

TITLE XI: BUSINESS REGULATIONS

Chapter

110.LIQUOR REGULATIONS

111.PEDDLERS AND SOLICITORS

112.SEXUALLY ORIENTED BUSINESSES

CHAPTER 110: LIQUOR REGULATIONS

Section

General Provisions

- 110.01 Adoption of state law by reference
- 110.02 City may be more restrictive than state law
- 110.03 Definitions
- 110.04 Nudity on the premises of licensed establishments prohibited

Licensing

- 110.20 Number of licenses which may be issued
- 110.21 Term and expiration of licenses
- 110.22 Kinds of liquor licenses
- 110.23 License fees; pro rata
- 110.24 Council discretion to grant or deny a license
- 110.25 Application for license
- 110.26 Description of premises
- 110.27 Applications for renewal
- 110.28 Transfer of license
- 110.29 Investigation
- 110.30 Hearing and issuance
- 110.31 Restrictions on issuance
- 110.32 Conditions of license
- 110.33 Hours and days of sale
- 110.34 Minors on premises
- 110.35 Restrictions on purchase and consumption
- 110.36 Suspension and revocation

- 110.99 Penalty

Cross-reference:

Public nuisances affecting morals and decency; liquor and illegal drugs, see § 93.03

GENERAL PROVISIONS**§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of M.S. Chapter 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. Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

§ 110.02 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. Chapter 340A, as it may be amended from time to time.

§ 110.03 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% 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. 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 “large establishment.”

§ 110.04 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% malt liquor license or the imposition of a civil penalty under the provisions of § 110.99(B).
Penalty, see § 110.99

LICENSING

§ 110.20 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. Chapter 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.
(Am. Ord. 2004-2, passed 5-13-2004)

§ 110.21 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 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.

§ 110.22 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 § 110.20:

- (A) On-sale licenses for 3.2% malt liquor, which may be issued only to 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) Off-sale license for 3.2% malt liquor;
- (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 Council under § 110.23 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, 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 § 110.23 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 § 110.03, 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 § 110.23, 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: 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 § 110.03; 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 § 110.23 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% 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 § 110.23 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.

§ 110.23 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Chapter 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.

§ 110.24 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.

§ 110.25 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 § 110.99

§ 110.26 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. Any patio or other outdoor seating area shall have an attractive fence around it. Access to the outdoor seating area should be only through the building. A gate may be provided in the fence but it shall be clearly marked for emergency use only.

§ 110.27 APPLICATIONS FOR RENEWAL.

At least 30 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.

§ 110.28 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 § 110.99

§ 110.29 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 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, if the investigation is to be conducted within the state, and up to \$10,000, 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.

§ 110.30 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.

§ 110.31 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.

Penalty, see § 110.99

§ 110.32 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) 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.

(B) 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.

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

(D) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.
Penalty, see § 110.99

§ 110.33 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.

(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.
Penalty, see § 110.99

§ 110.34 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% 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% 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 § 110.99

§ 110.35 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 § 110.99

§ 110.36 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this 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 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 Council for violations of the provisions of this chapter or M.S. Chapter 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 § 110.04, the license shall be revoked.

(2) The license shall be suspended by the 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 a 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;

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

(3) The 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 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 Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 110.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.
Penalty, see § 110.99

§ 110.99 PENALTY.

(A) Any person violating the provisions of this chapter or M.S. Chapter 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. Chapter 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 “violation” as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Chapter 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.

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

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

§ 111.01 DEFINITIONS.

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

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

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

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

SOLICITOR. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which 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. The term shall mean the same as the term **CANVASSER**.

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

§ 111.02 EXCEPTIONS TO DEFINITIONS.

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

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

§ 111.03 LICENSING; EXEMPTIONS.

(A) *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Chapter 329 as amended.

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

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and 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 agent;
- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;
- (13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;

Watkins - Business Regulations

(15) Proof of any requested county license;

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

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

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

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

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

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the city's fee schedule as adopted from time to time by an ordinance passed by the City Council.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk shall forward the application to the City Council within two regular business days of receipt. An application shall be determined to be complete only if all required information is provided. The City Clerk, within two regular business days of receipt, shall determine if the application is complete. If the City Clerk determines that the application is incomplete, the City Clerk shall inform the applicant of the required necessary information which is missing. The City Council shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving the application from the City Clerk, the City Council shall vote whether or not to issue the license. If the City Council approves the application, the City Clerk shall be instructed to issue a license to the applicant. If the City Council rejects the application, the applicant shall be notified in writing of the City Council's decision, the reason for denial, and of his or her right to appeal the denial by requesting, within 20 days of receiving the City Council's notice of rejection, a public hearing to be heard within 20 days of the date of the request. The final decision of the City Council following the public hearing shall be appealable by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

(F) *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

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

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

(3) Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
Penalty, see § 10.99

§ 111.04 LICENSE INELIGIBILITY.

