

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. LIQUOR REGULATIONS
- 111. GAMBLING
- 112. TOBACCO
- 113. GENERAL LICENSING PROVISIONS
- 114. MASSAGE BUSINESSES
- 115. AMUSEMENTS
- 116. PEDDLERS AND SOLICITORS
- 117. REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS

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
- 110.05 Consumption in public places

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

Municipal Liquor Stores

- 110.50 Application of this subchapter
 - 110.51 Existing municipal stores continued
 - 110.52 Location
 - 110.53 Operation
 - 110.54 Proof of financial responsibility
 - 110.55 Issuance of other licenses
-
- 110.99 Penalties

GENERAL PROVISIONS

§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.

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

§ 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. Ch. 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 percent malt,” includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full

waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a “restaurant” as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of “small establishment”, “medium establishment” or “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 percent malt liquor license or the imposition of a civil penalty under the provisions of § 110.99(B).

Penalty, see § 110.99

§ 110.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted, except on July 3 and July 4 and in areas designated for special events on those dates.

(Am. Ord. passed 6-14-2011) 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 licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

§ 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 December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

§ 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. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 110.55.

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

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

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

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 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, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 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 3 years. No license shall be for longer than 4 consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any 1 organization in 1 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 1 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 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

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

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 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. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time 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.

§ 110.27 APPLICATIONS FOR RENEWAL.

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

§ 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 applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or

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

§ 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 1 license shall be directly or indirectly issued within the city to any 1 person.

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

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

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

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

Penalty, see § 110.99

§ 110.32 CONDITIONS OF LICENSE.

The failure of a licensee to meet any 1 of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

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

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

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

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

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

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, 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 percent 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 percent 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 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other

multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

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

Penalty, see § 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. 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 percent 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 3-year period, at least 1 day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any 3-year period, at least 3 consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any 3-year period, at least 7 consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any 3-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/Treasurer, a hearing before the Council shall be granted within 10 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

MUNICIPAL LIQUOR STORES

§ 110.50 APPLICATION OF THIS SUBCHAPTER.

This subchapter, consisting of §§ 110.50 through 110.55, applies only to a city that has in existence on the effective date of this chapter a municipal liquor store.

§ 110.51 EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in § 110.55, no intoxicating liquor may be sold at retail elsewhere in the city. Penalty, see § 110.99

§ 110.52 LOCATION.

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

§ 110.53 OPERATION.

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council.

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

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

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

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

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in § 110.33. No person, other than the manager or a store employee, may remain in the municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease.

Penalty, see § 110.99

§ 110.54 PROOF OF FINANCIAL RESPONSIBILITY.

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

§ 110.55 ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. § 340A.404, Subd. 1(4), as it may be

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

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

(C) *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt liquor licenses in its sound discretion as provided in this chapter.

§ 110.99 PENALTIES.

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

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

- (1) For the first violation within any 3-year period, \$500.
- (2) For the second violation within any 3-year period, \$1,000.
- (3) For the third and subsequent violations within any 3-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. 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 3-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

CHAPTER 111: GAMBLING

Section

- | | |
|--------|---------------------------------|
| 111.01 | Purpose |
| 111.02 | Provisions of state law adopted |
| 111.03 | Definitions |
| 111.04 | Gambling regulations |

- 111.05 City approval of application
- 111.06 Violations
- 111.07 Suspension and revocation
- 111.08 Investigation fee
- 111.09 Prohibited entertainment
- 111.10 Effective date
- 111.11 Charitable gambling earnings and fund

§ 111.01 PURPOSE.

The purpose of this chapter is to closely regulate and control the conduct of gambling.
(Ord. 202, passed 4-26-1999)

§ 111.02 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Chapter 349 and M.S. §§ 609.75 through 609.762, as they may be amended from time to time, relating to definition of terms, licensing, and restrictions of gambling are adopted.
(Ord. 202, passed 4-26-1999)

§ 111.03 DEFINITIONS.

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

BOARD. The Gambling Control Board.

GROSS PROFIT. The gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

LAWFUL GAMBLING. The operation, conduct or sale of bingo, raffles, paddlewheels, tipboards, and pull tabs.

LAWFUL PURPOSE. Defined as set forth in M.S. § 349.12, Subd. 25, as it may be amended from time to time.

NET PROFIT. The gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

ORGANIZATION. Any fraternal religious, veterans, or other nonprofit organization.
(Ord. 202, passed 4-26-1999)

§ 111.04 GAMBLING REGULATIONS.

(A) *Premises.* Gambling devices shall be operated and conducted by a licensed organization only upon premises which it owns or leases. Leases shall be in writing and shall be for a specific period of time. No lease shall provide that rental payments be based on a percentage of receipts. A copy of the lease shall be filed with the City Clerk/Treasurer.

(B) *Exemptions.* Statutory exemptions from licensing by the Board, whether by reason of the type of organization or number of lawful gambling events or occasions, shall require a permit from the city.

(C) *Limitations on licenses and permits.* No organization shall hold more than 1 license from the Board, or permit from the city, which authorizes lawful gambling at more than 1 location, whether the location be within or without the city. Further, if a license from the Board is held by an organization, any application for a license to it from the Board shall be disapproved by the Council.

(D) *Concessions.* Pull tab concessions or other legal gambling concessions within the City of Nashwauk corporate limits, shall be awarded only to nonprofit, charitable, or fraternal organizations qualifying under Minnesota Statutes, with offices or the majority of its members in the City of Nashwauk, or nonprofit, charitable, or fraternal organizations which primarily benefit the City of Nashwauk or its residents. This chapter shall apply to concessions or lease agreements granted by liquor licenses of the City of Nashwauk, as well as other locations, if any, where pull tabs or other legal gambling is permitted.

(E) *Bingo.* Nothing in this chapter shall be construed as authorizing the conduct of bingo during the operation of gambling devices without acquiring a separate bingo license. (Ord. 202, passed 4-26-1999) Penalty, see § 10.99

§ 111.05 CITY APPROVAL OF APPLICATION.

