

Chapter 11 Licensing

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Section 1100 General Licensing Provisions

Section

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1100.01 Licenses required to engage Certain Business

No person shall engage in any of the trades, business, or professions for which licenses are required by Chapter 11 of this code or by any other ordinance of the city or provisions of this code without first applying for and obtaining a license from the City Administrator or other duly authorized issuing authority.

Penalty, see §100.99

1100.02 Application for a License

A) All Original applications for licenses, unless otherwise specifically provided, shall be made to the City Administrator or other authorized official in writing upon forms to be furnished by him or her and shall contain:

- 1) The applicants full name, address, ad telephone number, and the full name of each officer, partner, or business associate, if applicable.
- 2) His or her present occupation and principle place of business;
- 3) His or her place of residence for the preceding five years;
- 4) The nature and location of the intended business or enterprise;
- 5) The period of time for which the license is desired;
- 6) A description of the merchandise, goods or services;
- 7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle;
- 8) Other information concerning the applicant ad his or her business as it may be reasonable and proper, having regard to the nature of the license desired.

B) Any change in the information required by division A of this section must be reported to the City Administrator or other authorized official within fourteen (14) days of that change.

C) Renewal of an annual license may be granted to a license in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Administrator or other authorized official within

twenty-one (21) days after the date of expiration for the preceding license, the applicant must fill out an original application.

D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

E) It shall be unlawful to knowingly make false statement or representation in the license application.

Penalty see §100.99

1100.03 Issuance of a License

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Administrator shall deposit the fee in the general fund of the City and issue to the applicant a proper license certificate signed by the City Administrator.

1100.04 Date and Duration of the License

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses maybe issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licenses irrespective of the date of the issuance of the license.

1100.05 License not Transferable

Every license shall be issued to a real party in interest of the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.

Penalty see §100.99

1100.06 License Certificate to be Displayed

Every license carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licenses shall carry their license at all times, and whenever requested by any offers or citizen, shall exhibit the license.

Penalty §100.99

1100.07 Revocation and Suspension

A) Any license may be suspended or revoked by the City Administrator or City Council at any time for the following reasons:

1. For conditions or considerations which, had they at any time of issuance, would have been valid grounds for its denial;
2. For any misinterpretation or material fact in the application discovered after the issuance of the license;
3. For any misinterpretation or materially false statement made in the course of carrying on the trade, business or profession.
4. For violation of any provisions of this chapter or other federal, state, or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued.

5. Upon conviction of a license for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals, or general welfare of the public.

B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return mail, and return receipt requested, to the address given on the license application.

1100.08 Appeal and Review

In case any applicant has been denied a license by the City Administrator, or if his or her license has been suspended or revoked by the City Administrator, the applicant or licensee shall within ten (10) business days have the right of appeal to the City Council from the denial, suspension, or revocation. Notice of appeal shall be filed in writing with the City Administrator or other authorized official the Mayor shall call a special meeting of the City Council for the purpose of holding a hearing unless a regular meeting of the City Council will occur within the 21-day period, and who shall fix the time and place for a hearing which shall be held not later than 21 days thereafter. Notice of appeal shall be filed in writing with the City Administrator. Unless a regular meeting of the City Administrator at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within 21-day period. Three (3) members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by council. If, after hearing, a majority of the members of City Council present at the meeting declare in favor of the applicant. The license shall be issued or fully reinstated as the case maybe; otherwise the suspension or revocation shall become final.

Section 1110 Commercial Amusements

Section

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1110.02	Circuses, carnivals, shows and other entertainment
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1110.04	License fee for public entertainment or exhibition

1110.01 Theatre, Billiards, and Pool

Each proprietor of a billiard or pool table or of a theater, or a combination of both, shall pay an annual license fee in an amount established in the Ordinance Establishing Fees and Charges as it may be amended from time to time.

Penalty see §100.99

1110.02 Circuses, carnivals, shows and other entertainment

- A) Each person, desiring to conduct, stage or give a circus carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to this code, as that Ordinance may be amended from time to time.
 - 1) Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section, provided that the entertainment is not for profit.
- B) In addition to other requirements, the applicant for a license shall give at least one (1) week's notice in writing to the City Administrator or other authorized official, stating the dates of performances and the location at which the performances are to be presented. The City Administrator shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety, or general welfare of the public, and that the use of the location will not create too great a burden upon the police department or the fire department.
- C) No circuses, carnival, theatrical exhibition, public show, athletic game, or other entertainment shall be given for more than two (2) consecutive days, except in cases where the City Council by resolution allows a longer period, or where he exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

1110.03 Deposit Required

- A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Administrator, or other designated official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the mayor. In the event the grounds are restored and

cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be forfeited to the city to meet the extent of the actual costs to the city for restoration and cleaning up of the grounds.

- B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival, or other entertainment has taken place.

Penalty see §100.99

1110.04 License fee for public entertainment or exhibition

The fee for the license shall be in the amount as established by the Ordinance Establishing Fees and Charges as that Ordinance may be amended from time to time.

**Section 1120 Beer, Wine and Liquor
General Provisions**

Section

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1120.01 Adoption of State Law by Reference

The provisions of M.S. Chapter 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operations, 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. Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

1120.02 City May Be More Restrictive than State Law

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

1120.03 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 the purposes of this chapter.

“Application” means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his\her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

“Applicant” means any person making an application for a license under this Chapter.

“License” means a document, issued by the City, to an applicant permitting him\her to carry on and transact the business stated therein.

“Licensee” means an applicant who, pursuant to his\her approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended (during the period of suspension), from the City for carrying on the business stated therein.

“License fee” means the money paid to the City pursuant to the application and prior to the issuance of the license to transact and carry on the business therein.

“Intoxicating Liquor” and *“Liquor—“Intoxicating Liquor”*. Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2% of alcohol by weight.

“Wine” means wine not exceeding 14 percent alcohol by volume.

“3.2 percent malt liquor” hereinafter referred to as “beer” means malt liquor containing not less than one-half of one percent alcohol by volume or more than 3.2 percent of alcohol by weight.

“Off-sale” means the retail sale of beer or liquor in original packages for consumption off or away from the premises where it was sold.

“On sale” means the retail sale of beer, liquor, or wine, by the glass or by the drink, for consumption on the premises where sold only.

“Sale, Sell”, and *“Sold”* mean all barter and all manners or means of furnishing beer, wine, or liquor to persons, including such furnishing in violation or evasion of the law.

“Manufacturer” means every person (except an on-sale licensee under this Chapter) who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or any the combination of different materials, prepares or produces liquors, wine, or beer for sale.

“Wholesaler” means every person engaged in the business of selling liquor, wine, or beer to retail dealers.

“Package and Original Package” means any container or receptacle holding liquor, wine or beer, which container or receptacle is corked, capped, or sealed by a manufacturer or wholesaler.

