

TITLE XI: BUSINESS REGULATIONS

Chapter

110. ADULT-ORIENTED BUSINESSES

111. TOBACCO

112. ALCOHOLIC BEVERAGES

113. PEDDLERS AND SOLICITORS

CHAPTER 110: ADULT-ORIENTED BUSINESSES

Section

General Provisions

- 110.01 Purpose and intent
- 110.02 Definitions
- 110.03 Application
- 110.04 Location
- 110.05 Hours of operation
- 110.06 Conditions of operation

Licenses and Inspections

- 110.20 License required
- 110.21 Applications
- 110.22 Persons ineligible for license
- 110.23 Posting
- 110.24 Council action
- 110.25 Appeals
- 110.26 Inspections
- 110.27 Expiration and renewal
- 110.28 Suspension
- 110.29 Revocation
- 110.30 Transfer of license

GENERAL PROVISIONS

' 110.01 PURPOSE AND INTENT.

(A) It is the purpose of this chapter to regulate adult-oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:

Blooming Prairie - Business Regulations

- (1) Prevent additional criminal activity within the city;
- (2) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- (3) To locate adult-oriented businesses away from residential areas, schools, churches, parks and playgrounds; and
- (4) Prevent concentration of adult-oriented businesses within certain areas of the city.

(B) The provisions of this chapter have neither the purpose, nor effect, of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent, nor effect, of this chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

(Ord. 98-1, passed 1-12-1998)

110.02 DEFINITIONS.

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

ADULT USE. Any of the activities and businesses described below constitute **ADULT-ORIENTED BUSINESSES**, which are subject to the regulation of this chapter.

(1) **ADULT BOOK** and/or **MEDIA STORE.** An establishment which excludes minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape or other media which are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) **ADULT CABARET.** An establishment which provides dancing or other live entertainment, if the establishment excludes minors by virtue of age from all or part of the establishment and if the dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of specified sexual activities or specified anatomical areas.

(3) **ADULT ESTABLISHMENT.** Any business which offers its patrons services, entertainment or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other adult establishments.

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

(5) ***ADULT MINI-MOTION PICTURE THEATER.***

(a) A theater in an enclosed building from which minors are excluded from all or part of the establishment with a capacity for less than 50 persons used for presenting motion pictures including, but not limited to, film and videotape having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; and

(b) Any business which presents motion pictures from which minors are excluded from all or part of the establishment including films and videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for viewing on the premises including, but not limited to, private booths, viewing by means of coin-operated or other mechanical devices and the viewing of excerpts of motion pictures offered for sale or rent.

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

(7) ***ADULT MOTION PICTURE ARCADE.*** Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images are so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(8) ***ADULT MOTION PICTURE THEATER.*** A theater in an enclosed building from which minors are excluded from all or part of the establishment with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures including, but not limited to, film and videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons herein.

(9) ***ADULT NOVELTY BUSINESS.*** A business from which minors are excluded from all or part of the establishment which sells, offers to sell or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

Blooming Prairie - Business Regulations

SPECIFIED ANATOMICAL AREAS. Any of the following conditions:

- (a) Less than completely and opaquely covered:
 - 1. Human genitals, pubic region or pubic hair;
 - 2. Buttock; and
 - 3. Female breast below a point immediately above the top of the areola.
- (b) Human male genitals in a discernible turgid state, even if opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Any of the following conditions:

- (1) An act of sexual intercourse, normal or perverted, actual or simulated including genital-genital, anal-genital or oral-genital intercourse whether between human beings or between a human being and an animal;
- (2) Sadomasochistic abuse meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound or otherwise physically restricted on the part of one so clothed;
- (3) Masturbation or lewd exhibitions of the genitals including any explicit close-up representation of a human genital organ clothed or unclothed; and
- (4) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(Ord. 98-1, passed 1-12-1998)

' 110.03 APPLICATION.

(A) Except as in this chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose, nor in any manner, which is not in conformity with this chapter.

(B) No adult-oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the city, the laws of the state or the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances including, but not limited to, statutes or ordinances prohibiting the exhibition, sale or distribution, of obscene material generally or the exhibition, sale or distribution of specified materials to minors.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.04 LOCATION.