(A) *Application.* Unless the city finds that the applicant can or has complied with all of the applicable regulations set forth in § 111.04, the Council shall:

- (1) Upon receipt from the Board of a notice of application for issuance or renewal of a license, take action to disapprove the same and inform the Board; or
- (2) As to lawful gambling exempt from licensing, refuse to issue or renew a permit.

(B) *City resolution.* Upon approval of an application, the city shall issue a resolution to be attached to a premises permit application or bingo hall license application. (Ord. 202, passed 4-26-1999)

§ 111.06 VIOLATIONS.

Any person or organization violating this chapter shall be guilty of a misdemeanor, the penalty for which shall be the maximum penalty prescribed by state statute for misdemeanor violations. This section shall not preclude civil or criminal action under other applicable law or preclude any agency of government for investigating or prosecuting violations or provisions of this section. The granting of concessions to other organizations shall constitute a misdemeanor. (Ord. 202, passed 4-26-1999) Penalty, see § 10.99

§ 111.07 SUSPENSION AND REVOCATION.

Any violation of this chapter shall be grounds for suspension or revocation, or denial by the city of any right or privilege which the city has authority to grant, approve, or deny. The license holder may request a hearing before the Council where the license holder may present evidence.

(Ord. 202, passed 4-26-1999)

§ 111.08 INVESTIGATION FEE.

The city may request an investigation fee or a background check of the applicant for a license. The cost of that background check may be billed to the license applicant. The cost for the fee may not exceed \$100.

(Ord. 202, passed 4-26-1999)

§ 111.09 PROHIBITED ENTERTAINMENT.

(A) Any organization licensed under this chapter shall prohibit entertainment in such a manner as to constitute "nudity" as defined in division (B) below.

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

ENTERTAINMENT. Any type of dancing, posing, show, or performance or other presentation performed before an audience.

NUDITY. Uncovered, or less than opaquely covered post-pubertal human male or female genitals, public areas with less than a fully opaque covering, or the showing of a post-pubertal female breast with less-than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction, of covered male genitals in discernible turgid state. For purpose of this definition, the female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

(Ord. 202, passed 4-26-1999) Penalty, see § 10.99

§ 111.10 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage and publication according to law.

(Ord. 202, passed 4-26-1999)

§ 111.11 CHARITABLE GAMBLING EARNINGS AND FUND.

(A) The city does hereby require an organization that is not based in the City of Nashwauk but who operates a charitable site in the city to contribute up to 10% per year of its net profits to a fund created by the city.

(B) The fund established may only be spent by the city for charitable contributions as defined in M.S. § 349.12, Subd. 7(a) or for police, fire, and other emergency or public safety-related services, equipment, and training.

(C) Further, the organization must expend 75% of its lawful purpose expenditures arrived from lawful gambling conducted at the premises within the cities and townships contiguous to Nashwauk that being Nashwauk, Keewatin, and Pengilly.
(Ord. 230-15, passed 10-13-2015)

CHAPTER 112: TOBACCO

Section

112.01	Purpose
112.02	Definitions; interpretations
112.03	License
112.04	Fees
112.05	Basis for denial of license
112.06	Prohibited sales
112.07	Vending machines
112.08	Self-service sales
112.09	Responsibility
112.10	Compliance checks and inspections
112.11	Other illegal acts
112.12	Violations
112.13	Fines, fees, and the like
112.14	Exceptions and defenses
112.15	Effective date

Cross-reference:

Alcoholic Beverages, see Ch. 110

Gambling, see Ch. 111

§ 112.01 PURPOSE.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, and to

further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time. (Ord. 198, passed 8-11-1997)

§ 112.02 DEFINITIONS; INTERPRETATIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term **SHALL** means mandatory and the term **MAY** means permissive. The following terms shall have the definitions given to them.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco-related devices for educational, research, and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, and tobacco-related devices.

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

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

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

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

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

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

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing

tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flower; cavendish; shorts, plug and twist tobacco; dipping tobacco; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such a manner as to be suitable for chewing, sniffing, or smoking.

TOBACCO-RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

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

(Ord. 198, passed 8-11-1997)

§ 112.03 LICENSE.

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

(B) *Application.* An application for a license to sell tobacco, tobacco products or tobacco-related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk/Treasurer shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk/Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

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

(D) *Term.* All licenses issued under this chapter shall be valid for 1 calendar year from the date of issue.

(E) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in the §§ 112.12 of this chapter and 10.99 of this code.

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

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

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

(I) *Renewals.* The renewal of a license under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of this license.
(Ord. 198, passed 8-11-1997) Penalty, see § 10.99

§ 112.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be \$25.
(Ord. 198, passed 8-11-1997)

§ 112.05 BASIS FOR DENIAL OF LICENSE.

(A) The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

(B) (1) The applicant is under the age of 18 years.

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

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

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

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

(Ord. 198, passed 8-11-1997)

§ 112.06 PROHIBITED SALES.

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

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

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

(C) By means of self-service methods whereby the customer does not need to make verbal- or written request to an employee of the licensed premise in order to receive the tobacco, tobacco-related product, or tobacco-related device and whereby there is not a physical exchange

of the tobacco, tobacco product, or tobacco-related device between the licensee or the licensee's employee and the customer;

(D) By means of loosies as defined in § 112.02;

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

(F) By any other means, or to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance, provision, or other regulations.

(Ord. 198, passed 8-11-1997) Penalty, see § 10.99

§ 112.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

(Ord. 198, passed 8-11-1997) Penalty, see § 10.99

§ 112.08 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco-related devices by any means whereby the customer may have access to the items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public. That cartons and other multi-pack units may be offered and sold through open displays accessible to the public. The cartons and multi-pack units may be sold as described above until the time as the Food and Drug Administration rules with regard to self-service sales go into effect.

(Ord. 198, passed 8-11-1997; Am. Ord. 199, passed 8-25-1997) Penalty, see § 10.99

§ 112.09 RESPONSIBILITY.