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

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

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

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

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

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

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

(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 such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

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

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

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

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

Penalty, see § 10.99

§ 111.06 LICENSE TRANSFERABILITY.

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

Penalty, see § 10.99

§ 111.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 111.03, shall be required to register with the city. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

Penalty, see § 10.99

§ 111.08 PROHIBITED ACTIVITIES.

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

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

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

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

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

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

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

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

§ 111.09 EXCLUSION BY PLACARD.

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or

transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

Penalty, see § 10.99

Cross-reference:

Public nuisances affecting peace and safety, see § 93.04

CHAPTER 112: SEXUALLY ORIENTED BUSINESSES

Section

- 112.01 Purpose
- 112.02 Findings of the City Council
- 112.03 Conclusions of the City Council
- 112.04 Definitions
- 112.05 Zoning regulations
- 112.06 Sign restrictions
- 112.07 License required
- 112.08 License application
- 112.09 License application execution
- 112.10 License application verification
- 112.11 License application consideration
- 112.12 License fees
- 112.13 Persons and locations ineligible for a license
- 112.14 License restrictions
- 112.15 Restrictions regarding license transfer
- 112.16 Restrictions regarding hours of operation
- 112.17 Restrictions regarding minors
- 112.18 Renewal application
- 112.19 Sanctions for license violations

- 112.99 Penalty

§ 112.01 PURPOSE.

The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses in order to protect the general health, safety, and welfare and to control certain land uses that may have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. (Ord. 2002-6, passed 12-18-2002)

§ 112.02 FINDINGS OF THE CITY COUNCIL.

The City Council makes the following findings regarding the need to license sexually oriented businesses. The findings are based upon the experience of other cities where such businesses have been located, as studied by a city staff committee.

Watkins - Business Regulations

(A) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending state licensed family day care homes, state licensed group family day care homes, and state licensed child care centers; students attending school; and people using public parks and libraries.

(B) Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

(C) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(D) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of life in the community. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is often perceived by others as an indication on that the community or area is deteriorating and the result can be devastating to other businesses that may be required to move out of the vicinity and which could influence residents to relocate from the area. It has been noted that the presence of such businesses can have an overall effect of causing declining real estate values, which result can be exacerbated by the concentration of such businesses, which can erode the city's tax base and contribute to overall community blight.

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

(F) Sexually-oriented businesses can cause or contribute to public health problems by the presence of live entertainment in conjunction with food and/or drink on the same premises.
(Ord. 2002-6, passed 12-18-2002)

§ 112.03 CONCLUSIONS OF THE CITY COUNCIL.

In direct furtherance of the substantial goals of public health, safety, and welfare, the City Council adopts the chapter, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.
(Ord. 2002-6, passed 12-18-2002)

2007 S-1

§ 112.04 DEFINITIONS.

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

ADULT BODY PAINTING STUDIO. An establishment or business which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical area as defined herein.

ADULT BOOK STORE. An establishment that has 40% or greater of its current store stock in merchandise, videos, books, magazines, and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.

ADULT ORIENTED CABARET. A building or space wherein a portion of the business is used for providing dancing, modeling, or other live entertainment, if such dancing or modeling or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined herein, for observation or participation by patrons.

ADULT CAR WASH. A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.

ADULT COMPANIONSHIP ESTABLISHMENT. A companionship establishment which excludes minor by reason of age, or which provides the service for a fee of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

ADULT ENTERTAINMENT FACILITY. A building or space wherein an admission is charged for entrance, or food or alcoholic and nonalcoholic beverages are sold or intended for consumption, and wherein may observed live presentation of entertainment, including nude dancing, nude modeling or nudity, or which other activities distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.

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

2007 S-1

ADULT MOTION PICTURE THEATER. A building or space with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase “used for” in the definitions shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

ADULT MINI-MOTION PICTURE THEATER. A building or space with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase “used for” in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

ADULT SAUNA. A sauna which excludes by reason of age, or which provides a steam bath or heat bathing room used to the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

CITY. City of Watkins, Minnesota.