During the term of this chapter, no adult-oriented businesses shall be located less than 1,000 feet from any residential zoning district boundary or site used for residential purposes, and less than 1,000 feet from any church site, from any school site, from any day care facility or from any park which is adjacent to property zoned residential. In addition, no adult-oriented business may be located within 1,000 feet of another adult-oriented business. For purposes of this chapter, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site or another adult-oriented business site to the nearest boundary of the proposed adult-oriented business site.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.05 HOURS OF OPERATION.

No adult-oriented business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m. (Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.06 CONDITIONS OF OPERATION.

(A) *Off-site viewing.* An establishment operating as an adult-oriented business shall prevent off-site viewing of its merchandise, which, if viewed by a minor, would be in violation of M.S. Ch. 617, as it may be amended from time to time, or other applicable federal or state statutes or local ordinances.

(B) *Entrances.* All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

(C) *Layout.* The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including, but not limited to, books, magazines, photographs, video tapes or other material.

(D) *Illumination.* Illumination of the premises= exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

(E) *Signs.* Signs for adult-oriented businesses shall be generic in nature and shall only identify the type of business which is being conducted and shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.20 LICENSE REQUIRED.

All establishments, including any business operating at the time this chapter becomes effective, operating or intending to operate an adult-oriented business shall apply for and obtain a license from the city. A person is in violation of the city code if he or she operates an adult-oriented business without a valid license issued by the city.

(Ord. 98-1, passed 1-12-1998) Penalty, see ' 10.99

' 110.21 APPLICATIONS.

(A) An application for a license must be made on a form provided by the city.

(B) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus minus six inches.

(C) The applicant must be qualified according to the provisions of this section, and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the Health Official, Fire Marshal and Building Official.

(D) Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers and dates of birth of the owner, lessee, if any, the operator or manager and all employees; the names, addresses and phone numbers of two persons who shall be residents of the state and who may be called upon to attest to the applicant=s, manager=s or operator=s character; whether the applicant, manager or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee or manager insofar as regarding the credit which has been extended for the purposes of constructing, equipping, maintaining, operating, furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of the business.

(E) If the application is made on behalf of a corporation, joint business venture, partnership or any legally constituted business association, it shall submit, along with its application, accurate and complete business records showing the names, addresses and dates of birth of all individuals having an interest in the business, including partners, officers, owners and creditors furnishing credit for the establishment, acquisition, maintenance and furnishings of the businesses and, in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in the operation.

(F) All applicants shall furnish to the city, along with their applications, complete and accurate

documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise. Also:

(1) A statement detailing any gross misdemeanor or felony conviction relating to sex offenses, obscenity or the operation of an adult-oriented business by the applicant, operator or manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities;

(2) The activities and types of business to be conducted;

(3) The hours of operation; and

(4) The provisions made to restrict access by minors.

(G) Each application for a license shall be submitted to the city's Administrator-Clerk. Each application for a license shall be accompanied by payment in full of the required fee for the license. Upon rejection of any application for a license, the city shall refund the license fee.

(H) All licenses shall expire on December 31 in each year. Each license shall be issued for a period of one year; except that, if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a prorated fee. In computing the fee, any unexpired fraction of a month shall be counted as one month.

(I) The annual fee for an adult-oriented business license shall be \$1,000.
(Ord. 98-1, passed 1-12-1998)

110.22 PERSONS INELIGIBLE FOR LICENSE.

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

(A) Under 21 years of age;

(B) Who is overdue or whose spouse is overdue in payments to the city, county, state or federal government of taxes, fees, fines, penalties, charges or liens for municipal services and utilities assessed against them or imposed upon them;

(C) An applicant who has been convicted of a crime involving any of the following offenses:

Blooming Prairie - Business Regulations

(1) Any sex crimes, as defined by M.S. ' ' 609.293 through 609.352, as they may be amended from time to time, inclusive, or as defined by any ordinance or statute in conformity therewith;

(2) Any obscenity crime, as defined by M.S. ' ' 617.23 through 617.299, as they may be amended from time to time, inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

(a) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

(c) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no affect on disqualification of the applicant or applicant=s spouse.