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco-related devices on the licensed premise, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Ord. 198, passed 8-11-1997)

§ 112.10 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when the items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification or theatrical makeup misrepresenting the minor's age. All minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee and shall produce any identification for which he or she is asked. The minor shall be accompanied by the city police or an authorized city official to the location of the compliance check. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

(Ord. 198, passed 8-11-1997) Penalty, see § 10.99

§ 112.11 OTHER ILLEGAL ACTS.

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

(A) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(B) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.

(C) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, or tobacco-related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain the items on behalf of a minor. It shall also be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco-related device to any minor, and it shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This division (C) shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(D) *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 198, passed 8-11-1997) Penalty, see § 10.99

§ 112.12 VIOLATIONS.

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

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

(C) *Hearing officer.* The City Council or a person or persons designated by the City Council shall serve as the hearing officer.

(D) *Decision.*

(1) If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under § 112.13, shall be recorded in writing, a copy of which shall be provided to the accused violator.

(2) Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

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

(F) *Misdemeanor prosecution.*

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

(2) If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

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

(Ord. 198, passed 8-11-1997) Penalty, see § 10.99

§ 112.13 FINES, FEES, AND THE LIKE.

(A) *Licensees.*

(1) Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period.

(2) In addition, after the third offense, the license shall be suspended for not less than 7 days.

(B) *Other individuals.* Other individuals, other than minors regulated by division (C) below, found to be in violation of this chapter shall be charged an administrative fee of \$50.

(C) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices shall take tobacco-related education classes as directed by the hearing officer.

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

(Ord. 198, passed 8-11-1997)

§ 112.14 EXCEPTIONS AND DEFENSES.

(A) Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony.

(B) It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.
(Ord. 198, passed 8-11-1997)

§ 112.15 EFFECTIVE DATE.

This chapter shall take effect the date following publication in the city's official newspaper.
(Ord. 198, passed 8-11-1997)

CHAPTER 113: GENERAL LICENSING PROVISIONS

Section

- 113.01 Licenses and permits required
- 113.02 Application
- 113.03 Payment of fee
- 113.04 Approval or denial of licenses or permits
- 113.05 Term
- 113.06 Certificates
- 113.07 Exhibit of certificate
- 113.08 Transfer
- 113.09 Renewal
- 113.10 Revocation
- 113.11 Hearing
- 113.12 Inspections
- 113.13 Effective date
- 113.14 City license background checks

Cross-reference:

- Alcoholic Beverages, see Ch. 110*
- Gambling, see Ch. 111*
- Peddlers and Solicitors, see Ch. 116*

§ 113.01 LICENSES AND PERMITS REQUIRED.

No person shall engage in any trade, profession, business, or privilege in the City of Nashwauk for which a license or permit is required by any provision of the Ordinances of the

City of Nashwauk without first obtaining the required license or permit from the city in the manner provided in this chapter, unless otherwise specifically provided.

(Ord. 131, passed - -) Penalty, see § 10.99

§ 113.02 APPLICATION.

Unless otherwise provided, application for a license or permit shall be made to the City Council upon forms provided by the city, and an applicant shall state his or her name and address, the location of the proposed activity, and the other facts as may be required for or be applicable to the granting of the license.

(Ord. 131, passed - -)

§ 113.03 PAYMENT OF FEE.

(A) The fees required for any license or permit shall be paid at the office of the City Clerk/Treasurer before the granting of the license or permit.

(B) Unless otherwise provided, no license fee shall be prorated for a portion of a year.
(Ord. 131, passed - -)

§ 113.04 APPROVAL OR DENIAL OF LICENSES OR PERMITS.

(A) Where the approval of any city officer or state officer is required prior to the issuance of any license or permit, the approval must be presented to the City Clerk/Treasurer before any license or permit is issued.

(B) No license or permit shall be approved by any city officer or issued by the City Council if it appears that the conduct of the activity for which a license or permit is sought will be contrary to the health, safety, or welfare of the public or any regulation, law, or ordinance applicable to the activity.

(C) No license shall be issued if any real estate property taxes on any property to be used in connection with the license have become delinquent until the taxes and interest and penalties have been paid.

(Ord. 131, passed - -)

§ 113.05 TERM.

(A) Unless otherwise provided, the term of a license year shall be the calendar year.

(B) Where the issuance of licenses or permits for periods of less than 1 year is permitted, the effective date shall commence with the date of issuance.

(Ord. 131, passed - -)

§ 113.06 CERTIFICATES.

(A) Licenses or permit certificates shall show the date of issue, and may be simply in the form of a letter from the City Clerk/Treasurer, showing the activity licensed or permitted, and the term, and shall be signed by the Mayor and the City Clerk/Treasurer, and be impressed with the city seal.

(B) The City Clerk/Treasurer shall keep a record of all licenses and permits issued.
(Ord. 131, passed - -)

§ 113.07 EXHIBIT OF CERTIFICATE.

Every licensee shall carry his or her license or permit certificate upon his or her person at all times when engaged in the activity for which the license was granted; except that where the activity is conducted at a fixed place or establishment, the certificate shall be exhibited at all times in some conspicuous place in his or her place of business. The licensee or permittee shall exhibit the certificate when applying for a renewal or upon demand of any police officer or person representing the city.

(Ord. 131, passed - -) Penalty, see § 10.99

§ 113.08 TRANSFER.

Unless otherwise provided, no license or permit shall be transferable without the authorization of the City Council.

(Ord. 131, passed - -)

§ 113.09 RENEWAL.

License or permit renewals shall be issued in the same manner and be subject to the same conditions as original licenses or permits.

(Ord. 131, passed - -)

§ 113.10 REVOCATION.

