall be posted daily and shall be open for inspection by the Police Department at all reasonable times.  
(1994 Code, ' 6.27)

**' 111.08 DRAYMEN.**

It is unlawful for any person to engage in the business of draying within the city without first having obtained a license therefor.  
(1994 Code, ' 6.28) Penalty, see ' 10.99

**' 111.09 GAMBLING.**

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

**BOARD.** The Charitable Gambling Control Board or the Charitable Gambling Control Commission.

**LAWFUL GAMBLING.** The operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pull-tabs for a lawful purpose as herein defined.

**LAWFUL PURPOSE.**

(a) One or more of the following:

1. Benefitting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

2. Initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;

3. Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or

4. The improving, expanding, maintaining or repairing of real property owned or leased by an organization.

(b) **LAWFUL PURPOSE** does not include the erection or acquisition of any real property, unless the Board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified herein.

**ORGANIZATION.** Any fraternal, religious, veterans or other non-profit organization, under the designation, 501(c)(3), 501(c)(8), 501(c)(10)).

**PROFIT.** The gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for gambling supplies and equipment, prizes, rent and utilities used during the gambling occasions, compensation paid to members for conducting gambling, taxes imposed by statute and maintenance of devices used in lawful gambling.

**TRADE AREA.** An area following the school boundaries of the city.

(B) *Gambling forms and eligibility.* All forms of legal gambling may be carried on, but only by an organization, and subject to the provisions of this section and M.S. ' ' 349.11 through 349.22, as it may be amended from time to time.

(C) *Gambling regulations.*

(1) *State regulation adopted.* Chapter 7860 of Minnesota Rules 1987 is hereby incorporated by reference into this section, provided that nothing in the Rules shall be deemed to amend or change any provision of the city code. It is unlawful for any person to violate any provision of Chapter 7860 of Minnesota Rules 1987.

(2) *Records.* Each organization licensed pursuant to this section shall file with city and Gambling Control Board or Commission, copies of any and all records and/or reports that it is required to file with the Gambling Control Board of the state, and the records and/or reports shall be filed simultaneously with the filing of the Gambling Control Board of the state. In addition, each and every

organization licensed pursuant to this section shall file with the City Clerk and Gambling Commission/Board an annual report of their receipts and expenditures on a calendar year basis and the report shall be filed with the city and Gambling Commission/Board on or before January 15 of each and every year. In addition to expenditure reports, a list of all organizations that have requested funds and a list of those that have received funds. Any violation of this division (C)(2) will result in revocation of the charitable gambling organizations permit issued by the city, for a period of one year.

(3) *Special bingo regulations.* Bingo shall only be conducted by an organization which has been in existence for at least three years, has at least 30 active members, and on premises which it owns.

(4) *Age restrictions.*

(a) It is unlawful for any person under the age of 18 to conduct or participate in the playing of the game of pull-tabs.

(b) It is unlawful for any person to sell pull-tabs to any person under the age of 18.

(c) Proof of age for purchasing pull-tabs may be established only by a valid driver's license or state identification card, or in the case of a foreign national by a valid passport.

(5) *Sale of pull-tabs.*

(a) In the playing of pull-tabs, it is unlawful for any person to sell or purchase pull-tabs except on a cash basis and checks. Credit cards and all other forms of consideration shall not be allowed.

(b) A jar operator may refuse to sell pull-tabs to any person if the jar operator believes the sale would be in violation of any law or regulation.

(c) The jar operator shall hand the pull-tabs that are purchased to the player. A player shall never be allowed to reach into the container to select pull-tabs.

(d) Under no circumstances shall a jar operator assist a player in the opening of pull-tabs.

(e) It is unlawful for any person to evade or circumvent or attempt to evade or circumvent any of the provisions of this section or any state law or regulation by having someone else purchase pull-tabs for the person.

(f) It is unlawful for any jar operator or other gambling employee of the organization operating the gambling to either orally, in writing or otherwise provide any information to any other person about the total number of winners played or the number of denominations of winners left in the jar.

(6) *Charitable organizations.*

(a) Every charitable gambling organization, facility or establishment licensed by the state to conduct pull-tab lawful gambling in the city shall pay to the city an amount equal to 10% of the net

profits derived from lawful gambling conducted at premises within the jurisdiction of the city. For purposes of this division, net profits are gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling computed on a calendar year basis. The payment shall be made to the City Clerk no later than March 1.

(b) A licensed organization conducting lawful gambling within the city must expend 75% of its expenditures for lawful purposes as described in M.S. ' 349.12(25), as it may be amended from time to time, and within the city=s trade area.

(c) The amount of the lease payment that an organization shall pay to a lessor for premises leased for lawful gambling may not exceed \$24 per square foot per month. No charity shall pay lease payments in excess of \$1,000 per month to any establishment in the city licensed to sell alcoholic beverages and no lease shall be based on a percentage of gross receipts or profits. For the purpose of this section, any money or other thing of value given by a charity directly or indirectly to the liquor establishment or to any other entity in furtherance of the liquor establishment=s interests shall be considered a lease payment@, regardless of the stated purpose of the transaction. No liquor establishment shall accept lease payments in excess of the lawful limit.