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

(E) Who is residing with a person who has been denied a license by the city or any other Minnesota municipal corporation to operate an adult-oriented business or residing with a person whose license to operate an adult-oriented business has been suspended or revoked within the preceding 12 months; or

(F) Who has not paid the license fee required by this chapter.
(Ord. 98-1, passed 1-12-1998)

' 110.23 POSTING.

The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult-oriented business. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented business so that it may be easily read at any time.

(Ord. 98-1, passed 1-12-1998)

' 110.24 COUNCIL ACTION.

The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted; provided that, the application contains all of the information required

by this chapter. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected.

(Ord. 98-1, passed 1-12-1998)

' 110.25 APPEALS.

Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or Administrator-Clerk of the municipality.

(Ord. 98-1, passed 1-12-1998)

' 110.26 INSPECTIONS.

(A) *Access.* An applicant or licensee shall permit health officials, representatives of the Police Department, Fire Department and Building Inspection Division to inspect the premises of an adult-oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(B) *Refusal to permit inspections.*

(1) A person who operates an adult-oriented business or his or her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, Fire Department and Building Inspection Division at any time it is occupied or open for business.

(2) Refusal to permit inspections may result in the suspension of the license as provided in ' 110.28 of this chapter.

(Ord. 98-1, passed 1-12-1998)

' 110.27 EXPIRATION AND RENEWAL.

(A) *Expiration.*

(1) Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in ' ' 110.20 through 110.25 of this chapter.

(2) Application for renewal must be made at least 60 days before the expiration date and, when made less than 60 days before the expiration date, the expiration of the license will not be affected.

(B) *Denial of renewal.*

(1) When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial.

Bloomington Prairie - Business Regulations

(2) If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days has elapsed since the date of denial became final.

(Ord. 98-1, passed 1-12-1998)

' 110.28 SUSPENSION.

(A) *Causes of suspension.* The city may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any provision of this chapter;

(2) Engaged in the use of alcoholic beverages while on the adult-oriented business premises other than at an adult hotel or motel;

(3) Refused to allow an inspection of the adult-oriented business premises as authorized by this chapter;

(4) Knowingly permitted gambling by any person on the adult-oriented business premises; and/or

(5) Demonstrated inability to operate or manage an adult-oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(B) *Notice.* A suspension by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days= notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed business premises with the person in charge thereof.

(Ord. 98-1, passed 1-12-1998)

' 110.29 REVOCATION.

(A) *Suspended licenses.* The city may revoke a license if a cause of suspension in ' 110.28 of this chapter occurs and the license has been suspended within the preceding 12 months.

(B) *Causes of revocation.* The city shall revoke a license if it determines that:

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

(2) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(3) A licensee or an employee has knowingly allowed prostitution on the premises;

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

(5) A licensee has been convicted of an offense listed in ' 110.22 of this chapter for which the time period required in ' 110.22 of this chapter has not elapsed;

(6) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in ' 110.22 of this chapter, for which a conviction has been obtained, and the person or persons were employees of the adult-oriented business at the time the offenses were committed; or

(7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

(C) *Appeals.* The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(D) *Granting a license after revocation.* When the city revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult-oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days has elapsed since the date the revocation became effective. If the license was revoked under division (B)(5) above, the applicant may not be granted another license until the appropriate number of years required under ' 110.22 of this chapter has elapsed.

(E) *Notice.* A revocation by the city shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof.
(Ord. 98-1, passed 1-12-1998)

' 110.30 TRANSFER OF LICENSE.

A licensee shall not transfer this license to another, nor shall a licensee operate an adult-oriented business under the authority of a license at any place other than the address designated in the application.
(Ord. 98-1, passed 1-12-1998)

CHAPTER 111: TOBACCO

Section

- 111.01 License
- 111.02 Sales to minors prohibited
- 111.03 Self-service sales
- 111.04 Vending machine sales
- 111.05 Compliance checks

- 111.99 Penalty

' **111.01 LICENSE.**

(A) (1) No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco product at any place in the city without first obtaining a license from the city.

(2) **TOBACCO** is defined as and includes: cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

(B) The annual license fee for a retail tobacco license shall be \$50 per year. All retail tobacco licenses shall be valid for one calendar year from the date that the license is issued.