“Club” means any corporation duly organized under the laws of this State for civic, fraternal, social, or business purposes or for intellectual improvement or for the promotion of sports, or a congressionally chartered veterans organization, which shall:

1. have more than fifty members,
2. have owned, rented, or leased a building or space in a building for at least one year, of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members,
3. whose affairs and management are conducted by a Board of Directors, Executive Committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees are paid directly or indirectly and compensation by way of profit for the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the members or other governing body.

“Restaurant” means 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 term in this ordinance, 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".

“Hotel” means an establishment, including a motel, having a resident proprietor or manager, where, in consideration of payment therefore, food and lodging are regularly furnished to transients. And which contains not less than ten guest rooms with bedding or some other suitable and necessary furnishings in each room, and which is provided with suitable lobby, desk, and office for the registration of its guests at the main entrance and on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has an integral part thereof a dining room with appropriate facilities for seating not less than thirty guests at one time, where the general public is, in consideration of payment therefore, served with meals at tables.

“Church” means a building, which is principally used as a place where persons of the same faith regularly assemble for the public worship of God.

Parent or Guardian. Parent, guardian or other adult person having the primary care or custody of the minor.

1120.04 Nudity on the Premises of Licensed Establishments Prohibited

Subd 1. 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 establishments, 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 of activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct.

Subd. 2. 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 licenses premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

Subd. 3. A violations 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 licenses or the imposition of a civil penalty under the provisions of §1120.99(B)

Penalty, see §1120.99

1120.05 Consumption in Public Places

Subd. 1 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 licenses under this chapter, in a municipal liquor dispensary, or where the consumption and display of liquor is lawfully permitted.

Subdivision 2 Penalty

See Penalty § 100.99

1120.06 Intoxicating Liquor or 3.2% Alcohol Sale to Minors

Subdivision 1 Purpose

For the purpose of this section, the years of age that determines whether a person is a minor shall be determined by state law.

Subdivision 2 Conduct Prohibited

It is prohibited for any:

1. Minor to misrepresent his age for the purpose of obtaining intoxicating liquor or 3.2% alcohol;
2. Minor to consume intoxicating liquor or 3.2% alcohol;
3. Minor to have intoxicating liquor or 3.2% alcohol in their possession;
4. Minor to enter licensed premises for the purpose of purchasing or procuring intoxicating liquor or 3.2% alcohol;
5. Person to knowingly induce another to make an illegal sale or purchase of intoxicating liquor or 3.2% alcohol;
6. Licensee to sell intoxicating liquor on any day, or during any hour, when sales of intoxicating liquor is not permitted by law.
7. Person to purchase intoxicating liquor or 3.2% alcohol on day, or during any hour, when sales of liquor are not permitted by law.
8. Minor to be in or upon licensed premises except a restaurant, hotel, or motel, and then only if accompanied by at least one of their parents or their lawful custodian; and it is unlawful for the licensee to permit such person to remain upon licensed premises.
9. Licensee or their employee to permit any minor to loiter or to remain in the room where on-sale intoxicating liquor is being sold or served unless accompanied by their parent or legal guardian.

10. Licensee to sell or serve intoxicating liquor or 3.2% alcohol to any person who is obviously intoxicated;
11. Licensee to sell or serve intoxicating liquor or 3.2% alcohol to any minor.
12. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.
13. Person to furnish, purchase or procure intoxicating liquor or 3.2% alcohol for a minor.
14. Minor to purchase intoxicating liquor or 3.2% alcohol or procure another to purchase intoxicating liquor or 3.2% alcohol for them.

Subdivision 3 Penalty

See Penalty § 100.99

Section 1120 Beer, Wine and Liquor Licensing

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1120.20 Conditions of License

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses, which may be granted under this ordinance, is limited to the number of license, which was issued as of the effective date of this ordinance, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Chapter 340A, as it may be amended from time to time. The Council is not required to issue the full number of licenses that it has available.

1120.21 Terms and Expiration

Each license shall be issued for a maximum period of one (1) year.

1120.22 Kinds of Licenses

The Council is authorized to issue the following licenses and permits as specified by §1120.54. which are as follows:

- A. 3.2 percent malt liquor on-sale licenses, which may be issued only to 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. On-sale intoxicating liquor licenses may be issued to Clubs and only with the approval of the Commissioner of Public Safety. The sale of on sale liquor is restricted to members of the Club and bona fide guests; Hotels where food and lodging are regularly furnished to guests; and restaurants where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by city ordinance.
- D. On-sale Sunday Intoxicating liquor license.
- E. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three (3) years. No license shall be for longer than four (4) consecutive days, and the city shall issue no more that three (3) temporary licenses to any one organization in one calendar year.
- F. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least twenty-five (25) guests at one time and meet the criteria of M.S. §340A.404, Subd. 5, as it may be amended from time to time. The fee for an on-sale wine license shall be established by the Council under the provisions of 1120.23. 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.

1120.23 License Fees

Subd. 1 No license or other fee established by the city shall exceed any limit established by M.S. Chapter 340A, as it may be amended from time to time.

Subd. 2 The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor, beer, club, or wine 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, beer, club, or wine licenses license fee shall be increased without providing mailed notice of hearing on the proposed increase to all affected licensees at least thirty (30) days before the hearing.

Subd. 3 The fee for all licenses, except for temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

Subd. 4 All licenses 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.

Subd. 5 A refund of a prorated 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.

1120.24 Council Discretion

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.

1120.25 Application for License**Subdivision 1 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 by this section. The form shall be verified and filed with the city. No person shall make a false statement in the application.

Subdivision 2 Financial Responsibility

No 3.2% liquor, wine, or intoxicating liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by statute, by filing with the City a certificate that there is in effect an insurance policy or pool providing minimum coverage of at least \$50,000 because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, \$100,000 for loss of means of support of two or more persons in any one occurrence, \$50,000 for other pecuniary loss of any one person in any one occurrence, and \$100,000 for other pecuniary loss of two or more persons in any one occurrence. Operation of a business which is required to be licensed by this chapter without having on file with the city at all time effective proof of financial responsibility is a cause for revocation of the license.

The above insurance requirements do not apply to licensees who establish by affidavit any one of the following:

- They are on-sale 3.2% liquor licensees with sales of less than \$25,000 in the preceding year.
- They are on-sale wine licensees with sales of less than \$25,000 in the preceding year.

1120.26 Insurance Certificate Requirements.

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

1. That the limits are at least as high as required.

2. That coverage is effective for at least the license term approved; and
3. That the insurance will not be canceled or terminated without 30 days written notice served upon the City Administrator.

(B) Cancellation or termination of the coverage shall be grounds for license revocation.

1120.27 Description of Premise

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

1120.28 Applications for Renewal

Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. The Council for good and sufficient cause may waive this time requirement.

1120.29 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 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 the provisions of this code applying to applications for a license shall apply.

1129.30 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 \$5,000, 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.

1120.31 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 proof of financial security has been approved by the Commissioner of Public Safety.