DWELLING UNIT. One of more rooms arranged for residential use containing cooking, living, sanitary, and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

ISSUING AUTHORITY. City Council of the City of Watkins, Minnesota.

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

NUDITY. The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering covering below a point immediately above the top of areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

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

PUBLIC LIBRARY. Any library that provides free access to all residents of a city or county without discrimination, received at least half of its financial support from public funds, and is organized under the provisions of M.S. Ch. 134.

PUBLIC PARK. A park, reservation, open space, playground, beach or recreation center in the city owned, leased, or used, wholly or in part, by a city, county, state, school district, or federal government for recreation purposes.

2007 S-1a Repl.

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

SADOMASOCHISTIC ABUSE. Flagellation or torture by or upon a person unclad or partially clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one.

SCHOOL. A building or space that is principally used as a place where persons receive a full course of educational instruction. Any post-secondary or post-high **SCHOOL** educational building, including a college or any vocational-technical college, shall not be deemed a **SCHOOL** for the purposes of this chapter.

SIGN. A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land which directs attention to an object, project, place, activity, person, institution, organization, or business. However, a **SIGN** shall not include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A **SIGN** shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a **SIGN**.

SINGLE FAMILY DWELLING. A residential building containing one dwelling unit as herein defined, including detached, semi-detached, and attached dwellings, which is intended to be used as a residence.

STATE LICENSED FAMILY DAY CARE HOME, STATE LICENSED GROUP FAMILY DAY CARE HOME, STATE LICENSED CHILD CARE CENTER. A facility holding a license from the State of Minnesota, pursuant to M.S. Ch. 245A, and/or Minnesota Rules, Ch. 9502 or Ch. 9503, as amended.

SEXUALLY ORIENTED BUSINESS. An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash, adult-oriented cabaret, or adult sauna as herein defined.

SPECIFIED SEXUAL ACTIVITIES. For the purposes of this chapter, sexual activities include the following:

- (1) Human genitals in a discernible state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, sadomasochistic behavior, or sodomy;
- (3) Fondling of, or other erotic touching of human genitals, the pubic region or pubic hair, buttock, or female breast or breasts; or
- (4) Any combination of the foregoing.

2007 S-1a Repl.

SPECIFIED ANATOMICAL AREAS. For the purposes of this chapter, this means:

- (1) Less than completely or opaquely covered:
 - (a) Human genitals, pubic region or pubic hair; or
 - (b) Buttock; or
 - (c) Female breast or breasts below a point immediately above the top of the areola; or
 - (d) Any combination of the foregoing; and/or

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

(Ord. 2002-6, passed 12-18-2002)

§ 112.05 ZONING REGULATIONS.

(A) Sexually oriented business shall be prohibited in all of the city's zoning districts except the M-1 Industrial District, as defined and regulated in Article XX of the Watkins Zoning Code.

(B) In the M-1 District, a sexually oriented business will be permitted with a Conditional Use Permit, to include, but not limited to, the following conditions:

(1) No sexually oriented business shall be located closer than 500 feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of any other sexually oriented business.

(2) No sexually oriented business shall be located closer than 500 feet from any place of worship, school, public park, day care home, public library, or state licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual premises used as a place of worship, school, park, or state licensed family day care home, state licensed group family day care home, or state licensed child care center.

(3) No sexually oriented business shall be located closer than 500 feet from any of the following residential use districts. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest boundary of the residential use district:

- (a) R-1, Single Family Residential District; and
- (b) R-2, Multi Family Residential District.

2007 S-1a Repl.

(4) A sexually oriented business must also comply with existing licensing requirements of the city.

(5) The operation or maintenance of more than one of the following uses in the same building or structure shall be prohibited:

- (a) Adult body painting studio;
- (b) Adult book store;
- (c) Adult car wash;
- (d) Adult companionship establishment;
- (e) Adult entertainment facility;
- (f) Adult modeling studio;
- (g) Adult oriented cabaret;
- (h) Adult sauna;
- (i) Adult motion picture theater; and
- (j) Adult mini-motion picture theater.

(Ord. 2002-6, passed 12-18-2002)

§ 112.06 SIGN RESTRICTIONS.

In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following sign regulation shall apply to all sexually oriented businesses in the city in lieu of the provisions of Chapter 153.

(A) All signs shall be flat wall signs. No signs shall be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages. No sign shall contain any message or image which identifies specified sexual activities or specified anatomical areas as defined herein.