Any license or permit issued by the city may be suspended or revoked by the City Council for any of the following causes:

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

(B) Conviction of any crime or misdemeanor;

(C) Conducting the activity in a manner as to constitute a breach of the peace or a menace to the health, safety, or welfare of the public, or a disturbance of the peace or comfort of the residents of the city;

(D) Expiration or cancellation of any required bond or insurance;

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

(F) Violation of any regulation or provision of law or of the ordinances of the City of Nashwauk applicable to the activity for which the license or permit has been granted, or any regulation or law of the State of Minnesota applicable whether directly or indirectly to the activity licensed or permitted;

(G) Permitting any other person to use any license or permit without approval of the City Council; and/or

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

(Ord. 131, passed - -)

§ 113.11 HEARING.

Any person aggrieved by the action of the City Council in denying or revoking a license or permit shall have the right to a hearing before the City Council on any such action, provided that a written request therefor is filed with the City Clerk/Treasurer within 10 days after receipt of the notice of the suspension. The City Council may grant the license or permit or confirm any suspension or revocation or reinstate any such license or permit. The action taken by the City Council after a hearing shall be final.

(Ord. 131, passed - -)

§ 113.12 INSPECTIONS.

City officials may enter upon the premises where any licensed or permitted activity is being conducted for the purpose of inspection.

(Ord. 131, passed - -)

§ 113.13 EFFECTIVE DATE.

This chapter shall be in full force and effect from and after its passage and publication according to law.

(Ord. 131, passed - -)

§ 113.14 CITY LICENSE BACKGROUND CHECKS.

(A) *Purpose.* The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

(B) *Criminal history license background investigations.* The Nashwauk Police Department is hereby required, as the exclusive entity within the city, to do a criminal history background investigation on the applicants for the following licenses within the city: any license requested of the city.

(C) In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Attorney, or other city staff involved in the license approval process.

(D) Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Chapter 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, as it may be amended from time to time, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the city rejects the applicant's request on this basis, the city shall notify the applicant in writing of the following:

- (1) The grounds and reasons for the denial;
- (2) The applicant complaint and grievance procedure set forth in M.S. § 364.06, as it may be amended from time to time;
- (3) The earliest date the applicant may reapply for the license;
- (4) That all competent evidence of rehabilitation will be considered upon reapplication.

(Ord. 216-09, passed 7-28-2009)

CHAPTER 114: MASSAGE BUSINESSES

Section

- 114.01 Definitions
- 114.02 Massage distinguished
- 114.03 Licensing; generally
- 114.04 Licensing; massage parlors
- 114.05 Licensing; masseuses and masseurs
- 114.06 Qualifications of applicants
- 114.07 Suspension and revocation
- 114.08 Prosecution for violation
- 114.09 Fraud or deception in securing license
- 114.10 Effective date

§ 114.01 DEFINITIONS.

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

LICENSE. A certificate or letter issued by the City Council authorizing the holder thereof to maintain a massage parlor or to practice massage in the city.

MASSAGE. The rubbing, stroking, kneading, tapping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness or beautification, and for no other purposes.

MASSAGE PARLOR. Licensed premises within which one or more licensed masseurs or masseuses practice massage.

MASSEUR. A male person who practices massage.

MASSEUSE. A female person who practices massage.

(Ord. 132, passed - -)

§ 114.02 MASSAGE DISTINGUISHED.

The practice of massage is declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry and persons duly licensed or registered in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, nurses who work solely under the direction of the persons, athletic directors and trainers are hereby expressly excluded from the provisions of this chapter. Beauty culturists and barbers who do not give or hold themselves out to give massage treatments, as defined in this chapter, other than is customarily given in the shops or places of business, for the purpose of beautification only, shall be exempt from the provisions of this chapter.

(Ord. 132, passed - -)

§ 114.03 LICENSING; GENERALLY.

No person shall own, operate, or have any pecuniary interest in any premises wherein massage is practiced, unless the premises have been licensed pursuant to this chapter and no person shall for, or in expectation of, any fee, gift, compensation or reward of any kind, engage in, or hold himself or herself out as being engaged in, the practice of massage within this city without being licensed therefor as provided by this chapter.

(Ord. 132, passed - -) Penalty, see § 10.99

§ 114.04 LICENSING; MASSAGE PARLORS.

(A) The City Council shall license premises for the business of performing massage only when the owner or owners, operator or operators, and any other persons having a financial interest in the operation of the business have been personally interviewed at a public meeting and upon application to the City Council in the manner and form prescribed by the City Council.

(B) The license fee for a massage parlor shall be in an amount set by Council from time to time.

(C) The renewal of a massage parlor license may be made without personal interviews upon application and payment of a renewal fee in an amount set by City Council from time to time.

(D) The term of a massage parlor license shall be from January 1 until December 31 of each year and no proration of the license fees shall be given for licenses issued when part of the license year has already expired.

(E) Application for renewal of the massage parlor license shall be made at least 30 days before the end of each year.

(F) (1) No premises license shall be issued by the City Council until the owner or operator or both when required by the City Council shall have supplied the City Council with a bond coupled with security or sureties deemed sufficient by the City Council, binding the owner, operator or both as the case may be unto the City of Nashwauk, in the sum of \$1,000, to be paid to the City of Nashwauk as liquidated damages and not as a penalty, conditioned so that, if the owner, operator, or both as the case may be, shall maintain the operation of the massage parlor business within the peace and dignity of the City of Nashwauk, and within the terms and conditions of this chapter and any license issued for the premises, the obligation of the bond to be null and void; otherwise to remain in full force and effect.

(2) The City Council may from time to time require greater security or additional sureties should the course of the business of the licensee provide the Council with reasonable grounds to anticipate violation of the terms and conditions of the bond. However, no corporate surety approved and licensed by the State of Minnesota shall be deemed inadequate for the purposes of this subdivision.

(G) No application shall be approved until the City Council is provided with evidence that the owner or operator has acquired liability insurance from an insurance company licensed by the State of Minnesota to cover damages should the owner or operator be sued by clientele for personal injuries. The limits of liability on the insurance policy or policies shall be at least \$50,000 per person claiming injury.