1120.32 Restrictions on Issuance

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one (1) license shall be directly or indirectly issued within the city to any one person.
- C. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges or other financial claims.
- 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 paragraph shall not apply to any existing 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 §1120.99

1120.33 Conditions of License

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

- B. Every person serving liquor in an establishment which has an "on-sale" license shall receive training regarding the serving of liquor to customers. The training shall be provided on an annual basis by an organization approved by the Council. Proof of training of the servers shall be provided by the licensee.
- C. 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 ordinance and the law equally with the employee.
- D. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct inspections, to enter, inspect and search the premises of the licensee during business hours without a warrant.
- E. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- F. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.
Penalty, see §1120.99

1120.34 Hours and Days of Sales

- A. According to state statute M.S. §340A.504, no on-sale liquor may be made at the following times:
 - a. Between 1a.m. and 8 a.m., Mondays through Saturdays.
 - b. Nor between the hours of 1 a.m. and 12:00 noon on Sundays.
 - i. Sunday on-sale liquor sales must only be allowed with the additional purchase of a Sunday Liquor License.
- 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 premise more than thirty (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 thirty (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 thirty (30) minutes after the time when a sale can legally occur.
- E. The municipal liquor store can be opened on Sunday as to off-sale and on-sale sales as determined by Council resolution. No person, other than the Manager or a store employee may remain in the municipal liquor longer than one-half hour after the time when the sale of intoxicating liquor must cease.

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

G. Penalty, see §1120.99

1120.35 Minors on Premises

Subdivision. 1 Under 18

No person under the age of eighteen (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 eighteen (18) may be employed in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

Subdivision. 2 Under 21

No person under the age of twenty-one (21) years may enter a licensed establishment except to work, consume meals, or attend social functions. Those under twenty-one (21) years must be accompanied by a parent or guardian.

Penalty, see §1120.99

Subdivision 3 Proof of age.

Proof of age for purchasing or consuming alcoholic beverages may be established only be a valid driver's license issued by Minnesota, another state or a province of Canada and including the photograph and date of birth of the licensed person; by a valid Minnesota identification card; by a valid Canadian identification card with the photograph and date of the person, issued by a Canadian province; in the case of a foreign national, from a nation other than Canada, by a valid passport; or a valid military identification card issued by the United States Department of Defense.

1120.36 Location

Subd. 1 Continuous Building or Structure

Unless expressly stated therein, a license issued under the provisions under this Chapter shall be valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building and structure.

Subd. 2 Outdoor Areas

A licensee whose license permits the on-sale of alcoholic beverages shall be permitted to sell, serve, and allow consumption of alcoholic beverages in an outdoor area provided that the following conditions are met:

- A. The outdoor area is immediately adjacent to the building or structure and must be compact and contiguous. Such outdoor area must be specifically described and mapped out as part of the licensed premises in the approved license application.
- B. The outdoor area is completely enclosed by a fence or other barrier preventing any external ingress or egress from the area and when fenced as stated in Zoning Ordinance 1545.04 § 8 General Fencing Requirements - "Fences that are

constructed in a non-residential district may be either open or solid fences and shall not exceed eight (8) feet in height.

- C. Access to the outdoor area is available only through the interior portions of the licensed premise.
- ~~D. No bars or pass through windows shall be permitted in the outside area.~~
- E. The outdoor area must be specifically described in the liquor liability insurance of the licensee.
- F. No alcohol may be removed from the licensed premises.
- G. There shall be no music audible off the property and exterior lighting shall be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no light is cast directly on any other property which casts direct light off the premise
- H. No alcoholic beverage shall be served after 10:00 p.m., nor consumed after 10:30 p.m. in the outside area.

1120.37 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. §940A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in such a place. Penalty, see §1120.99

1120.38 Suspension and Revocation.

- A. The Council shall either suspend for a period not to exceed sixty (60) days or revoke any liquor license upon finding that the license 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 the 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 provision of this chapter of M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:
 - 1. For the 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 §1120.04, the license shall be revoked.
 - 2. The license shall be suspended by the Council after finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

- a. For the first violation within any three-year period, at least one (1) day suspension in addition to any criminal or civil penalties which may be imposed.
 - b. For a second violation within any three-year period, at least three (3) consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - c. For the third violation within any three-year period, at least seven (7) consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - d. For a fourth violation within any three-year period, the license shall be revoked.
3. The Council shall select the day or days during which the license will be suspended.
- C. Lapse of required proof of financial responsibility shall affect 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 Administrator, a hearing before the Council shall be granted within ten (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 been met.
- D. The provisions of §1120.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter. Penalty, see §1120.99

1120.39 False Statements.

It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in the application or any willful omission to state any information called for on the application form shall, upon discovery of the falsehood, work an automatic refusal of license or, if already issued, shall render any license issued pursuant thereto void.

1120.40 Posting.

All licensees shall post their licenses in a conspicuous place in the premises for which it is used.

1120.41 Sale by Employee.

Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make the sale in or from the place is the act of the employer as well as of the person actually making the sale; and every employer is liable to all of the penalties, except criminal penalties, provided by law for the sale, equally with the person actually making the sale.

Section 1120 Beer, Wine and Liquor Municipal Liquor Store

Section	
1120.50	Existing Municipal Liquor Store Continued
1120.51	Location
1120.52	Operation
1120.53	Proof of Financial Responsibility
1120.54	Issuance of Other Licenses
1120.99	Penalties

1120.50 Existing Municipal Liquor Store Continued

If the city has in existence on the effective date of this ordinance a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in §1120.22 of this ordinance, where the city has issued said license.

1120.51 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.

1120.52 Operation

Subd. 1 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 ordinance 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 ordinance and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.

Subd. 2 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.

Subd. 3 Municipal Liquor Store Fund

All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor 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 motion 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.

Subd. 4 Financial Statement.

The Council shall provide within ninety (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.

Subd. 5 Hours of Operation.

The hours during which the sale of intoxicating liquor may be sold shall be as provided in § 1120.33. 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.

1120.53 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.

1120.54 Issuance of Other Licenses

Subd. 1 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, clause (4) and restaurant or hotel under M.S. §340.601 Subd. 5 (see Part II – C Split liquor election) 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 ordinance. The issuance of these licenses is governed by the provisions of this ordinance.

Subd. 2 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.

Subd. 3 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 ordinance.

Subd. 4 Sunday on-sale intoxicating liquor license.

The Council may issue Sunday on-sale intoxicating liquor licenses to certain establishments to sell intoxicating liquor on the premises in conjunction with the sale of food between the hours of 10 a.m. on Sundays and 2 a.m. on Mondays. Those establishments that apply and pay for the Sunday liquor license must qualify under state statute. The fee will be set by the city council.

Subd. 5 On-Sale Wine licenses.

The Council may issue on-sale wine license that allows the licensee to sell wine (But not other intoxicating liquors) in limited circumstances. A wine license permits the on-sale of wine up to 14% alcohol by volume with the application and approval of a wine license.

1120.99 Penalties

Subd. 1 Any person violating the provisions of this chapter or M.S. Chapter 340A as it may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

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

- A. For the first violation within a three-year period, \$500.
- B. For the second violation within a three-year period, \$1,000.
- C. For the third and subsequent violations within any three-year period, \$2,000.