(B) The amount of allowable sign area shall be on square foot of sign area per foot of lot frontage on a street, not to exceed 80 square feet.

(C) No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any other area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually oriented business is located.

2007 S-1a Repl.

(D) No signs shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and no admittance to anyone under 18 years of age, and IDs will be checked. (Ord. 2002-6, passed 12-18-2002)

§ 112.07 LICENSE REQUIRED.

No person shall own or operate a sexually oriented business with the city unless such person is currently licensed under this chapter. The licencing period will be from July 1 and expire on June 30 of the following year. Prorating of fees for a partial year will not be allowed. (Ord. 2002-6, passed 12-18-2002)

§ 112.08 LICENSE APPLICATION.

The application for a license under this chapter shall be made on a form supplied by the issuing authority and shall require the following information.

(A) *All applicants.* For all applicants:

(1) Whether the applicant is a natural person, corporation, partnership, or other form of organization.

(2) The legal description of the premises to be licenced, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The flood plan 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 or minus six inches.

(3) The name and street address of the business. If the business is to be conducted under a designation, name, or style other than the name of the applicant, a certified copy of the certificate required by the M.S. § 333.01 shall be submitted.

(B) *Applicants who are natural person.* If the applicant is a natural person:

(1) The name, place and date of birth, street and city address, and phone number of the applicant.

(2) 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 where used.

(3) The street and city addresses at which the applicant has lived during the preceding two years.

2007 S-1a Repl.

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

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

(C) *Applicants that are partnerships.* If the applicant is a partnership:

(1) The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of the applicants in division (B).

(2) The name(s) of the managing partner(s) and the interest of each partner in the 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, a certified copy of such certificate shall be attached to the application.

(D) *Corporate or other applicants.* If the applicant is a corporation or other organization:

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

(2) A true copy of the certification 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 shall be attached.

(3) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of the applicants in division (B).

(Ord. 2002-6, passed 12-18-2002)

§ 112.09 LICENSE APPLICATION EXECUTION.

If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

(Ord. 2002-6, passed 12-18-2002)

§ 112.10 LICENSE APPLICATION VERIFICATION.

Applications for licenses under this chapter shall be submitted to the City Council (hereinafter referred to as the "Issuing Authority"). Within 20 calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this chapter.

(Ord. 2002-6, passed 12-18-2002)

§ 112.11 LICENSE APPLICATION CONSIDERATION.

No later than ten calendar days after the completion of the license application verification and investigation by the Issuing Authority or its agents and employees, as prescribed in § 112.10, the Issuing Authority shall accept or deny the license application in accordance with this chapter. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right within 20 calendar days of receipt of the notice by the applicant, to request an appeal of the determination for reconsideration by the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received, the hearing before the City Council shall take place within 20 calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the city Building Officials. During the application consideration process by the city, an applicant operating a business not previously subject to the license provisions of this chapter may remain operating pending the outcome of the application consideration by the Issuing Authority.

(Ord. 2002-6, passed 12-18-2002)

§ 112.12 LICENCE FEES.

(A) *Application fee.*

(1) The license application fee shall be \$1,500.

(2) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the city. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority the license fee shall be refunded to the applicant.

(3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

2007 S-1a Repl.

(B) *Investigative fee.* An applicant for any license under this section shall deposit with the Issuing Authority, at the time an original application is submitted \$500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this section. The investigation fee shall be nonrefundable.
(Ord. 2002-6, passed 12-18-2002)

§ 112.13 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

The Issuing Authority shall issue a license under this chapter to an applicant unless one or more of the following conditions exists:

(A) The applicant is not 18 years of age or older on the date the application is submitted to the Issuing Authority.

(B) The applicant failed to supply all of the information requested on the license application.

(C) The applicant gave false, fraudulent, or untruthful information on the license application.

(D) The applicant has had a sexually oriented license revoked from the city or any other jurisdiction with a one year period immediately preceding the date the application was submitted.

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

(F) The sexually oriented business does not meet the zoning requirements prescribed in this chapter.

(G) The premises to be licensed as a sexually oriented business is currently licensed by the city as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages.

(H) The applicant has not paid the license and investigation fees required in § 112.12.
(Ord. 2002-6, passed 12-18-2002)

§ 112.14 LICENSE RESTRICTIONS.