(1994 Code, ' 6.29) (Ord. 100, passed 6-11-2002; Ord. 148, passed 9-22-2009; Ord. 159, passed 9-25-2012) Penalty, see ' 10.99

#### ' 111.10 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 furnishing for a consideration, of lodging by a hotel, motel, rooming house or tourist court, except where the lodging shall be for a continuous period of 30 days or more to the same lodger(s). The furnishing of rooms 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 the person.

**PERSON.** Any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate or any other combination of 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.

**TAX ADMINISTRATOR.** The City Clerk.

(B) *Imposition of tax.* There is hereby imposed a tax of 3% on the rent charged by an operator for providing lodging to any person after March 16, 1988. The tax shall be stated and charged separately and 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 the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the city. The amount of tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

(D) *Exemptions.* 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 a claim shall be made in writing and under penalty of perjury on forms provided by the Tax Administrator. All claims shall be forwarded to the Tax Administrator when the rents and collections are submitted as required by this section.

(E) *Advertising no 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 taxes imposed by this section shall be paid by the operator to the Tax Administrator monthly not later than 25 days after the end of the month in which the taxes were collected.

(a) At the time of payment the operator shall submit a return upon forms and containing information as the Tax Administrator may require.

(b) The return shall contain the following minimum information:

1. The total amount of rent collected for lodging during the period covered by the return;
2. The amount of tax required to be collected and due for the period;
3. The signature of the person filing the return or that of his or her agent duly authorized in writing;
4. The period covered by the return; and
5. The amount of uncollectible rental charges 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 this section previously paid as a result of any transaction the consideration for which became uncollectible during the reporting period, but only in proportion to the portion of the consideration which became uncollectible.

(G) *Examination of return, adjustments, notices and demands.* The Tax 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 the examination shall be the tax to be paid. If the tax due is found to be greater than that paid, the excess shall be paid to the Tax Administrator 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 Tax Administrator ten days after determination of the refund.

(H) *Refunds.* Any person may apply to the Tax 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 the tax was paid, or within one year from the filing of the return, whichever period is the longer. The Tax 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 the person at the address stated upon the return. If the claim is allowed in whole or in part, the Tax Administrator shall credit the amount of the allowance against any taxes due under this section from the claimant and the balance of the allowance, if any, shall be paid by the Tax 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 and demand, file the return or corrected return within five days of receipt of the written notice and shall at the same time pay any tax due on the basis thereof. If the person shall fail to file the return or corrected return, the Tax Administrator shall make a return or corrected return, for the person from the knowledge and information as the Tax 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 the return) shall be paid within five days of the receipt of written notice and demand for the payment. Any return or assessment made by the Tax Administrator shall be prima facie correct and valid, and the person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

(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 legal action as may be necessary to recover the amount due plus interest, penalties, the costs and disbursements of any action.

(3) Upon a showing of good cause, the Tax 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 that period of extension shall be added to the taxes due at the rate of 10% per

annum.

(J) *Penalties.*

(1) If any tax imposed by this section is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal 10% of the amount remaining unpaid.

(2) In case of any failure to make and file a return within the time prescribed by this section, unless it is shown that the failure is not due to willful neglect, there shall be added to the tax in addition to the 10% specific penalty provided in division (A) above, 10% if the failure is for not more than 30 days with an additional 5% for each additional 30 days or fraction thereof during which the failure continued, not exceeding 25% in the aggregate. If the penalty as computed does not exceed \$10, a minimum penalty of \$10 shall be assessed. The amount so added to any tax shall be collected at the same time and the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any person willfully fails to file any return or make any payment required by this section, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any tax or payment thereof, there shall also be imposed as a penalty an amount equal to 50% of any tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this division shall be collected as part of the tax, and shall be in addition to any other penalties provided by this section.

(4) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(5) The amount of tax not timely paid, together with any penalty provided by this division, shall bear interest at the maximum rate per annum as prescribed by M.S. ' 469.190(7) from the time the tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

(K) *Administration of tax.* The Tax Administrator shall administer and enforce the assessment and collection of the taxes imposed by this section. The Tax 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 on application, but failure to receive or secure them shall not relieve any person from any obligation required of him or her under this section.

(L) *Examine records.* The Tax Administrator and those persons acting on behalf of the Tax Administrator authorized in writing by the Tax Administrator or the city may examine the books, papers and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this section. Every operator is directed and required to give to the person authorized to examine the books, papers and records, the means, facilities and opportunity for such examination and investigations as are hereby authorized.

(M) *Unlawful acts.* It is unlawful for any person to willfully fail to make a return required by this

section; to fail to pay the tax after written demand for payment; to fail to remit the taxes collected or any penalty or interest imposed by this section after written demand for such payment; or to refuse to permit the Tax Administrator or any duly authorized agents or employees to examine the books, records and papers under his or her control; or to willfully make any incomplete, false or fraudulent return.