Subd. 3 The term “violation” as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within sixty (60) days following a violation for which revocation is imposed.

Section 1130: Peddlers and Solicitors

Section	
1130.01	Definition
1130.02	Exceptions to definitions
1130.03	Licensing: Exemptions
1130.04	License ineligibility
1130.05	License suspension and revocation
1130.06	License transferability
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1130.08	Prohibited Activities
1130.09	Exclusion by placard

1130.01 Definitions

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

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

Person. Any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, ad 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 a regular business day.

Solicitor. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the persons activity is to obtain, or attempt to obtain, as discussed above. The term shall mean the same as the term “canvasser”.

Transient Merchant A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or

displaying for sale, selling, or attempting to sell, and delivering, goods, wares, products, merchandising or other personal property and who does not remain or intend to remain in any one location for more than fourteen (14) consecutive days.

1130.02 Exemptions to Definitions

- A) For the purpose of the requirements of this Chapter, the terms Peddler, Solicitor, Transient Merchant shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods, and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers open his or her established regular delivery route.
- B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market shall be exempt from any definitions of Peddlers, Solicitors, and Transient Merchants, as shall anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any persons from complying with any other applicable statutory provision or local ordinance.

1130.03 Licensing

- A) **County License Required.** No persons shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from Beltrami County as required by M.S. Chapter 329, as it may be amended from time to time.
- B) **City License Required.** Exempt as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City. Solicitors need not be licensed, but are still required to register pursuant to §1130.07.
- C) **Application.** Application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (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 Administrator. All applications shall be signed by the applicant. All applications shall include the following information:
 - 1. Applicants full name
 - 2. All other names under which the applicant conducts business or to which applicant officially answers.
 - 3. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like.)

4. Full address of the applicants permanent residence
5. Telephone number of the applicants 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 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 licensee.
11. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).
12. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.
13. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
14. A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
15. Proof of any requested county license.
16. Written permission of the property owner or the property owners 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 drivers license number or other acceptable form of identification.
20. The license plate number, registration information and vehicle identification number and a description of the vehicle to be used in conjunction with the licensed business.

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

E) **Procedure.** Upon receipt of the completed application and payment of the license fee, the City Administrator, within two (2) regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Administrator determines that the application is incomplete, the City Administrator must inform the applicant of the required necessary information that is missing. If the application is complete, the City Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application the City Administrator must issue a license unless there exists grounds for denying the license under § 1130.04, in which case the City Administrator must identify the reason for denial,

and of the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hold the public hearing and it can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

- F) **Duration.** An annual license granted under this Chapter shall be valid for one (1) calendar year from the date of issue. All other licenses granted under this Chapter shall be valid only during the time period indicated on the license.

1130.04 License Exemptions

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.

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.

Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Chapter.

Penalty see §100.99

1130.05 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 application 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 the application.
- C) The conviction of the applicant within the past five (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 persons ability to conduct the business for which the license is being sought in an honest and legal manner. 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 with the past five (5) years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the

Attorney Generals Office, or other similar business or consumer rights office or agency, within the preceding five (5) years.

1130.06 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 the following:
1. Fraud, misinterpretation or incorrect statements on the application form
 2. Fraud, misrepresentation or false statements made during the course of a licensed activity
 3. Conviction of any offense for which granting of a license could have been denied under §1130.04
 4. Violation of any provisions 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 license shall serve as a suspension or revocation of each authorized persons authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked
- C) **Notice.** Prior to revoking or suspending any licensee issued under this chapter, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.
- D) **Public Hearing.** Upon receiving the notice provided in Division C of this Section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten (10) regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, services 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 twenty (20) days from the date of the request. Within three (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 persons 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 §100.99

1130.07 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 §100.99

1130.08 Registration

All solicitors, and any person exempt from the licensing requirements of this Chapter under §1130.03 shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fees shall be required.

Immediately upon completion of the registration form, the City Administrator shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

Penalty see §100.99

1130.09 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 right-of-way.
- C) Conducting business in a way as to create threat to the health, safety, and welfare of any individual or the general public.
- D) Conducting business before 7:00 AM or after 9:00 PM
- E) Failing to provide proof of license or registration, and identification, when requested, or using the license of another person.
- F) Making any false or untrue statement of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city based solely on the City having issued a license or certificate or 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 §100.99

1130.10 Exclusion by Placard

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

persons other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Penalty see §100.99

Section 1140 Tattoo and Body Piercing Services

Section

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1140.02	Prohibitions
1140.03	Application for license, fees, issuance
1140.04	Inspection of facilities
1140.05	Suspension or revocation of license
1140.06	Consent for performing procedures on persons under 18
1140.07	Prohibitions relating to persons under 18
1140.08	Defenses to violations
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1140.01 Definitions

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

Body Piercing. Includes ear piercing except in places when the ear piercing procedure is preformed with an ear piercing gun.

Business Any entity that provides services for compensation.

Ear Piercing Gun. A mechanical device that pierces the ear by forcing a disposable single use stud or solid needle through the ear.

Parent or Guardian. Parent, guardian or other adult person having the primary care or custody of the minor.

Tattoo. Has the same meaning given in M.S. §609.2246 Subd. 2, as it may be amended from time to time.

1140.02 Prohibitions

No person shall do any of the following:

- A) Operate a business that offers tattooing or body piercing services unless the City Council issues it a license to do so.
- B) Performs a tattooing or body piercing procedure in a manner that does not meet the safety and sanitation standards established by this chapter and any federal, state, or local laws, rules or regulations.
- C) Performs a tattooing procedure, body piercing, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this chapter and any federal, state or local laws, rules or regulations.

1140.03 Applications for License, fees, and issuance

- A) A person seeking approval to operate a business that offers tattooing or body piercing services shall apply to the city on forms the city or the Board of Health shall prescribe and provide. The applicant shall submit all information the city and the Board of Health determines as necessary to process the application. The applicant shall include the fee established under the city's ordinance Establishing Fees and Charges, as it may be amended from time to time, or as it may be established by the Board of Health.
- B) To receive approval to offer tattooing or body piercing services, a business must demonstrate to the Board of Health the ability to meet the requirements established by this Chapter and any federal, state or local laws, rules or regulations for the safe performance of the tattooing or body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.
- C) If the board of Health determines, following an inspection conducted under §1140.04, that a business meets the requirements for approval, it shall so advise the city. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete an investigation of the applicant or the applicant it deems necessary. If the City Council shall approve the license, the City administrator shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with a notice of the applicant's right to appeal the City Council's decision. Approval remains valid for one year unless earlier suspended or revoked under §1140.05. Business approval may be renewed. Approval is not transferable.
Penalty see 100.99.

1140.04 Inspection of Facilities

The Board of Health, or a person or another body designated by the city, shall conduct at least one (1) inspection of a business prior to approving the business under §1140.03 to offer tattooing or body piercing services. The Board may conduct additional inspections as necessary for the approval process. The Board of Health may inspect an approved business at any time the Board considers necessary. In an inspection, the Board of Health shall be given access to the business's premises and to all the records relevant to the inspection.