(C) Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' **111.02 SALES TO MINORS PROHIBITED.**

No person shall sell or offer to sell any tobacco or tobacco product to any person under 18 years of age.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' 111.03 SELF-SERVICE SALES.

(A) No licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee.

(B) Cartons and other multi-pack units may be offered and sold through open displays accessible to the public.

(C) Division (B) above will expire upon the effective date and implementation of 21 C.F.R. ' 897.36c.

(D) The self-service restrictions described in this section shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' 111.04 VENDING MACHINE SALES.

No person shall sell tobacco products from vending machines. This section does not apply to vending machines in facilities that cannot be entered at any time by a person younger than 18 years of age.

(Ord. 97-1, passed 12-2-1997) Penalty, see ' 111.99

' 111.05 COMPLIANCE CHECKS.

The city shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with M.S. ' 609.685, as it may be amended from time to time. Compliance checks shall utilize minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority.

(Ord. 97-1, passed 12-2-1997)

' 111.99 PENALTY.

Bloomington Prairie - Business Regulations

(A) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing, which person shall be the city's Administrator-Clerk.

(B) An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the city to conduct the hearing which person shall be the city's Administrator-Clerk.

(C) It is an affirmative defense to the charge of selling tobacco to a person under the age of 18 years in violation of this chapter that the licensee or individual making the sale relied in good faith upon proof of age as follows:

(1) A valid driver's license or identification card issued by the State of Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) A valid military identification card issued by the United States Department of Defense; or

(3) In the case of a foreign national, from a nation other than Canada, by a valid passport.

(Ord. 97-1, passed 12-2-1997)

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

- 112.01 Adoption of state law by reference
- 112.02 City may be more restrictive than state law
- 112.03 Definitions
- 112.04 Nudity on the premises of licensed establishments prohibited
- 112.05 Consumption in public places
- 112.06 Raffles, silent auctions and fund raising events for charitable purposes of wine, beer or intoxicating liquors
- 112.07 Number of licenses which may be issued
- 112.08 Term and expiration of licenses
- 112.09 Kinds of liquor licenses
- 112.10 License fees; pro rata
- 112.11 Council discretion to grant or deny a license
- 112.12 Application for license
- 112.13 Description of premises
- 112.14 Applications for renewal
- 112.15 Transfer of license
- 112.16 Investigation
- 112.17 Hearing and issuance
- 112.18 Restrictions on issuance
- 112.19 Conditions of license
- 112.20 Hours and days of sale
- 112.21 Minors on premises
- 112.22 Restrictions on purchase and consumption
- 112.23 Suspension and revocation

- 112.99 Penalty

' 112.01 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% 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, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(Ord. passed - -)

' 112.02 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.

(Ord. passed - -)

' 112.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. 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 a "3.2% malt" includes both intoxicating liquor and 3.2% malt liquor.

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

(Ord. passed - -)

' 112.04 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 section. 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 City 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 City 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% malt liquor license or any other license issued under this chapter or the imposition of a civil penalty under the provisions of ' 112.99(B) of this chapter. (Ord. passed - -) Penalty, see ' 112.99

' 112.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2% 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.

(Ord. passed - -) Penalty, see ' 112.99

' 112.06 RAFFLES, SILENT AUCTIONS AND FUND RAISING EVENTS FOR CHARITABLE PURPOSES OF WINE, BEER OR INTOXICATING LIQUORS.

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

(Ord. passed - -)

' 112.07 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 City 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 City Council by ordinance determines that any or all of the licenses may be issued. The City Council is not required to issue the full number of licenses that it has available.

(Ord. passed - -)

' 112.08 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 June 30 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.

(Ord. passed - -)

' 112.09 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 ' 112.07 of this chapter.

(A) 3.2% 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% malt liquor with the incidental sale of tobacco and soft drinks.