(N) *Use of proceeds.* Five percent of the proceeds obtained from the collection of taxes pursuant to this section shall be paid to the Tax Administrator for costs of collection. Ninety-five percent of the proceeds obtained from the collection of taxes pursuant to this section shall be used in accordance with M.S. ' 469.190, as it may be amended from time to time, as the same may be amended from time to time for the purpose of marketing and promoting the city as a tourist or convention center.

(O) *Appeals.*

(1) Any operator aggrieved by any notice, order or determination made by the Tax Administrator under this section may file a petition for review of the notice, order or determination detailing the operator=s reasons for contesting the 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 shall be filed with the Tax Administrator within ten days after the notice, order or determination for which review is sought has been mailed or served upon the person requesting review.

(3) Upon receipt of the petition, the Tax Administrator shall set a date and time for a meeting with the petitioner and shall give the petitioner at least five days prior written notice of the date, time and place of the meeting.

(4) At the meeting, the petitioner shall be given an opportunity to show cause why the notice, order or determination should be modified or withdrawn. If the meeting does not result in the matter being resolved to the satisfaction of the petitioner, the petitioner may appeal to the Council.

(5) A petitioner seeking to appeal a decision to the Council must file a written notice of appeal with the Council, in care of the City Clerk, within ten days after the Tax Administrator=s decision following the meeting has been mailed to the petitioner. The matter will thereupon be placed on the Council agenda as soon as is practical. At least five days prior to the hearing before the Council, the Tax Administrator shall prepare and serve on the petitioner a memorandum of proposed findings of fact and conclusions of law. A copy of the memorandum shall be presented to the Council at the time of the appeal hearing. The Council shall then review the proposed findings of fact and conclusions to determine whether they are correct. Upon a determination by the Council that findings and conclusions are incorrect, the Council may modify, reverse or affirm the decision of the Tax Administrator based upon an application of this section and the evidence presented.

(1994 Code, 6.31)

## ' 111.11 PLUMBERS.

It is unlawful for any person to engage in the work or business of plumbing or the installation of water or sewer pipes without a license therefor from the state.

(Ord. 107, passed 10-26-2004) Penalty, see ' 10.99

**' 111.12 SHEET METAL WORKER.**

(A) *License required.* It is unlawful for any person to engage in the sheet metal business without a license therefor from the state.

(B) *Bond required.* Before a license shall be granted to any person, he or she shall execute and deposit with the City Clerk a surety bond in the amount of \$1,000, which bond shall be approved by the Council and in a form approved by the City Attorney, and conditioned to indemnify and save the city harmless from all liability and damage caused by the negligence, of any nature, covering the work done under the license.

(1994 Code, ' 6.41) (Ord. 107, passed 10-26-2004) Penalty, see ' 10.99

**' 111.13 GAS INSTALLER.**

(A) *License required.* It is unlawful for any person to install, alter, service or repair gas piping, appliances or appurtenances without a license therefor from the state.

(B) *Bond required.* Before a license shall be granted to any person, he or she shall execute and deposit with the City Clerk a surety bond in the amount of \$5,000, which bond shall be approved by the Council and in a form approved by the City Attorney, and conditioned to indemnify and save the city harmless from all liability and damage caused by the negligence, of any nature, covering the work done under the license, and conditioned further that all work shall be performed in accordance with the laws of the state.

(C) *Insurance required.* In addition to the surety bond requirement set forth herein, and prior to the issuance of a license, the applicant shall furnish a certificate of insurance to be filed with the City Clerk describing a general policy of liability insurance for personal injury and property damage, including products and completed operation coverage, which shall have minimum limits of not less than \$100,000 for injuries to or death of one person, and not less than \$300,000 for injuries to or death resulting from one accident, and not less than \$100,000 for property damage.

(D) *Additional condition of bonds and insurance policies.* Bonds and insurance policies provided for herein shall, in addition to any other requirement hereof, further provide that no cancellation of the bond or insurance contract shall be made for any cause without first having given notice to the city 30 days prior to the proposed date of cancellation, of the intention to so cancel. The notice shall be served upon the City Clerk by certified or registered mail, or by a personal service by an agent of the company. If the personal service is made, it shall be made only on the City Clerk individually.

(1994 Code, ' 6.42) (Ord. 107, passed 10-26-2004) Penalty, see ' 10.99

**' 111.14 KENNELS.**

(A) *License required.* It is unlawful for any person to maintain a kennel where dogs are kept for sale or boarded without first having obtained a license therefor from the city. For purposes of this section, the term **KENNEL** means any place where four or more dogs over six months of age are boarded, bred and offered for sale.

(B) *Restrictions.* No kennel shall be licensed at a location within an area zoned residential. (1994 Code, ' 6.43) Penalty, see ' 10.99

**' 111.15 TAXICABS.**

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

**DRIVER.** The person driving and having physical control over a taxicab whether he or she be the licensee or in the employ of the licensed operator.

**OPERATOR.** A licensee owning or otherwise having control of one or more taxicabs.

**TAXICAB.** Any passenger conveyance being driven, on call or traversing a scheduled or unscheduled route for public use or hire upon payment of a fare or at regular fare rates, but not including such as are designed for mass transportation as buses, trains or streetcars.