(H) The applicant shall provide evidence that he or she has acquired appropriate workmen's compensation insurance coverage for the employees of the massage parlor.

(I) The City Council shall provide the form of application which shall require, among other things, the following information:

(1) The names, addresses, and telephone numbers of all persons financially interested in the operation of the premises, whether as owner, part owner, or manager;

(2) The legal description of the premises together with a copy of any contract for deed, deed, lease, or license relating to the ownership of the owners or managers of the massage parlor;

(3) The address of other massage parlors in which the same owners or operators have an interest in other cities in the State of Minnesota or elsewhere;

(4) The proposed business hours during which the parlor is to be operated;

(5) A statement that real estate property on the premises are not delinquent;

and

(6) A statement that neither the owner, nor the operator, nor anyone else associated with the operation of the premises as a massage parlor has been convicted of a crime punishable by imprisonment for more than 90 days. If there are, however, the convictions, the application shall set forth the details relating to whatever convictions there may be.

(Ord. 132, passed - -)

§ 114.05 LICENSING; MASSEUSES AND MASSEURS.

(A) The City Council shall license persons to practice massage only if they are qualified therefor under the provisions of this chapter after a personal interview and upon application in the manner and form as prescribed by the City Council.

(B) (1) The initial license fee for a masseuse or masseur shall be in an amount set by Council from time to time.

(2) No part of the license fee shall be prorated when the license is issued after the expiration of a part of the license year which shall be from January 1 until December 31 of each year.

(3) The fee for a renewal shall be in an amount set by Council from time to time and no personal interview shall be required unless deemed appropriate by the City Council.

(C) Application for renewal of a license shall be made to the City Council at least 30 days before the end of each year.

(D) Applications shall be made upon forms supplied by the City Council which may require information deemed appropriate by the City Council and among other items of information, the following:

(1) The name, address, age, and telephone number of the masseuse or masseur;

(2) A list of prior employers and a short resume of prior experience in the field of massage;

(3) A statement that the applicant has not been convicted for any offense punishable by more than 90 days imprisonment and if, however, there have been such convictions, a list of the offenses and the counties in which prosecution was had; and

(4) A description of the formal training or apprenticeship, if any, in which the applicant has been involved, together with the name or names of any instructors or masters.
(Ord. 132, passed - -)

§ 114.06 QUALIFICATIONS OF APPLICANTS.

Any person of good moral character who is 21 years of age or over and who possesses the necessary educational or practical qualifications therefor, as determined by an interview administered by the City Council, shall be eligible for licensing under the provisions of this chapter.

(Ord. 132, passed - -)

§ 114.07 SUSPENSION AND REVOCATION.

(A) The City Council may by resolution suspend, revoke, condition, limit, qualify, restrict, or refuse to renew any license issued under this chapter upon the ground of:

(1) Fraud or deception in connection with the securing of the license;

(2) Habitual drunkenness or intemperance in the use of drugs, including but not limited to controlled substances as defined by the laws of Minnesota, barbiturates, hallucinogenic drugs, amphetamine, benzedrine, dexedrine or other sedatives, depressants, stimulants or tranquilizers;

(3) Conduct unbecoming to a person licensed to practice massage or inimical to the best interest of the public;

(4) Violation of any of the provisions of this chapter; and/or

(5) Conviction of a crime involving moral turpitude.

(B) Before the Council shall order any such suspension, revocation, condition, limitation, qualification, or restriction of a license, or refusal to renew, the holder thereof shall be entitled to a written statement of the charge against him or her and accorded a hearing in person or by attorney before the City Council and be entitled to have witnesses in his or her behalf examined by himself or herself or his or her attorney.

(Ord. 132, passed - -)

§ 114.08 PROSECUTION FOR VIOLATION.

In the prosecution of any person for violation of this chapter for want of a valid license to practice massage or maintain a massage parlor, proof of the license shall be a matter of defense to be established by the accused.

(Ord. 132, passed - -)

§ 114.09 FRAUD OR DECEPTION IN SECURING LICENSE.

Any person implicated in employing fraud or deception in applying for or securing a license to practice massage under this chapter, or in the interview therefor, or who practices massage for any purpose other than relaxation, physical fitness, or beautification, shall be guilty of a gross misdemeanor.

(Ord. 132, passed - -) Penalty, see § 10.99

§ 114.10 EFFECTIVE DATE.

This chapter shall be in full force and effect beginning 30 days after its passage and publication according to law.

(Ord. 132, passed - -)

CHAPTER 115: AMUSEMENTS

Section

- 115.01 Mechanical amusement devices
- 115.02 Identification of individuals during July 3 to July 4 festivities
- 115.03 Licensing of concession stands during July 4 festivities
- 115.04 Sale and/or possession of glass bottles prohibited during July 3 to July 4.

§ 115.01 MECHANICAL AMUSEMENT DEVICES.

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

ARCADE. A contiguous area in which more than 10 mechanical amusement devices are kept for use by the public generally.

DISTRIBUTOR. The person who places mechanical amusement devices in any number on premises not owned by the person or under the person's control, which devices may be played or used by the public generally at a price paid either directly or indirectly for this purpose.

MECHANICAL AMUSEMENT DEVICE. A coin-operated phonograph, pinball, machine, video game, bowling machine, pool table, or other coin-operated amusement device.

OPERATOR. The person who keeps, or allows to be kept, at least 6 but not more more than 10, mechanical amusement devices on premises owned by the person or under the person's control which may be played or used by the public generally at a price paid either directly or indirectly for this purpose.

(B) *License required.* It is unlawful for any operator to keep or maintain a mechanical amusement device for use by the public without first having obtained a license therefore from the city. It is also unlawful for any person to operate an arcade or be a distributor without a license therefore from the city. It is also unlawful for any operator to conduct a special event using more than 10 mechanical amusement devices without a license therefore from the city. A special event may last no longer than 5 days and operator may obtain no more than 4 special event licenses in any 1 calendar year. All of the required licenses must be on display in the licensee's business place.