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

(C) Temporary 3.2% 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 City Council under ' 112.10 of this chapter shall not exceed \$240 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 section: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters

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 City Council under ' 112.10 of this chapter shall not exceed the amounts provided for in M.S. ' 340A.408, subd. 2(b) as it may be amended from time to time. The City 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. 4(b) as it may be amended from time to time. The City 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. ' 340 A.404, subd. 4(a), 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 ' 112.03 of this chapter, 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 City Council under the provisions of ' 112.10 of this chapter, shall not exceed \$200, or the maximum amount provided by M.S. ' 340A.504, subd. 3(c) 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; a political committee registered under state law; or a state university. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days= worth of temporary licenses to any one organization in one calendar year.

(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 section 3; to licensed bed and breakfast facilities which meet the criteria in M.S. ' 340A.4011, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. ' 340A.404, subd. 1(b) as it may be amended from time to time. The fee for an on-sale wine license established by the City Council under the provisions of ' 112.10 of this chapter, 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% malt liquor license is authorized to sell malt liquor with a content over 3.2% (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 ' 112.10 of this chapter shall not exceed \$300, or the maximum amount permitted by M.S. ' 340A.414, 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 ' 112.10 of this chapter.

(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.24, 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 ' 112.09(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 malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under ' 112.09(N) above and otherwise meets the criteria established at M.S. ' 340A.24, 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.285, 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 ' 112.09(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 750 barrels.

(P) Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer=s license under M.S. ' 340A.301, subd. 6(c), (I) or (j), as it may be amended from time to time, and meeting the criteria established by M.S. ' 340A.28, as it may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 750 barrels annually. Off-sale of malt

liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with M.S. ' 340A.285, as it may be amended from time to time.

(Q) 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.

(R) A brewer taproom license, may be issued to the holder of a brewer=s license under M.S. ' 340A.301, subd. 6(c), (I) or (j), as it may amended from time to time. A brewer=s taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. ' 340A.301, subd. 6(d), as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the Administrator-Clerk will inform the Commissioner of Public Safety of the licensee=s name, address, trade name and the effective date and expiration date of the license. The Administrator- Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.

(S) A cocktail room license may be issued to the holder of a state microdistillery license if at least 50% of the annual production of the licensee is processed and distilled on premises. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. ' 340A.301, subd. 6(a), as it may be amended from time to time. No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the commissioner of public safety of the licensee=s name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of public safety of a microdistillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

(T) A microdistiller off-sale license may be issued to the holder of a state microdistillery license if at least 50% of the annual production of the licensee is processed and distilled on premises. A microdistiller off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

(U) A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

(Ord. passed - -)

' 112.10 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 City 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, as it may be amended from time to time, 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; or

(4) Failure to abide by the provisions of this paragraph 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 ' 112.23 of this chapter.

(Ord. passed - -)

' 112.11 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The City 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.
(Ord. passed - -)

' 112.12 APPLICATIONS 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 City 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 City 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.
(Ord. passed - -)

' 112.13 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.
(Ord. passed - -)

' 112.14 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.
(Ord. passed - -)

' 112.15 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.

(Ord. passed - -)

' 112.16 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 City 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 City Council, a comprehensive background and financial investigation, the City 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.

(Ord. passed - -)

' 112.17 HEARING AND ISSUANCE.

The City 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 City 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.

(Ord. passed - -)

' 112.18 RESTRICTIONS ON ISSUANCE.

Bloomington - Business Regulations

(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 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.

(Ord. passed - -)

' 112.19 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 City Council. Proof of training shall be provided by the licensee, or upon request.

(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 City 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 on off-sale intoxicating liquor license who has received a fee reduction pursuant to ' 112.10(F) of this chapter to abide with the provisions of ' 112.10(F) of this chapter.

(Ord. passed - -) Penalty, see ' 112.99

' 112.20 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. ' 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

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

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

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

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

(Ord. passed - -) Penalty, see ' 112.99

' 112.21 MINORS ON PREMISES.

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

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

(Ord. passed - -) Penalty, see ' 112.99

' 112.22 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 City Council, and no person shall consume liquor in any such place.

(Ord. passed - -) Penalty, see ' 112.99

' 112.23 SUSPENSION AND REVOCATION.

(A) The City Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. ' ' 14.57 to 14.70, as it may be amended from time to time. The City Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the City Council for violations of 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:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of ' 112.04 of this chapter, the license shall be revoked.