Penalty see 100.99

1140.05 Suspension or Revocation of License

The City Council may suspend or revoke approval of a business to offer tattooing or body piercing services at any time it determines that the business is being operated in violation of this Chapter or any federal, state or local laws, or rules or regulations. Proceedings for suspension and revocations shall be conducted in accordance with rules adopted in Chapter 1100 for the suspension or revocation of business licenses.

1140.06 Consent for Performing Procedures on persons under 18

- A) No persons shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with Division B of this Section. The consent must include both the custodial and non-custodial parents, where applicable.
- B) A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:
 - 1) Appear in person at the business at the time the procedure is performed.
 - 2) Sign a document by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected area following the performance of the procedure.

Penalty see §100.99

1140.07 Prohibition relating to persons under 18

- A) Unless consent has been given in accordance with §1140.06, no individual who is under the age of 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear-piercing service performed with an ear piercing gun.
 - B) No individual who is under 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a tattooing service, body piercing, or ear piercing service performed with an ear piercing gun.
 - C) No individual shall knowingly show or give any false information as to the name, age, or other information of an individual who is under the age of 18 for the purpose of obtaining for the individual under the age of 18 a tattooing service, body piercing service, or ear piercing gun.
 - D) No individual shall impersonate the parent, guardian or custodian of an individual who is under the age of 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing services with an ear piercing gun.
- Penalty see §100.99

1140.08 Defenses to Violations

An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of §1140.06 or any federal, state or local laws, rules or regulations in which age is an element of the provisions if:

- A) The individual obtaining a tattooing service, body piercing service or ear piercing service performed with an ear piercing gun, at the time of doing so, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's

or commercial drivers license or an identification card issued under state law showing that the individual was then at least 18;

B) The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way.

C) The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service as at least the age of eighteen (18).

In an action or proceeding before a court a record in which a defense is raised under this section, the registrar of Motor Vehicles or the Registrar's Deputy who issued a drivers or commercial drivers license or an identification card shall be permitted to submit certified copies of the records, in the Registrars or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

1140.09 Training Standard, records, safety and sanitation, equipment.

Each operator of a business that offers tattooing or body piercing services shall do all of the following:

A) Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly, with respect to tattooing services; maintain written records that include the color, manufacturer and lot number of each pigment used for each tattoo performed.

Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any federal, state, or local laws, rules or regulations.

B) Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any federal, state, or local laws, rules or regulations.

C) Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In having the devices tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each tests is performed and the name of the person who performed the test or, if the test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two (2) years.

Each operators of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any federal, state, or local laws, rues and regulations.

Penalty see 100.99

Section 1150 Rental Housing Licensing

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Section 1150.01 Purpose and Findings

Subdivision 1 Purpose

The City Council of the City of Blackduck finds there is a need for an organized municipal inspection of residential rental units within the City of Blackduck in order to establish minimum standards for residential rental units to meet City and State public health, safety, fire, zoning and welfare codes and to provide more efficient system for compelling both absentee and local landlords to correct violations and properly maintain property within the city.

Subdivision 2 Findings

The City Council of the City of Blackduck finds that an organizational municipal licensing program is necessary and appropriate to effectively enforce residential rental unit maintenance standards and to effectively correct or prevent law violations, nuisances and other disturbances and disorders involving residential rental units within this City.

Subdivision 3 Establishment

The City Council of the City of Blackduck finds that the most effective system of implementing the foregoing findings is the creation of a program requiring licensing of all residential rental units within the City of Blackduck and the establishment of an orderly inspection schedule for the enforcement of uniform standards applicable to all residential rental units in the City.

Subdivision 4 Schedule

The City council of the City of Blackduck finds that to routinely inspect all residential rental units within the city of Blackduck it must be completed on a bi-annual basis for the enforcement of uniform standards.

Section 1150.02 Definitions

For the purpose of the Ordinance, the following definitions shall apply:

“Rental unit” or “residential rental unit” shall mean any house, apartment, mobile home, condominium, townhouse, room or group of rooms, constituting or located within a dwelling, and forming a single habitable unit.

“Dwelling” shall mean any building or other permanent or temporary structure, including a manufactured home, which is wholly or partly used, or intended to be used, for living or sleeping by human occupants.

“Rent”, “lease” “let” or “sublet” shall mean the leasing of a rental unit to a non-owner for a fixed or non-fixed period of time, and shall include lease to buy, installment sales, and other similar arrangements whereby nonpayment of a periodic payment means the occupants may be evicted without the necessity of a statutory mortgage foreclosure procedure, a procedure or a statutory termination of contract for deed procedure or a statutory repossession procedure.

“Shall” or “Must” as used in this Ordinance is mandatory.

“City Administrator” shall mean the City of Blackduck City Administrator or such other person as the City Administrator may designate to carry out the responsibilities of the City Administrator as provided in this Ordinance.

Section 1150.03 Registration and License Requirements

It is unlawful for any person to hereafter occupy, allow to be occupied, or let to another person for occupancy any residential rental property within the City for which a registration statement has not been properly made and filed with the Blackduck City Hall and for which there is not an effective license. Initial registration and renewal shall be made upon forms furnished by the City for such purpose and shall specifically require the following minimum information:

- A. Name, address, and phone number of the property owner. In cases where the property is subject to a Contract for Deed, the Contract for Deed Vendee shall be considered the owner for the purpose of this Ordinance.
- B. The name, phone number, and address of any person authorized to make or order repairs or services for the property, if in violation of City or State Codes if the person is different than the owners.
- C. The street address of the rental property
- D. The number and types of units within the rental property (dwelling unit or sleeping room)
- E. The maximum number of occupants for each dwelling unit or sleeping room.
- F. Off street parking arrangements.

Section 1150.04 Exemptions

This Ordinance shall not apply to campus dormitory and campus residence units owned, operated or managed by a government entity or agency, hospital units or rooms, nursing homes, retirement homes or other similar rental space, which is otherwise licensed by the State of Minnesota or the City of Blackduck.

Section 1150.05 Manner of Registration and Renewal

A. The owner or his designated agent shall make initial registration for residential rental property existing on the effective date of this Section by personally filing a registration statement at City Hall no later than January 1, 2004. Registered rental property existing on the effective date shall receive an interim license until such time as an inspection can first be made.

B. Initial registration for property which is not residential rental property on the effective date of this Section or for licensed residential rental property when there is a change in type of occupancy shall be made by personally filing a registration statement at City Hall before the property is used as residential rental property or before use as a new type of occupancy.

C. Each license issued pursuant to this Section shall expire on the 31st day of December of the year for which it was issued. The City shall be required to mail annual renewal statements to the property owner or the designated agent on or before November 1st of each year. Failure to receive a renewal statement from the City shall not excuse the owner from meeting the license requirement. Renewal statements must be returned to City Hall by November 30 of each year. Failure to return renewal form will result in an administrative penalty of \$20.00. Statements may be returned by mail, at the property owner's risk, to City of Blackduck, PO Box 380, Blackduck, MN 56630.