(B) *License required.* It is unlawful for any person to drive or operate a taxicab without a license therefor from the city.

(C) *License issuance and display, and vehicle marking.* All licenses shall be issued for specific conveyances, except as otherwise herein provided. License tags, including number and year for which issued, shall be plainly visible from the front of the conveyance. Both sides of every licensed taxicab, when in use, shall be plainly and permanently marked as such with a painted sign or appurtenances showing the full or abbreviated name of the licensed operator.

(D) *Insurance required.* Before a taxicab license is issued by the Council, and at all times effective during the licensed period, the licensee shall have and maintain public liability and bodily injury insurance. The insurance shall cover all passengers carried by the insured licensee and shall be for public taxicab purposes.

(E) *Rates.* Each applicant shall file with the City Clerk, before a taxicab license is issued or renewed, a schedule of proposed rates to be charged by him or her during the licensed period for which the application is made. The schedule of proposed rates shall be approved by the Council before granting the license. Nothing herein shall prevent a taxicab licensee from petitioning the Council for review of the rates during the licensed period, and the Council may likewise consider the petition and make new rates

effective at any time. No taxicab licensee shall charge rates other than those approved by the Council.

(F) *Mechanical condition.* Before issuing a taxicab license, the applicant shall present to the Council a certificate signed by a competent and experienced mechanic showing that the taxicab conveyance is in good mechanical condition, that it is thoroughly safe for transportation of passengers and that it is in neat and clean condition. The similar certificate may be required from time to time during the licensed period. In lieu of the certificate the Council may accept the report of the Chief of Police relative thereto.

(1994 Code, ' 6.50) Penalty, see ' 10.99

**' 111.16 MASSAGE PARLORS.**

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

**MASSAGE.** The performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking or tapping with the hand or hands or with any mechanical or bathing device.

**MASSAGE PARLOR.** Any place or establishment wherein a massage is made available to the public for a monetary or valuable consideration.

(B) It is unlawful for any person, partnership or corporation to own, establish, maintain or operate a massage parlor without a license therefor from the city in accordance with this section.

(C) The annual license fee for a massage parlor is \$1,000.

(D) The provisions of this section shall not apply to:

(1) A duly licensed medical doctor, osteopath, chiropractor, nurse or physical therapist while engaged in the practice of their respective profession;

(2) A person engaging in the practice of massage on his or her spouse or relative within the first degree of consanguinity in either of their residences; or

(3) A place or establishment which is a duly licensed hospital, dispensary, convalescent home or nursing home.

(E) In any prosecution for violation of this section, these exceptions shall constitute affirmative defenses and it shall be incumbent upon the defendant to show that he or she or the place involved is not subject to the provisions of this section.

(1994 Code, ' 6.51) Penalty, see ' 10.99

## CHAPTER 112: PAWNBROKERS

### Section

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### 112.01 DEFINITIONS.

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

**BILLABLE TRANSACTION.** Every reportable transaction by a pawnbroker is a **BILLABLE TRANSACTION**, except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions and confiscations.

**PAWNBROKER.** Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again 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. To the extent that a **PAWNBROKER**'s business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this section shall be applicable. This definition shall exclude bondsmen and brokers.

**REPORTABLE TRANSACTION.** Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is **REPORTABLE**, except:

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

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.  
(Ord. 156, passed 5-22-2012)

**' 112.02 LICENSE REQUIRED.**

It is unlawful for any person to engage in the business of a pawnbroker without a license therefor from the city.

(Ord. 156, passed 5-22-2012) Penalty, see ' 10.99

**' 112.03 LICENSE FEES.**

(A) The annual license fees for licenses issued under this section shall be \$0.60 per billable transaction payable to the city to be forwarded to the City of Minneapolis for the use of their automated pawn system program. No other fees shall be charged for one year after which the City Council shall review the annual license fee and make a determination as to the appropriate payment.

(B) The billable transaction fee reflects the cost of processing transactions and other related regulatory expenses as determined by the City Council, and shall be reviewed and adjusted, if necessary, annually. Licensees shall be notified in writing 30 days before any adjustment is implemented.

(C) Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this section.

(Ord. 156, passed 5-22-2012) Penalty, see ' 10.99

**' 112.04 APPLICATION REQUIRED.**

(A) If the applicant is a natural person:

- (1) The name, place and date of birth, street resident address and phone number of applicant;
- (2) Whether the applicant is a citizen of the United States or resident alien;

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(3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used;

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

(5) The street address at which the applicant has lived during the preceding five years;

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

(7) Whether the applicant has ever been convicted of a felony, crime or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place and offense of all the convictions;

(8) The physical description of the applicant; and

(9) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them as required in divisions (A)(1) through (8) above.

(B) If the applicant is a partnership:

(1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A) above;

(2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business;

(3) 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, as it may be amended from time to time, a certified copy of the certificate must be attached to the application; and

(4) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions (A)(1) through (8) above.