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

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

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

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

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

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

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the City Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Administrator-Clerk, a hearing before the City Council shall be granted within ten days. Any suspension under this division (B) shall continue until the City Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of ' 112.99 of this chapter pertaining to administrative penalty may be imposed

in addition to or in lieu of any suspension or revocation under this chapter.
(Ord. passed - -) Penalty, see ' 112.99

' 112.99 PENALTY.

(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 City 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 City 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 City Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

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

(C) The term A violation@ as used in ' 112.23 includes any and all violations of the provisions in this section, 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.
(Ord. passed - -)

CHAPTER 113: PEDDLERS AND SOLICITORS

Section

- 113.01 Definitions
- 113.02 Exceptions to definitions
- 113.03 Licensing; exemptions
- 113.04 License ineligibility
- 113.05 License suspension and revocation
- 113.06 License transferability
- 113.07 Prohibited activities
- 113.08 Exclusion by placard

- 113.99 Penalty
- Appendix: Application for peddlers and solicitation permit

' 113.01 DEFINITIONS.

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

NON-COMMERCIAL DOOR-TO-DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For the purpose of this chapter, the term **DOOR-TO-DOOR ADVOCATE** shall fall under the term **SOLICITOR** and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this section, the term **PEDDLER** shall have the same common meaning as the term Ahawker@.

PERSON. Any natural individual, group, organization, corporation, partnership, or similar association.

REGULAR BUSINESS DAY. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business,

street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this section, the term **SOLICITOR** shall have the same meaning as the term canvasser.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than 14 consecutive days.
(Ord. passed 12-17-2018)

' 113.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of this chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to:

(1) Non-commercial door-to-door advocates. Nothing within this section shall be interpreted to prohibit or restrict non-commercial door-to-door advocates;

(2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler;

(3) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk;

(4) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route;

(5) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large;

(6) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales;

(7) Any person participating in an organized multi-person bazaar or flea market;

(8) Any person conducting an auction as a properly licensed auctioneer; or

(9) Any officer of the court conducting a court-ordered sale.

(B) Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.03 LICENSING; EXEMPTIONS.

(A) *City license required.* Except as otherwise provided for by this section, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license.

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

- (1) The applicant=s full legal name;
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to;
- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like);
- (4) Full address of applicant=s permanent residence;
- (5) Telephone number of applicant=s permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent;
- (7) Full address of applicant=s regular place of business, if any exists;
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;
- (9) The type of business for which the applicant is applying for a license;
- (10) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of 14 consecutive days;
- (11) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business;

(12) A statement as to whether or not the applicant has been convicted with the last five years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses;

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

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

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

(16) Any and all additional information as may be deemed necessary by the City Council;

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

(18) The license plate number, registration information, and physical description for any vehicle to be used in conjunction with the licensed business operation;

(C) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.

(D) *Procedure.* Upon receipt of the application and payment of the license fee, the city=s Administrator-Clerk will, within two regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city=s Administrator-Clerk determines that the application is incomplete, the Administrator-Clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city=s Administrator-Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the city=s Administrator-Clerk must issue the license unless grounds exist for denying the license application under ' 113.04 of this chapter, in which case the Administrator-Clerk must deny the request for a city peddler or transient merchant license. If the city=s Administrator-Clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant=s right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with 20 days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(E) *Duration.* All licenses granted to peddlers and transient merchants under this section shall be valid only during the time period indicated on the license.

(F) *License exemptions.*

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to

take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person=s state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person=s exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

(Ord. passed 12-17-2018)

' 113.04 LICENSE INELIGIBILITY.

The following shall be grounds for denying a peddler or transient merchant license:

(A) The failure of an applicant to truthfully provide any information requested by the city as part of the application process;

(B) The failure of an applicant to sign the license application;

(C) The failure of an applicant to pay the required fee at the time of application;

(D) A conviction with the past five years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person=s ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

(E) The revocation with the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; or

(F) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general=s office, or other similar business or consumer rights office or agency, with the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.05 LICENSE SUSPENSION AND REVOCATION

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

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements

provided by an applicant on the application form;

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity;

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under ' 113.04 of this chapter;

(4) Engaging in any prohibited activity as provided under ' 113.08 of this chapter; or

(5) Violation of any other provision of this section.