D. If there is a change in the type of occupancy from the type stated in the registration statement, a new registration statement and license will be required to be filed at City Hall within 30 days of the date of the change.

E. Any renter may request an inspection of the rental property, stating the reasons why the inspection is desirable and necessary. If, in the opinion of the city an inspection is desirable and necessary, and the inspection occurs, the cost of the inspection may be charged to the owner if a violation is found.

Section 1150.06 Transfer of Property

In the event any rental property is sold, assigned or otherwise transferred to a new owner, the new owner, whether a fee owner or contract purchaser, shall furnish to the City Administrator the new owner's name, address, and telephone number and the new owner's designated local manager before taking possession of the rental property upon closing of the transaction. No new licensing fee shall be required of the new owner during the year in which such possession takes place, provided that the previous owner has paid all licensing fees and has complied with all requirements of this Ordinance and any violations of health, zoning, fire, or safety codes of the City. If the new owner contemplates any changes in the type of occupancy as originally licensed, a new licensing application will be required.

Section 1150.07 Posting of a License

Each rental unit license holder shall post the rental unit license in a conspicuous spot near the front entry to the rental unit. Failure to do so shall be a petty misdemeanor but shall not be grounds for termination of the license.

Section 1150.08 Fees

The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fees for license and inspection.

Section 1150.09 Maintenance of Records

All records, files and documents pertaining to rental unit licenses and rental unit inspections shall be maintained at City Hall and be made available to the public as allowed or required by State law or City Ordinance.

Section 1150.10 Minimum standards: Maintenance standards

Subdivision 1 Minimum Standards

No person or entity shall hereafter rent, lease, let or sublet a rental unit to another person or entity for human occupancy unless that rental unit meets the following minimum standards:

- A. Every single dwelling or apartment shall contain a kitchen sink in good working condition and properly connected to a water-sewer system.
- B. Every single dwelling and apartment shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system.
- C. Every single dwelling and apartment shall contain, a room, which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connected to a water and sewer system.

- D. Every kitchen sink, lavatory basin, and bathtub or required herein shall be properly connected with both hot water and cold water lines.
- E. Every single dwelling and apartment shall be supplied with adequate refuse storage facilities. All refuse containers shall be made of rust-resistant material equipped with suitable handles and tight-fitting covers, shall be water tight and vermin proof, with tapered side walls and shall have a capacity of not more than thirty-two gallons. Refuse containers shall be kept by the responsible tenant, or by the collector when supplied by the collector, in good repair of, free of ragged or sharp edges and other defects likely to injure or hamper the person using the same or collecting the contents thereof. All refuse containers shall be kept as near the rear of the premise as practical at the alley if there be an alley as such place, and shall be located so as to be easily accessible to the collector. Such containers shall be kept at least 12 inches above the ground on impervious surface. All garbage before being placed in containers shall be drained of all free liquids and wrapped in paper. Garbage may be disposed of by means of garbage disposal units connected to the sanitary sewer system of the city.
- F. Every dwelling shall have two independent unobstructed exits neither of which is through another rental unit. When the secondary exit is a window, it shall:
 - 1. Be not less than 5.7 square feet in area
 - 2. Have a minimum width of 20 inches
 - 3. Have a minimum height of 24 inches
 - 4. Have a maximum sill height of 4 feet

The exits shall lead to safe and open space as required by the laws of the State of Minnesota.

- G. Every dwelling shall have adequate natural and artificial lighting.
- H. Every dwelling shall have adequate ventilation and every bedroom shall have at least one window or skylight, which can be easily opened.
- I. Every dwelling shall have heating facilities that are properly installed, are maintained in a safe and good working condition, and are capable of safely heating all habitable rooms and bathrooms to a temperature of at least 68 degrees Fahrenheit at a distance of three feet above the floor and three feet from an outside wall, window or door when the outside temperature is -25 Fahrenheit.
- J. Every public hall and stairway in every apartment house shall be lighted at all times so as to provide illumination of at least 2-foot candles on every part of such area.
- K. Smoke alarms shall be installed in the following locations: each sleeping room; outside of each sleeping room in the immediate vicinity of the sleeping rooms; on each story of the dwelling including basements and cellars.

- L. Every sleeping room must have an egress window that shall:
1. Be not less than 5.7 square feet in area
 2. Have a minimum width of 20 inches
 3. Have a minimum height of 24 inches
 4. Have a maximum sill height of 4 feet

Subdivision 2 Maintenance Standards

No person or entity shall hereafter rent, lease, let or sublet a rental unit to another person or entity for human occupancy unless that rental unit is maintained according to the following minimum standards:

- A. Every foundation, exterior wall, and roof shall be weather-tight, watertight, rodent-proof, and insect-proof, and shall be kept in a workmanlike state of maintenance and repair.
- B. Every interior partition wall, floor and ceiling shall be capable of affording privacy, and shall be kept in a workmanlike state of repair and maintained so as to permit them to be kept in clean and sanitary condition.
- C. Every inside and outside stairway, porch, or appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may caused to be placed thereon and shall be kept in sound condition and in a reasonably good state of maintenance and repair. Every stairwell requiring one shall have a handrail provided with a minimum and maximum height of 34 and 38 inches on at least one side of the stairway.
- D. Every supplied plumbing fixture and water and waste pipes shall be properly installed and maintained free from defects, leaks, or obstructions.
- E. Every owner of a dwelling containing two or more apartments, or the owner's agent, shall be responsible for maintaining in a clean and sanitary condition the shared or public area of the dwellings and premises thereof.
- F. Every occupant of a dwelling or apartment shall keep in a clean and sanitary condition that part of the dwelling, apartment and premises thereof, which he or she occupies and controls.
- G. Every tenant of a rental unit shall abide by the City's rules and regulations regarding the parking of vehicles and the prohibition of storing abandoned or junked vehicles upon any premises within the City.
- H. Every occupant of a dwelling unit shall dispose of all refuse in a clean and sanitary manner by placing it in garbage disposal facilities or refuse storage containers as prescribed in Section J, Subdivision 1E.
- I. All open areas and parts of the premises shall be maintained and kept in a reasonably clean and neat condition. This requirements shall include the removal of dead trees and brush, inoperable machines, appliances, fixtures, and equipment so damaged, deteriorated, or obsolete as to have insubstantial value and which constitutes junk, the removal of lumber piles and building materials not being used in actual construction on the premises, and the removal of tin, cans, broken glass, broken furniture, boxes, crates and other debris.
- J. Ground fault plugs where required.

Subdivision 3

Any dwelling, dwelling unit or rooming unit which is damaged, decayed, dilapidated, unsatisfactory, unsafe, vermin or rodent infected, or which lacks provision for basic illumination, ventilation, or sanitary facilities to the extent that the defects create a hazard to the health, safety, welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling unit has been declared unfit for human habitation, the City Administrator shall order the same vacated within a reasonable time and shall post a placard on said property indicating that it is unfit for human habitation, and any operating license previously issued for such dwelling shall be revoked.

Subdivision 4 Corrective Action

It shall be unlawful for such dwelling, dwelling unit or rooming unit to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the City Administrator.