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

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

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

(3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor or agent required in divisions (A)(1) through (8) above; and

(4) A list of all persons who control or own an interest in excess of 5% in the organization or business firm or who are officers of the corporation or business firm and all information concerning the persons required in divisions (A)(1) through (8) above. This division (C)(4), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

(D) For all applicants, whether or not the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit, and whether or not the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer or secondhand dealer license from any other governmental unit:

(1) The location of the business premises;

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

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

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

(5) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and

(6) Other information as the City Council or issuing authority may require.

(E) New manager:

(1) When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within 14 days. The application must include all appropriate information required in this section; and

(2) Upon completion of an investigation of a new manager, the licensee must pay \$15 for the cost of the investigation to assure compliance with this section.

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(F) All applications for a license under this section must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by the person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(G) The Police Department must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the Police Department evidence as the investigator may reasonably require in support of the statements set forth in the application.

(H) No licenses under this section will be issued to an applicant who is a natural person, a partnership if the applicant has any general partner or managing partner, a corporation or other organization if the applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

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

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

(3) Is not of good moral character or repute.  
(Ord. 156, passed 5-22-2012)

**' 112.05 BOND REQUIRED.**

(A) Before a license will be issued, every applicant must submit a \$1,000 bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal=s hand through the principal=s business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person.

(B) The bond shall contain a provision that no bond may be canceled except upon 30 days written notice to the city, which shall be served upon licensing authority.  
(Ord. 156, passed 5-22-2012)

**' 112.06 RECORDS REQUIRED.**

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

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

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

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

(D) Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee=s records;

(E) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color hair;

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

(1) Current valid Minnesota driver=s license;

(2) Current valid Minnesota identification card; and

(3) Current valid photo identification card issued by another state or province of Canada.

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

(H) (1) Effective 60 days from the date of notification by the Police Department of acceptable video standards the licensee must also take a color photograph or color video recording of:

(a) Each customer involved in a billable transaction; and

(b) Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

(2) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in a manner so that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. The photographs must be available to the Police Department upon request. The major portion of the photograph must include an identifiable facial image of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must focus on the person paying or selling the item so as to include an identifiable image of that person=s face. Items photographed by video must be accurately depicted. Video photographs must be electronically

referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months.

(I) Effective 60 days from the date of notification by the Police Department licensees must fulfill the color photograph requirements in division (H) above by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction with which they are associated. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in division (H) above;

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

(K) Inspection of records. Records must at all reasonable times be open to inspection by the Police Department. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.  
(Ord. 156, passed 5-22-2012)

#### **112.07 DAILY REPORTS TO POLICE.**

(A) Effective no later than 60 days after the Police Department provides licensees with the current version of the automated pawn system interchange file specification, licensees must submit every reportable transaction to the Police Department daily in the following manner: licensees must provide to the Police Department all reportable transaction information by transferring it from their computer to the automated pawn system via modem using the current version of the automated pawn system interchange file specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the automated pawn system interchange file specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the Police Department daily.

(B) Licensees will be charged for each billable transaction reported to the Police Department.

(1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day.

(2) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the reports required in division (A) above and resubmit all the transactions via modem when the error is corrected.

(3) If a licensee is unable to capture, digitize or transmit the photographs required in

' 111.06(I), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction and make the pictures available to the Police Department upon request.

(4) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business date the problem had existed.

(5) Notwithstanding divisions (B)(1), (2) and (3) above, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty. (Ord. 156, passed 5-22-2012)

' **112.08 RECEIPT REQUIRED.**

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

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

(1) The name, address and telephone number of the licensed business;

(2) The date and time the item was received by the licensee;

(3) Whether the item was pawned or sold, or the nature of the transaction;

(4) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such an item;

(5) The signature or unique identifier of the licensee or employee that conducted the transaction;

(6) The amount advanced or paid;

(7) The monthly and annual interest rates, including all pawn fees and charges;

(8) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date;

(9) The full name, current residence address, current residence telephone number and date of birth of the pledger or seller;

(10) The identification number and state of issue from any of the following forms of identification of the seller:

(a) Current valid Minnesota driver=s license;

(b) Current valid Minnesota identification card; and

(c) Current valid photo driver=s license or identification card issued by another state or province of Canada.

(11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes and color of hair;

(12) The signature of the pledger or seller; and

(13) All printed statements as required by M.S. ' 325J.04, subdivision 2, as it may be amended from time to time, or any other applicable statutes.  
(Ord. 156, passed 5-22-2012)

**' 112.09 REDEMPTION PERIOD.**

Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90-day holding period items may not be removed from the licensed location. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or to any person identified in a written and notarized authorization to redeem the property identified in the receipt or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of a police officer. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with ' 112.06(J) above.

(Ord. 156, passed 5-22-2012)

**' 112.10 VICTIMS TO REPORT THEIR LOSS AND LAW ENFORCEMENT TO MAKE COMPARISONS.**

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

(B) An individual may redeem an item 72 hours after the item was received on deposit excluding Sundays and legal holidays.

(Ord. 156, passed 5-22-2012)

**' 112.11 POLICE ORDER TO HOLD PROPERTY.**

(A) *Investigative hold.* Whenever a law enforcement official from any agency notifies a licensee not

to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigate order is canceled, or until an order to hold/confiscate is issued, pursuant to divisions (B) or (C) below, whichever comes first.