(C) *License fees.* The annual operator's license fee, annual arcade license fee, annual distributor's license fee, and special event license fee shall all be in amounts set by Council from time to time.

(D) *Adult supervision.* Each business shall provide adult supervision by a person 18 years or older, which person shall be on the premises at all times when the premises are open for business.

(E) *Operator's responsibility.* It shall be the responsibility of the operator to assure that patrons shall refrain from conduct which is unreasonably loud or behavior which unreasonably annoys or harasses neighbors or passersby.

(F) *Application for license.* Licenses shall be issued only after application has been made at the office of the City Clerk/Treasurer upon forms prescribed by the city together with the additional information as the City Council may desire. Information may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. The City Council may grant or deny any such application. If granted, the license may be revoked by the City Council only after notice to the licensee and a hearing as a result of any violation of this section.

(G) *Unlawful acts.* It is unlawful to keep or distribute a mechanical amusement device equipped with an automatic pay-off mechanism whether built in or attached. It is also unlawful to give a reward, as a prize or otherwise, cash, merchandise, or anything else of value to anyone playing or using a mechanical amusement device.

(H) *Violations.* Violation of the terms of this section is a misdemeanor.

(I) *Exceptions.* This section shall not apply to video games of chance under the control of the Charitable Gambling Control Board.

(J) *Effective date.* This section shall be effective upon its passage and publication. (Ord. 193, passed 3-21-1995) Penalty, see § 10.99

§ 115.02 IDENTIFICATION OF INDIVIDUALS DURING JULY 3 TO JULY 4 FESTIVITIES.

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

IDENTIFICATION. Supplying to a security officer, event staff officer and/or law enforcement officer a valid state driver's licenses or any other state authorized form of picture identification for the purposes of determining the persons identity and date of birth.

SECURITY, EVENT STAFF. Any individual employed by the city of Nashwauk charged with the task to identify and ascertain an individuals date of birth to determine whether they are of legal drinking age

(B) Notwithstanding provisions of any Nashwauk ordinance to the contrary, this section shall apply to insure the public safety of individuals in the city of Nashwauk for the purposes of the social gathering between July 3 and July 4 of every year.

(C) It is hereby ordained that any individual who wishes to participate in any social gathering in the city of Nashwauk on July 3 to July 4 must enter and exit the social gathering(s) at points of entry and exit as determined by city officials. It is hereby prohibited for any person to enter at any place other than a designated entry point as well as exit from any point other than a designated exit point.

(D) It is hereby ordained that any individual who intends or wishes to engage in the social gathering in the city of Nashwauk on July 3 to July 4 of every year must show proper identification to any security officer, event staff officer, and/or law enforcement officer upon any demand of those individuals.

(E) If it is determined that a person is of legal drinking age, that person must wear an appropriate wrist band to identify themselves to security officers, event staff officers and/or law enforcement officers as an individual who is lawfully allowed to consume alcohol.

(F) It is hereby ordained that any individual who intends to participate in any of the social gatherings in the City of Nashwauk on July 3 to July 4 of every year who is under the age of 21 must wear an appropriate wrist band, identifying themselves to security officers, event staff officers, and/or law enforcement officers as an individual who is prohibited by law to consume alcohol.

(G) Any person who violates any of the above provisions is guilty of a misdemeanor. (Ord. 206, passed 6-10-2002) Penalty, see § 10.99

§ 115.03 LICENSING OF CONCESSION STANDS DURING JULY 4 FESTIVITIES.

(A) *License required.* It is unlawful for any person, business corporation, nonprofit corporation or any other organization to operate an outdoor food and/or beverage concession stand during the annual City of Nashwauk July 4 celebration, including the days before and after

July 4 which are a part of the celebration, without first having obtained a license therefor from the city. The city shall determine the number of licenses to be issued and the licenses shall be issued only to persons, business corporations, nonprofit corporations or other organizations that either own real property in the City of Nashwauk or are members of the Nashwauk Chamber of Commerce. The licenses shall not be assignable and the concessions shall be operated by the person(s) to whom the license is issued, employees of business and nonprofit corporations and the members of any other organizations.

(B) *License fee.* The annual license fee shall be set by the City Council each year and the license fee shall be paid to the City Clerk/Treasurer.

(C) *Violations.* A violation of this section shall be a misdemeanor.

(D) *Effective date.* After adoption, signing, and attestation, this section shall be published once in the official newspaper of the city and shall be in effect on and after the date following the publication.

(Ord. 191, passed 6-14-1994) Penalty, see § 10.99

§ 115.04 SALE AND/OR POSSESSION OF GLASS BOTTLES PROHIBITED DURING JULY 3 TO JULY 4.

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

GLASS BOTTLE. Any glass receptacle containing or able to contain any liquid, including but not limited to glass beer bottles, glass water bottles, and glass soda bottles.

POSSESS. Either actual possession or constructive possession as defined by Minnesota state law.

(B) Modifying provisions of any other Nashwauk ordinance to the contrary, this section shall apply to insure public safety and regulation of public safety concerning Nashwauk's social activities on July 3 to July 4. This section is intended to insure the safety of all participants of the social gatherings in recognition of the hazard glass receptacles can and have caused in the past.

(C) It is hereby ordained that it is illegal to possess in the City of Nashwauk any glass receptacle containing or able to contain a liquid beverage on July 3 to July 4 in the area described herein. This area being: First Street continuing East to Fourth Street, Hawkins Avenue South to Deering Avenue. In this area it is prohibited for any person to possess glass receptacles containing or able to contain any liquid beverage.

(D) In addition to the regulations provided above, it shall be unlawful to possess any glass container or receptacle containing or able to contain a liquid beverage if a law enforcement officer or a licensed peace officer directs an individual to relinquish the possession of the receptacle. This is to insure public safety in the City of Nashwauk between the dates of July 3 to July 4 of each and every year.

(E) Any person found to have violated any term of this section shall be guilty of a misdemeanor.