Subdivision 5 Securing Vacant Buildings

The owner of any dwelling which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors or windows is unguarded, shall be deemed to be a hazard to the health, safety, and welfare of the public and a public nuisance within the meaning of this Ordinance and Minnesota state law.

Subdivision 6 Declaration as Hazardous Building

In the event that a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with the provisions of Minnesota Statutes.

Section 1150.11 Inspections and investigations**Subdivision 1 Authorized Personnel**

Fire Department personnel, City Administrator, Police Officers, and the Public Works Supervisor and their respective designees and representatives are hereby authorized to make inspections reasonably necessary to the enforcement of this Ordinance.

Subdivision 2 Administrative Search Warrant

All persons authorized herein to inspect shall have the authority to enter any rental unit at all reasonable times, whether licensed or unlicensed, pursuant to the provisions of this Ordinance. No inspection shall occur without the express permission of the owner and the tenant, renter, lessee, sub-lessee or other person or entity occupying the rental unit, or, if permission is denied, without first obtaining an administrative search warrant

Subdivision 3 Notification

Persons inspecting any rental unit as provided herein shall notify the license holder of all violations, if any, by written notice directed by certified mail; to the address of the owner as shown by the City Administrator licensee application file. Said notice shall direct that compliance be made immediately and the property will be reinspected in not less than 15 days unless extended by the City Administrator, based on good cause.

Subdivision 4 Repeal

A license holder may appeal to the City Administrator the requirements of any compliance order by filing a written appeal with the office of the City Administrator no later than ten days after the date of service of the compliance order. The City Administrator shall schedule a hearing within ten days after filing of the appeal. Enforcement of the compliance order shall stay, pending the decision of the City Administrator on the appeal. The City Administrator may reschedule the hearing, as he /she deems necessary.

Section 1150.12 Conduct of Licensed Premises**Subdivision 1 Definition Disorderly Conduct**

It shall be the primary responsibility of the licensee to require and ensure that occupants of the licensed premises conduct themselves in such a manner as to not cause the premises to be disorderly or to be used, occupied, or maintained in violation of any law, local Ordinance, or regulation. For the purposes of this Ordinance, disorderly conduct is any conduct, which is likely to threaten, annoy, or harass other tenants or visitors to the rental units or to residents, visitors or occupants of neighboring properties.

Subdivision 2 Administration

The City Administrator shall administer this section of the Ordinance and may delegate administration to a designee authorized in writing by the City Administrator.

Subdivision 3 Notice

If the City Administrator determines that violation of this section has occurred, then the Administrator will give notice of the violation to the license holder and the renters of the rental unit, if known, and will direct that the license holder take steps to prevent further violations.

Subdivision 4 Second Violation

If another violation of this section occurs within ninety days of the incident for which notice was given as provided in Subdivision 3 of this Section, then the City Administrator will give notice of the violation to the license holder and the renters of the rental unit, if known, and will direct that the license holder take steps to prevent further violations. The City Administrator will also, at that time, request that the license holder submit to the City Administrator, within ten days of the City Administrator mailing of the notice of violation provided in this section, a report

itemizing all actions taken by the license holder in response to all notices of violations as to the rental unit within the preceding ninety days.

Subdivision 5 Third Violation

If a third violation of this section occurs within 90 days after the last of any two or more previous violations for which notices were given pursuant to this section, and the license holder has not sufficiently taken action to prevent further violation, then the rental unit license for the premises may be denied, revoked, suspended, or not renewed.

- A. Action to deny, revoke, suspend, or not renew a rental unit license may be initiated by a City Administrator who shall give to the licensee a written notice of hearing before the City Council to consider such denial, revocation, suspension or non-renewal.
- B. A notice of intent to deny, revoke, suspend, or not renew a license shall specify all conditions of violation of this section and shall state the date, time, and place and purpose of the hearing provided by this subdivision.
- C. The hearing held pursuant to this subdivision shall occur no later than 30 days after notice.
- D. Following the hearing, the City Administrator may deny, revoke, suspend or not renew the license for all or any part of the licensed premises or may grant a conditional license upon such terms and conditions as the City Administrator finds necessary to accomplish the purpose of this Ordinance.

Subdivision 6 Eviction Proceedings

No adverse license action shall be imposed where the violation of this section occurred during the pendency of unlawful detainer eviction proceedings brought under MN Statutes Chapter 556 or within the 30 days of notice giving by the licensee to a tenant to vacate the premises at which the violation occurred. Unlawful detainer eviction proceedings or a notice to vacate the premises, shall not, however, bar adverse license action unless diligently pursued by the licensee. Action to deny, revoke, suspend or not renew a license for violation of this section may be postponed or dismissed by the City Administrator at any time if it appears to the City Administrator that the licensee has taken appropriate remedial action.

Subdivision 7 Standard of Proof

The standard of proof to be used in determining, by the City Administrator, as to conduct constituting violations under this section shall be a fair preponderance of evidence in support of such a determination. It is not necessary that criminal charges be brought to support a determination of violation of this section or a determination that conduct constituting a violation of this section has occurred. It is necessary, in determining a violation of this section, that law enforcement officers be called to the

rental unit in response to a complaint and that a police report and investigation of the same be prepared.

Subdivision 8 Violations

For the purpose of this Ordinance, a violation under this section shall include violations by the rental unit renters or occupants, or by their visitor or guests, in or at the rental units of the renters or tenants, or in, at or upon its curtilage, including anywhere on the property grounds or premises of an apartment building, home, or mobile home park at which the rental unit is situated.

Subdivision 9

Failure of a license holder to respond to notices provided in this section is not, by itself alone, a violation of this Ordinance.

Section 1150.13 Failure to Grant a License, Revocation, Suspension or Failure to Renew License

Subdivision 1 Right Not to License

The City reserves its right not to license a rental unit unless it complies with the requirements of this Ordinance.

Subdivision 2 Right to Deny, Suspend, Revoke, or Renew

Any licenses issued under this Ordinance are subject to the right of the City, which is hereby expressly reserved to deny, suspend, revoke, or not renew on grounds including, but not limited to the following:

1. False or misleading information given or provided in connection with the registration statement or renewal.
2. Failure to pay a fee herein provided for.
3. Violations by the certified owner or anyone operating there under, of any City Code provisions or laws of the State of Minnesota relating, pertaining to, or governing the licensee and the premises.

A suspended license shall be reinstated when the circumstances leading to the suspension have been remedied and a reinstatement and inspection fee as set by Council resolution has been paid. After a certificate has been revoked, a new certificate may be issued to the revoked owner only if the circumstances leading to the revocation have been remedied, a new registration is made, and an additional reinstatement and inspection fee as set by Council resolution has been paid.

Subdivision 3 Notification

The City Administrator shall notify the applicant that a license has been denied, or the license holder that the license is being suspended, revoked or not renewed. The suspension, revocation or non-renewal shall occur 35 days after the notification order, or at such later date as set out in the notification.