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

(C) *Order to confiscate.*

(1) If an item is identified as stolen or evidence in a criminal case a police officer may:

(a) Physically confiscate and remove it from the shop, pursuant to a written order from a police officer; or

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

(2) When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

(3) When an order to hold/confiscate is no longer necessary, a police officer shall so notify the licensee.

(Ord. 156, passed 5-22-2012)

**112.12 INSPECTION OF ITEMS.**

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting items, ware and merchandise and records therein to verify compliance with this section or other applicable laws.

(Ord. 156, passed 5-22-2012)

**112.13 LABEL REQUIRED.**

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

(Ord. 156, passed 5-22-2012)

**' 112.14 PROHIBITED ACTS.**

It shall be unlawful for:

(A) Any person under the age of 18 years to pawn or sell or attempt to pawn or sell goods with any licensee;

(B) A licensee to receive any goods from a person under the age of 18 years;

(C) A licensee to receive any goods from a person of unsound mind or an intoxicated person;

(D) A licensee to receive any goods, unless the seller presents identification in the form of a valid driver=s license, a valid state identification card or current valid photo driver=s license or identification card issued by the state or providence of residency of the person from whom the item was received;

(E) A licensee to receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed;

(F) A person to pawn, pledge, sell, consign, leave or deposit any article of property not their own with a licensee;

(G) A person to pawn, pledge, sell, consign, lease or deposit the property of another, whether with permission or without, with any licensee;

(H) A person to pawn, pledge, sell, consign, leave or deposit any article or property in which another has a security interest with any licensee; and/or

(I) A person seeking to pawn, pledge, sell, consign, leave or deposit any article of property with any licensee to give a false or fictitious name, to give a false date of birth, to give a false or out of date address of residence or telephone number or to present a false or altered identification, or the identification of another to any licensee.

(Ord. 156, passed 5-22-2012) Penalty, see ' 10.99

**' 112.15 DENIAL, SUSPENSION OR REVOCATION.**

Any license under this section may be denied, suspended or revoked for one or more of the following reasons:

(A) The proposed use does not comply with the zoning code;

(B) The proposed use does not comply with any health, building, building maintenance or other

provision of this city code or state law;

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

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

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

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

(G) Violation within the preceding five years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business; and/or

(H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this section.

(Ord. 156, passed 5-22-2012)

**' 112.16 BUSINESS AT ONLY ONE PLACE.**

A license under this section authorizes the licensee to carry on its business only at the permanent place of business designated in the license.

(Ord. 156, passed 5-22-2012)

## CHAPTER 113: TOBACCO AND TOBACCO PRODUCTS

### Section

- 113.01 Purpose
- 113.02 Definitions
- 113.03 License
- 113.04 Fees
- 113.05 Basis for denial of license
- 113.06 Prohibited sales
- 113.07 Vending machines
- 113.08 Self-service sales
- 113.09 Responsibility
- 113.10 Compliance check and inspections
- 113.11 Signage
- 113.12 Violations
- 113.13 Affirmative defense

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

*Unlawful use and furnishing of tobacco, see ' 131.01*

### **' 113.01 PURPOSE.**

Because the city recognizes that many persons under the age of 18 years purchase tobacco, tobacco products and tobacco-related devices, and the sales, possession and use are violations of state laws, and because studies which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking, and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this chapter shall be intended to regulate the sale of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices and to further the official public policy of the state in regard to preventing young people from starting to smoke, as stated in M.S. ' 144.391, as it may be amended from time to time. (Ord. 93, passed 12-23-1997)

**113.02 DEFINITIONS.**

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

**COMPLIANCE CHECKS.** The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco-related devices are following and complying with the requirements of this chapter.

**INDIVIDUALLY PACKAGED.** The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing nine or fewer packs or other containers as described in this definition shall be considered **INDIVIDUALLY PACKAGED**. Cartons or other packaging containing more than nine packs or other containers as described in this definition shall not be considered **INDIVIDUALLY PACKAGED**.

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

**MINOR.** Any natural person who has not yet reached the age of 18 years.

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

**RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco products or tobacco-related devices are available for sale.

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

**SELF-SERVICE MERCHANDISING.** Open displays of tobacco, tobacco products or tobacco-related devices in any way where any persons shall have access to the products without the assistance or intervention of an employee of the premises maintaining the self-service merchandising. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

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

**TOBACCO-RELATED DEVICES.** Any tobacco products as well as pipes, rolling papers or other devices used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

**TRAINING PROGRAM.** Every licensee shall have in effect a training program for employees that

instructs them about the law prohibiting the sale of tobacco to minors, related civil and criminal penalties and the licensee=s policy regarding the sale of tobacco products including, without limitation, the penalties for violating this chapter and applicable provisions of state law.

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

(Ord. 93, passed 12-23-1997)

### ' 113.03 LICENSE.

No personnel shall sell or offer to sell any tobacco, tobacco products or tobacco-related devices without first having obtained a license from the city for each location within the city from which the sales shall be conducted.