(Ord. 205, passed 6-10-2002) Penalty, see § 10.99

CHAPTER 116: PEDDLERS AND SOLICITORS

Section

116.01	Definitions
116.02	Exceptions to definitions
116.03	Licensing; exemptions
116.04	License ineligibility
116.05	License suspension and revocation
116.06	License transferability
116.07	Registration
116.08	Prohibited activities
116.09	Exclusion by placard

§ 116.01 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.

(1) 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 personnel property that the person is carrying or otherwise transporting.

(2) The term **PEDDLER** shall mean the same as the term **HAWKER**.

PERSON.

(1) Any natural individual, group, organization, corporation, partnership or association.

(2) 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.

(1) 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.

(2) 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.

(3) 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.

§ 116.02 EXCEPTIONS TO DEFINITIONS.

(A) (1) 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.

(2) 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) (1) 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.

(2) 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.

§ 116.03 LICENSING; EXEMPTIONS.

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

(B) *City license required.*

(1) 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.

(2) Solicitors need not be licensed, but are still required to register pursuant to § 116.07.

(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/Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

(1) Applicant's full legal name;

Nashwauk, MN Code of Ordinances

- (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 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;
- (15) Proof of any requested county license;
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;
- (17) A general description of the items to be sold or services to be provided;
- (18) All additional information deemed necessary by the City Council;
- (19) The applicant's driver's license number or other acceptable form of identification; and
- (20) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the Ordinance Establishing Fees and Charges, adopted pursuant to § 30.11, as it may be amended from time to time.

(E) *Procedure.*

(1) Upon receipt of the completed application and payment of the license fee, the City Clerk/Treasurer, within 2 regular business days, must determine if the application is complete.

(2) An application is determined to be complete only if all required information is provided.

(3) If the City Clerk/Treasurer determines that the application is incomplete, the City Clerk/Treasurer must inform the applicant of the required necessary information that is missing.

(4) If the application is complete, the City Clerk/Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application.

(5) Within 10 regular business days of receiving a complete application the City Clerk/Treasurer must issue the license unless there exist grounds for denying the license under § 116.04, in which case the Clerk/Treasurer must deny the license.

(6) If the City Clerk/Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council.

(7) The City Council shall hear the appeal within 20 days of the date of the request.

(8) 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.

(F) *Duration.*

(1) An annual license granted under this chapter shall be valid for 1 calendar year from the date of issue.

(2) All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) *License exemptions.*

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

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

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

Penalty, see § 10.99

§ 116.04 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) (1) The conviction of the applicant within the past 5 years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner.

(2) Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

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

(E) (1) The applicant is found to have a bad business reputation.

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

§ 116.05 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 § 116.04; and/or

(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 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.*

(1) 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.

(2) 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.*

(1) Upon receiving the notice provided in division (C) of this section, the licensee shall have the right to request a public hearing.

(2) If no request for a hearing is received by the City Clerk/Treasurer within 10 regular business days following the service of the notice, the city may proceed with the suspension or revocation.

(3) 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.

(4) Within 3 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

§ 116.06 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

§ 116.07 REGISTRATION.

(A) All solicitors, and any person exempt from the licensing requirements of this chapter under § 116.03, shall be required to register with the city.

(B) (1) Registration shall be made on the same form required for a license application, but no fee shall be required.

(2) Immediately upon completion of the registration form, the City Clerk/Treasurer shall issue to the registrant a certificate of registration as proof of the registration.

(C) Certificates of registration shall be non-transferable.

Penalty, see § 10.99

§ 116.08 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 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) (1) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement; and

(2) 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

§ 116.09 EXCLUSION BY PLACARD.

(A) No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors, or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement.

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

Penalty, see § 10.99

CHAPTER 117: REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS

Section

Public Dances

- 117.01 Regulation of public dances
- 117.02 Definitions
- 117.03 Permit required
- 117.04 Application for permit
- 117.05 Insurance
- 117.06 Location
- 117.07 Permit to be posted
- 117.08 Liquor license required
- 117.09 Licensed police officer presence
- 117.10 Hours
- 117.11 Minors prohibited
- 117.12 Certain behavior prohibited
- 117.13 Lighting
- 117.14 Noise

Special Events

- 117.20 Purpose and findings

- 117.21 Definitions
- 117.22 Permit required
- 117.23 Application for permit
- 117.24 Issuance of permit, conditions and posting
- 117.25 Exceptions to the permit

- 117.99 Penalty

PUBLIC DANCES

§ 117.01 REGULATION OF PUBLIC DANCES.

All public dances held in this city shall be conducted in accordance with the provisions of this chapter.

Penalty, see § 117.99

§ 117.02 DEFINITIONS.

The terms stated below shall have the following meanings:

PUBLIC DANCE. Any dance where the general public may participate, whether or not a charge for admission for dancing is made.

PUBLIC DANCING PLACE. Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.

§ 117.03 PERMIT REQUIRED.

No person shall conduct a public dance in this city unless a permit has been obtained from the City Clerk/Treasurer prior to the holding of the dance. The fees for a permit shall be as established by the City Council from time to time. In addition to this fee, the applicant shall pay the cost to the city of providing a licensed peace officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of licensed peace officers required to be present at any dance. No permit shall be issued until the fee and the cost for providing the peace officer or officers has been paid.

Penalty, see § 117.99

§ 117.04 APPLICATION FOR PERMIT.

Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the City Clerk/Treasurer, submitted to the City Clerk/Treasurer at least 10 days before the date of the proposed dance. The application shall set forth the name and address of the applicant, who shall be the person responsible for conducting

the public dance, and any business, committee or organization sponsoring the dance, the place where the dance is to be held, the date of the dance and the time of its beginning and end. Proof of all insurance required by this chapter shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit application, and no permit shall be issued until the fees for the use of the city building or other city property have also been paid. Penalty, see § 117.99

§ 117.05 INSURANCE.

All insurance policies required for the event, including any insurance required by law for the sale of alcoholic beverages, shall list the city as a named insured and provide a provision to defend, indemnify and hold harmless the city and any of its employees from any claims arising from the event.