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

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

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

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

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

(Ord. passed 12-17-2018)

' 113.06 LICENSE TRANSFERABILITY.

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

(Ord. passed 12-17-2018)

' 113.07 PROHIBITED ACTIVITIES.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

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

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

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

(D) Conducting business before 8:00 a.m. or after 9:00 p.m.;

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

(F) Using the license or registration of another person;

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

(H) Remaining on the property of another when requested to leave; or

(I) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.08 EXCLUSION BY PLACARD.

(A) Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

(1) At least four inches long;

(2) At least four inches wide;

(3) With print of at least 48 point in size; and

(4) Stating ANo Peddlers, Solicitors or Transient Merchants,@ APeddlers, Solicitors, and Transient Merchants Prohibited,@ or other comparable statement.

(B) No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

(Ord. passed 12-17-2018) Penalty, see ' 113.99

' 113.99 PENALTY.

Any individual found in violation of any provision of this chapter, shall be a guilty of a misdemeanor.

(Ord. passed 12-17-2018)

Bloomington Prairie - Business Regulations

APPENDIX: APPLICATION FOR PEDDLERS AND SOLICITATION PERMIT

CITY OF BLOOMINGTON PRAIRIE
APPLICATION FOR PEDDLERS AND SOLICITATION
PERMIT

(Must Provide Company Picture I.D. and/or Driver=s License)

Starting Date: _____

End Date: _____
(Not to exceed 14 days)

ORGANIZATION NAME: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: (Business) _____ (Home/Cell) _____

Full Legal Name of Applicant: _____

Home Address: _____

Telephone Number: _____

DOB: _____ DL# _____

The following items **MUST** be completed:

1. Date of Birth: _____
 Sex: Male _____ Female _____
 Color of Hair: _____
 Color of Eyes: _____
 Height: _____ Weight: _____
 Race: _____

2. A brief description of the nature of the business and/or goods to be sold:

3. If the goods are food items, the Steele County Health Department or the Minnesota Department of Agriculture must issue a permit. The number of the permit and the date issued must be listed below before the City of Bloomington Prairie can issue the Peddler=s Permit.

Permit Number: _____

Date Issued: _____

4. Has the applicant or the business ever been convicted of a violation of any ordinance of the City of Blooming Prairie or any other municipality?

Yes: _____ No: _____

5. Has the applicant or the business ever been convicted of a violation of any statute of the United States, State of Minnesota or any other state?

Yes: _____ No: _____

6. License number and description of vehicle used in connection with the regulated activity:

Drivers License Number

Make Model Year

License Plate Number

7. Current Drivers License or ID card displaying a picture must be provided in person.

Have you been convicted within the last five (5) years of any felony, gross misdemeanor or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses?

Yes: _____ No: _____

If yes, explain: _____

List the three (3) most recent locations where you have conducted business as a peddler or transient merchant: _____

Will you be selling door to door or from only one location?

Door to Door: _____ One Location: _____

Blooming Prairie - Business Regulations

If one location, give address or location: _____

(signature of owner of the location)

List any other names under which you conduct business or to which you officially answer to: _____

As authorized representative of the organization listed above, I assume full responsibility for the actions of the solicitor(s) listed above. I understand and have explained to each solicitor, the provisions of the City of Blooming Prairie Solicitation Ordinance, and hereby agree to abide in good faith with all provisions included therein.

Signature of Authorized Representative: _____

**Permit Fee \$100.00 Per Application
(Non-Refundable)**

Make check or money order payable to the City of Blooming Prairie and return it to the City Administration Office located at 138 Highway Avenue South, Blooming Prairie, Minnesota 55917. (If using check, it must clear before permit is issued).

APPLICATION # _____

DATE RECEIVED _____

DATE APPROVED _____

RECEIPT NUMBER _____

AMOUNT PAID _____

CHECK NO. _____ CASH _____

(Signature of City Administrator)

(Signature of Deputy City Clerk)

**FAILURE TO COMPLY WITH THIS APPLICATION
PROCESS WILL RESULT IN CRIMINAL PROSECUTION**

(Ord. passed 12-17-2018)