(A) *Application.* An application for a license to sell tobacco, tobacco products or tobacco-related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant=s residential and business address and telephone numbers, the name and address of the business for which the license is sought and any additional information the city deems necessary. Each location will be required to obtain a separate license. Every person applying for a license to sell, at retail, any tobacco product shall certify on the annual license application that the person has implemented a training program as required by the definition in ' 113.02. Upon receipt of a completed application, the City Clerk shall forward the application to the Council for action at a regularly scheduled Council meeting. If the Clerk shall determine that an application is incomplete, he or she shall return the application with notice of the information necessary to make the application complete.

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

(C) *Term.* All licenses under this chapter shall be issued for one calendar year from the date of January 1 to December 31.

(D) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended for a violation of this chapter.

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

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

(G) *Display*. All licenses shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

(H) *Renewals*. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 45 days, but no more than 60 days, before the expiration of the current license. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

(Ord. 93, passed 12-23-1997)

**113.04 FEES.**

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be as follows: 1998 - \$100. The Council shall by motion set the appropriate licensing fee annually thereafter as the Council deems appropriate in its discretion. The license fee shall not be pro-rated for any partial year.

(Ord. 93, passed 12-23-1997)

**113.05 BASIS FOR DENIAL OF LICENSE.**

The following shall be grounds for denying the issuance or renewal of a license under this chapter and if a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section:

(A) The applicant is under the age of 18 years;

(B) The applicant has been convicted, within the past five years, of any violation of a federal, state or local law, ordinance provisions or other regulation relating to tobacco, tobacco products or tobacco-related devices. This provision may be waived by the City Council;

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

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

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

(Ord. 93, passed 12-23-1997)

**' 113.06 PROHIBITED SALES.**

It shall be a violation of this chapter for any licensee or employee, or agent of any licensee to sell or offer to sell any tobacco, tobacco product or tobacco-related device:

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

(B) By means of any type of vending machine; or

(C) By any other means or to any other person prohibited by federal, state or other local law, ordinance provision or other regulation.

(Ord. 93, passed 12-23-1997)

**' 113.07 VENDING MACHINES.**

It shall be unlawful for any person to allow the sale of tobacco, tobacco products or tobacco-related devices within the city by means of a vending machine.

(Ord. 93, passed 12-23-1997) Penalty, see ' 10.99

**' 113.08 SELF-SERVICE SALES.**

(A) It shall be unlawful for any person to allow the sale of loosies or individually packaged tobacco, tobacco products or tobacco-related devices by any means where the customer may have access to these items without having to request the item from the licensee or the licensee=s employee.

(B) All loosies or individually packaged tobacco, tobacco products and tobacco-related devices shall be stored behind the counter or other area not freely accessible to customers.

(Ord. 93, passed 12-23-1997) Penalty, see ' 10.99

**' 113.09 RESPONSIBILITY.**

All licenses under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco-related devices on the licensed premises and the sale of that item by an employee shall be considered a sale by the license holder.

(Ord. 93, passed 12-23-1997)

**' 113.10 COMPLIANCE CHECK AND INSPECTIONS.**

(A) The city shall conduct at least one unannounced compliance check once per year.

(B) All licensed premises shall be open to inspection by the city police or other authorized city officials during regular business hours.

(Ord. 93, passed 12-23-1997)

‘ **113.11 SIGNAGE.**

Each licensee shall have easily readable signs clearly posted near the cashier which indicates to the clerk and purchaser the year of birth to be of legal age to purchase tobacco products. A You must have been born on or before today=s date in the year \_\_\_\_\_ to be of legal age to purchase tobacco products@ is considered to be acceptable signage.

(Ord. 93, passed 12-23-1997)

‘ **113.12 VIOLATIONS.**

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

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

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

(D) *Decision.* If the Hearing Officer determines that a violation of this chapter did occur, that decision, along with the Hearing Officer=s reasons for finding a violation and the penalty to be imposed under a schedule of fines determined annually by the City Council, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the Hearing Officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

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

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

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

(Ord. 93, passed 12-23-1997)

**' 113.13 AFFIRMATIVE DEFENSE.**

It shall be an affirmative defense to the violation of this chapter to have reasonably relied on proof of age as described by state law.  
(Ord. 93, passed 12-23-1997)



## CHAPTER 114: LIQUOR REGULATIONS

### Section

#### *General Provisions*

- 114.01 Adoption of state law by reference
- 114.02 City may be more restrictive than state law
- 114.03 Definitions
- 114.04 Nudity on the premises of licensed establishments prohibited
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#### *Licensing*

- 114.20 Number of licenses which may be issued
- 114.21 Term and expiration of licenses
- 114.22 Kinds of liquor licenses
- 114.23 License fees; pro rata
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#### *Municipal Liquor Stores*

- 114.50 Application of this subchapter
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- 114.52 Location
- 114.53 Operation
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**GENERAL PROVISIONS****' 114.01 ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

**' 114.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized by the provisions of M.S. ' 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

**' 114.03 DEFINITIONS.**

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

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

**RESTAURANT.** An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a *restaurant* as defined by this section, an establishment shall have a license from the state as required by M.S. ' 157.16, as it may be amended from time to time, and meet the definition of either a *small establishment*, *medium establishment* or *large establishment* as defined in M.S. ' 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of *small establishment*, *medium establishment* or

Alarge establishment.@

**' 114.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of ' 114.99(B).

Penalty, see ' 114.99

**' 114.05 CONSUMPTION IN PUBLIC PLACES.**

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Penalty, see ' 114.99

***LICENSING***

**' 114.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.**

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of license which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a

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

**' 114.21 TERM AND EXPIRATION OF LICENSES.**

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

**' 114.22 KINDS OF LIQUOR LICENSES.**

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in ' 114.20. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in ' 114.55.