Penalty, see § 117.99

§ 117.06 LOCATION.

The applicant shall make sure that adequate parking is available for the persons wishing to attend the dance and make sure that the location is safe and accessible. This information shall also be provided to the City Clerk/Treasurer before a permit shall be issued.

Penalty, see § 117.99

§ 117.07 PERMIT TO BE POSTED.

When a permit is issued, the holder of the permit shall post the permit in a prominent location on the premises on which the dance is to be held during the time the dance is occurring. The applicant shall be present at all times while the dance is occurring.

Penalty, see § 117.99

§ 117.08 LIQUOR LICENSE REQUIRED.

No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Ch. 340A, without obtaining a license from the city.

Penalty, see § 117.99

§ 117.09 LICENSED PEACE OFFICER PRESENCE.

No public dance shall occur without at least one licensed peace officer or more, if more are required under the criteria established by the City Council, who shall be present at the public

dancing place during the duration of the dance and after the dance, until all of the participants have left the public dancing place.

Penalty, see § 117.99

§ 117.10 HOURS.

No public dance shall occur between the hours of 1:00 a.m. and 12:00 noon.

Penalty, see § 117.99

§ 117.11 MINORS PROHIBITED.

No person under the age of 21 shall be allowed to be present by the permit holder or any peace officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.

Penalty, see § 117.99

§ 117.12 CERTAIN BEHAVIOR PROHIBITED.

No person present at any public dance shall engage in any disorderly conduct, as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person shall be immediately removed from the dance by the peace officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the peace officer present shall terminate the dance and remove all persons from the public dancing place.

Penalty, see § 117.99

§ 117.13 LIGHTING.

In order to protect the safety of persons attending a public dance, public dancing places shall be adequately illuminated and dancing therein while lights are extinguished, dimmed or turned low so as to give inadequate or imperfect illumination is hereby prohibited. All exit areas shall be illuminated at all times during the public dance with light having intensity of not less than 1 footcandle at floor level. Illumination of less than 0.5 foot-candles in any area where dancing is occurring, permitted or encouraged is prohibited.

Penalty, see § 117.99

§ 117.14 NOISE.

All public dances shall be subject to the provisions of this code regulating noise.

Penalty, see § 117.99

SPECIAL EVENTS

§ 117.20 PURPOSE AND FINDINGS.

The purpose of this chapter is to protect the health, safety and welfare of the citizens of this city by regulating the time, place and manner of conduct of special events and by establishing permit requirements for conducting special events as such are herein defined. The City Council finds that special events often exceed the city's capacity to provide usual city services. These city services include, but are not limited to sanitary, fire, police and utility services. The City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of these events on parking and vehicular traffic within the city.

§ 117.21 DEFINITIONS.

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

PERSON. A natural person, association, organization, club, group formed for a common purpose, partnership of any kind, limited liability company, corporation or any other legal entity.

SPECIAL EVENTS. An outdoor gathering of at least 25 individuals, whether on public or private property, assembled with a common purpose for a period of one hour or longer. **SPECIAL EVENTS** include, but are not limited to concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. **SPECIAL EVENTS** do not include noncommercial events held on private property, such as graduation parties or social parties.

§ 117.22 PERMIT REQUIRED.

No person shall hold, conduct or participate in a special event within the city, unless a permit has been issued for such event upon timely written application made to the city. Penalty, see § 117.99

§ 117.23 APPLICATION FOR PERMIT.

Written application for special event permits must be made at least 30 days in advance of the event's proposed date in a form prescribed by the City Council. This application period shall not begin to run until a complete application has been filed with the city. Application forms shall be made available in the office of the City Administrator. A fee, in the amount established by City Council from time to time, shall be paid to the city along with the completed application form. In addition to the fee, the applicant shall pay all additional costs incurred by the city as a

direct result of the special event. Failure to provide a complete application or to pay the fee, as herein required, is sufficient reason to deny the special event permit.

§ 117.24 ISSUANCE OF PERMIT, CONDITIONS AND POSTING.

(A) Special event permits will be issued upon City Council approval. The Council may attach reasonable conditions to the permit as are deemed necessary to protect the health, safety and welfare. Such conditions may pertain to any of the following:

- (1) Location and hours during which the event may be held;
- (2) Sanitation/availability of potable water;
- (3) Security/crowd management;
- (4) Parking and traffic issues;
- (5) Emergency and medical services;
- (6) Clean-up of premises and surrounding area/trash disposal;
- (7) Insurance;
- (8) Lighting;
- (9) Fire service/safety;
- (10) Temporary construction, barricades/fencing;
- (11) Removal of advertising/promotional materials;
- (12) Noise levels;
- (13) Alcohol consumption;
- (14) Any other conditions which the Council deems necessary.

(B) Upon Council approval, the City Clerk/Treasurer shall issue a permit to the person(s) named in the permit application. The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in three prominent locations during the special event.

Penalty, see § 117.99

§ 117.25 EXCEPTIONS TO THE PERMIT.

The permit requirement contained in this chapter does not apply to the following:

- (A) Special events sponsored and managed by the city;
- (B) Funerals and funeral processions;
- (C) The grounds of any school, playground, place of worship, hotel conference center, stadium, athletic field, arena, auditorium or similar permanent place of assembly when used for regularly established assembly purposes.

§ 117.99 PENALTY.

(A) Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in § 10.99, and their public dance permit is suspended immediately at the time of any arrest or citation for violating this chapter.

Nashwauk, MN Code of Ordinances

- (B) (1) Any person who violates any condition of a special event permit or any provision of this chapter shall be guilty of a misdemeanor punishable as prescribed by § 10.99.
- (2) Enforcement of this division may, at the Council's discretion, take any of the following forms:
- (a) Citation/criminal prosecution;
 - (b) Injunctions, declaratory judgements or other civil remedies;
 - (c) Permit revocation;
 - (d) Disbursement of persons gathered.