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

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

2007 S-1a Repl.

Watkins - Business Regulations

(C) *Maintenance order.* A licensee under this chapter shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this chapter shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

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

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

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

(G) *Adult car wash requirements.* Sexually oriented businesses that are adult car washes shall meet all the requirements of this chapter.
(Ord. 2002-6, passed 12-18-2002)

§ 112.15 RESTRICTIONS REGARDING LICENSE TRANSFER.

(A) The license granted under this chapter is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(B) When a sexually-oriented business licensed under this chapter is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the sexually oriented business, the new owner or operator must immediately apply for a license under this chapter.
(Ord. 2002-6, passed 12-18-2006)

2007 S-1a Repl.

§ 112.16 RESTRICTIONS REGARDING HOURS OF OPERATION.

A licensee shall not be open for business to the public during the following hours on the following days:

(A) Adult body painting studio, adult book stores, adult companionship establishment, adult modeling studio, adult motion picture theaters, adult mini-motion picture theaters, adult sauna, adult car wash: Monday through Sunday - not open before 6:00 a.m. nor after 11:00 p.m.

(B) Adult entertainment facilities, including adult oriented cabarets: Monday through Sunday - not open before 6:00 a.m. nor after 1:00 a.m.
(Ord. 2002-6, passed 12-18-2002)

§ 112.17 RESTRICTIONS REGARDING MINORS.

No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under that age of 18 years. Proof of age may be established only by: a valid drivers license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

(Ord. 2002-6, passed 12-18-2002)

§ 112.18 RENEWAL APPLICATION.

(A) *Annual licenses; deadline for renewal applications.* All licenses issued under this chapter shall be effective for one year commencing on July 1 and expiring June 30 of the following year. The pro-rating of fees for a partial year will not be allowed. An application for the renewal of an existing license shall be submitted to the Issuing Authority at least 30 calendar days prior to the expiration date of the license.

(B) *Verification, investigation and consideration of renewal application.* Within 20 calendar days of receipt by the Issuing Authority of a fully completed renewal application, the Issuing Authority shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this chapter. No later than ten calendar days after the completion of the renewal application verification and investigation by the Issuing Authority, as prescribed herein, the Issuing Authority shall issue a renewal license unless one of more of the following conditions exist:

- (1) The applicant is a minor at time the application is submitted.
- (2) The applicant failed to supply all of the information requested on the renewal application.

2007 S-1a Repl.

Watkins - Business Regulations

(3) The applicant gave false, fraudulent, or untruthful information on the renewal application.

(4) The sexually-oriented business was found in the immediately preceding license year to have violated the license restriction prescribed in this chapter.

(5) The sexually-oriented business does not meet the zoning requirements prescribed in the chapter.

(6) The premises licensed as a sexually oriented business is currently licensed by the city as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages.

(7) The applicant has had a conviction of any crime listed in this chapter.

(8) The applicant has had a sexually oriented license revoked within a one year period immediately preceding the date the application was submitted.

(C) *Notice of denial.* If the Issuing Authority denies a renewal application, the Issuing Authority shall notify the applicant in accordance with this chapter and the notice shall, in addition, state the grounds for the denial.

(D) *Appeal to City Council or court of law.* After the denial of a renewal application by the Issuing Authority, the applicant may appeal the determination to the City Council for reconsideration or by immediately challenging the determination in a court of law. If the city denies a license under this section, the applicant shall not be issued a license under this section for one year from the date of the denial. If, subsequent to the denial, the City Council finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the denial became final.

(Ord. 2002-6, passed 12-18-2002)

§ 112.19 SANCTIONS FOR LICENSE VIOLATIONS.

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

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

(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

(3) Any violation of this chapter or related state law.

(4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by M.S. § 368.03, Subd. 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by M.S. § 364.03, Subd. 3.

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

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

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

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

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

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

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

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

(7) A licensee has been convicted of an offense prescribed in §§ 112.13 and/or 112.14 for which the time period required has not elapsed.

(8) On two or more occasions within a 12-month period, a person or persons has/have committed an offense prescribed in §§ 112.13 and/or 112.14, in or on the licensed premises, for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed.

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

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

Watkins - Business Regulations

(C) *Notice of hearing.* A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least a ten-day notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail at the most recent address listed on the application. (Ord. 2002-6, passed 12-18-2002)

§ 112.99 PENALTY.

A violation of this chapter shall be a misdemeanor under Minnesota law and each day that a prohibited violation occurs or exists will constitute a separate violation. (Ord. 2002-6, passed 12-18-2002)

2007 S-1a Repl.