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

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

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

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under ' 114.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. ' 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. ' 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under ' 114.23 shall not exceed the amounts provided for in M.S. ' 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S.

' 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. ' 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. ' 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in ' 114.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of ' 114.23, shall not exceed \$200, or the maximum amount provided by M.S. ' 340A.504, Subd. 3c, as it may be amended from time to time.

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

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. ' 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in ' 114.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. ' 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of ' 114.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

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

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of ' 114.23 shall not exceed \$300, or the maximum amount permitted by M.S. ' 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by ' 114.23.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. ' 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (O) below, the brew pub=s total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(O) Brewer off-sale intoxicating liquor license, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established as M.S. ' 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. ' 340A.301, Subd. 7 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (N) above, the brewer=s total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(P) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

#### **' 114.23 LICENSE FEES; PRO RATA.**

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

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. ' 340A.408, Subd. 5, as it may be amended from time to time.

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. ' 340A.408 if at the time of initial application or renewal they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

(4) Failure to abide by the provisions of this division may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to ' 114.36 of this chapter.

#### **' 114.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.**

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

#### **' 114.25 APPLICATION FOR LICENSE.**

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as

to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. ' 340A.409, as it may be amended from time to time, with regard to liability under M.S. ' 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. ' 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

Penalty, see ' 114.99

**' 114.26 DESCRIPTION OF PREMISES.**

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

**' 114.27 APPLICATIONS FOR RENEWAL.**

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

**' 114.28 TRANSFER OF LICENSE.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Penalty, see ' 114.99

**' 114.29 INVESTIGATION.**

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

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

#### **' 114.30 HEARING AND ISSUANCE.**

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

#### **' 114.31 RESTRICTIONS ON ISSUANCE.**

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

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

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

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

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

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

Penalty, see ' 114.99

**' 114.32 CONDITIONS OF LICENSE.**

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

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

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

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

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

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

(F) Failure by an off-sale intoxicating liquor licensee who has received a fee reduction pursuant to ' 114.23(F) of this chapter to abide with the provisions of ' 114.23(F).

Penalty, see ' 114.99

**' 114.33 HOURS AND DAYS OF SALE.**

No sale of liquor shall be made except in accordance with M.S. ' 340A.504, Subdivisions (1),(2),(3),(4),(5),(6) and (7), as it may be amended from time to time, which is adopted herein and incorporated by reference as though set forth in full. Except that no on sale of intoxication liquors may be made after 5:00 p.m. on Christmas Eve, December 24.  
(Ord. 161, passed 1-22-2013) Penalty, see ' 114.99

**' 114.34 MINORS ON PREMISES.**

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

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.  
Penalty, see ' 114.99

**' 114.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. ' 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.  
Penalty, see ' 114.99

**' 114.36 SUSPENSION AND REVOCATION.**

The Council shall revoke or suspend a license granted under the provisions of this chapter, or impose a civil fine and mandatory training of staff for each violation within any three-year period a finding that the licensee has failed to comply with a statute, regulation or provision of the city code relating to alcoholic beverages. The first offense shall be a \$500 fine; the second offense shall be a \$100 fine and three-day license suspension; the third offense shall be a \$2,000 fine and a ten-day suspension of their license; and a fourth offense shall be a revocation of license. 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 the premises of the licensee, or if such revocation is mandatory by state statute.  
(Ord. 49A, passed 8-9-2011) Penalty, see ' 114.99

***MUNICIPAL LIQUOR STORES*****' 114.50 APPLICATION OF THIS SUBCHAPTER.**

This subchapter, consisting of ' ' 114.50 through 114.55, applies only to a city that has in existence on the effective date of this chapter a municipal liquor store.

**' 114.51 EXISTING MUNICIPAL STORES CONTINUED.**

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in ' 114.55, no intoxicating liquor may be sold at retail elsewhere in the city.

Penalty, see ' 114.99

**' 114.52 LOCATION.**

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

**' 114.53 OPERATION.**

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

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

as the Council determines.

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

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

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in ' 114.33. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease.

Penalty, see ' 114.99

#### **' 114.54 PROOF OF FINANCIAL RESPONSIBILITY.**

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

#### **' 114.55 ISSUANCE OF OTHER LICENSES.**

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

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

(C) *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt

liquor licenses in its sound discretion as provided in this chapter.

**' 114.99 PENALTIES.**

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

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. ' ' 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

- (1) For the first violation within any three-year period, \$500.
- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

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