Subdivision 4 Appeal

A determination by the City Administrator to deny, suspend, revoke or not renew the license of a rental unit may be appealed to the City Council by filing with the City Administrator a written notice of appeal within 15 days of the date on which the City Administrator mails such determination to the applicant or license holder. In that event, the appeal will be heard by the City Council at its next meeting occurring at least 15 days after the filing of the Notice of Appeal.

Subdivision 5 Hearing

At any appeal of a determination by the City Administrator under this Ordinance, the license holder or applicant local managing agent for the license holder or applicant, or an attorney representing them, may appear and make a presentation to the council. The City Administrator shall present to the City Council the basis for the determination being appealed. After the hearing, the Council may uphold, reverse or modify the decision of the City Administrator based on the provisions of this Ordinance and upon the protection of the public health, sanitization, or general welfare of the community at large or the residents of rental units within the City. The City Council shall issue written findings and determination within 31 days of the hearing.

Subdivision 6 Appeal to State of Minnesota

A decision of the City Council made as provided in this section may be appealed by Writ of Certiorari to the Court of Appeals of the State of Minnesota pursuant to its Rules of Civil Appellate Procedure.

Section 1150.15 Summary Action

Subdivision 1 Summary Action

As a condition of receiving a rental unit license, each licensee is presumed to agree and consent that when the conduct of any licensee or licensee agent, representative, employee or lessee, or the condition of the rental unit, or the property in or on which it is located, is detrimental to the public health, sanitation, welfare of the community at large, or residents of the rental units so as to constitute a nuisance, fire hazard, or other unsafe or dangerous condition and thus give rise to an emergency, the City Administrator or Fire Chief shall have the authority to summarily condemn or close individual rental units or such area of the rental units or such areas of the rental dwelling as the Administrator deems necessary. Notice of summary condemnation shall be posted at the units of areas affected and shall describe the units or areas affected. No person shall remove the posted notice, other than the Fire Chief, City Administrator or his or her designated representative. Any person aggrieved by the decision or the action of the City Administrator or Fire Chief set out in this subdivision, may appeal the decision following the procedures set out in this Ordinance. The hearing shall be conducted in the same manner as provided in this Ordinance, however, the time of the hearing may be extended with the consent of the license holder.

Subdivision 2 Appeal

The filing of such appeal shall not void the decision of the City Administrator set forth in this subdivision. Only after the hearing by the city council has been held will the decision or action of the City Administrator be affected.

Section 1150.16 Violations: Injunctive Relief**Subdivision 1. Enforcement Action**

Nothing in this Ordinance shall prevent the City from taking enforcement action under any of its fire, housing, and zoning, health, safety or other codes, Ordinances and State laws for violations thereof or to seek injunctive relief and criminal prosecution for violations of any Ordinance, code or law. Nothing contained in this Ordinance shall prevent the City from seeking injunctive relief against a property owner or designated property manager who fails to comply with the terms and conditions of this Ordinance or to obtain an order closing such rental units until violations of this particular Ordinance have been remedied by the property manager or designated property manager.

Subdivision 2 Penalty

Except as otherwise stated herein, violation of this Ordinance should be a misdemeanor. Each separate day on which a continuing violation occurs shall be a separate violation.

Section 1150.17 Effective Date

This Ordinance shall be effective upon its adoption by the City Council. However, the initial license provisions of this Ordinance shall not become effective 3 to 6 months later than the date, to allow rental units owners to complete the process of licensing. The initial license shall be effective from the date of issuance through December 1, 2004.

Section 1150.18 Severability Clause

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 1150.19 Applicable Laws

Every licensee shall be subject to all of the Ordinances of the City of Blackduck and the laws of the State of Minnesota relating to dwellings and this Ordinance shall not be constructed or interpreted to supersede any other such applicable Ordinance or law.

Section 1160 License Regulations Sexually Oriented Business

Section	
1160.03	Definitions
1160.04	License Required.
1160.05.	Issuance of License
1160.06	Fees
1160.07	Inspection
1160.08	Expiration of License.
1160.09	Regulation of Sexually Oriented Businesses.
1160.10	Suspension/Revocation.
1160.11	Transfer of License.
1160.12	Penalty.

1160.03 Definitions

Adult Arcade means any place to which the public is permitted or invited wherein coin-operated, slug –operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas”.

ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE means: A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”, or
- B. instruments, devices, or paraphernalia which are designated for use in connection with “specified sexual activities”.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as, ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT

VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of “specified sexual activities” or specified anatomical areas”.

Notwithstanding the foregoing, a commercial establishment which offers for sale or rental any of the items listed in paragraph (1) (A) above will not be considered to have as one of its principal business purposes the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” provided all of the following conditions are met:

Total gross revenues from the sale or rental any of the items listed in paragraph (1) (A) does not exceed ten percent (10%) of the commercial establishment’s gross revenue;

Total gross square footage of display space and stock area devoted to the sale or rental any of the items listed in paragraph (1) (A) does not exceed ten percent (10%) of the commercial establishment’s total square footage;

Display of the any of the items listed in paragraph (1) (A) is in a separate room or area restricted only to persons 18 years old or older and is closely monitored by management and/or employees of the commercial establishment to insure that no individual under the age of 18 enters the room or area where the items listed in paragraph (1) (A) are displayed or stored;

No electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained on the premises of the establishment to show images of items listed in paragraph (1) (A) to any customers of the commercial establishment;

Only employees or management of the commercial establishment who are 18 years old or older are permitted to enter the area where the items listed in paragraph (1)(A) are stored, processed or displayed for customers or potential customers of the commercial establishment.

ADULT CABARET means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. persons who appear in a state of nudity or semi-nudity; or
- B. live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”, or
- C. films, motion pictures videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

ADULT MOTEL means a hotel, motel or similar commercial establishment which:

- A. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”, and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- B. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than (10) hours.

ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT means and includes any of the following:

- A. the opening or commencement of any sexually oriented business as a new business;
- B. the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. the additions of any sexually oriented business to any other existing sexually oriented business; or
- D. the relocation of any sexually oriented business.

LICENSEE means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

NUDE or ADULT MODEL STUDIO means any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- A. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- B. where in order to participate in a class a student must enroll at least three days in advance of the class; and
- C. where no more than one nude or semi-nude model is on the premises at any one time.

NUDITY or a STATE OF NUDITY means the showing of the human male or female genitals, pubic area, vulva, anus with less than a fully opaque covering or the showing of the covered male genitals in a discernibly turgid state.

PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.

SEMI-NUDE or in a SEMI-NUDE CONDITION means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration.

- A. physical contact in the form of wrestling or tumbling between persons of the opposite sex, or
- B. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

SPECIFIED ANATOMICAL AREAS means:

- A. the human male genitals in a state of sexual arousal, even if completely and opaquely covered; or
- B. less than completely and opaquely covered human genitals, pubic area, vulva, buttock, anus or female breast below a pint immediately above the top of the areola.

SPECIFIED CRIMINAL ACTIVITY means any of the following offenses: Any unlawful lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:

Sections 609.293 to 609.365 of the Minnesota Criminal Code (Sex Offenses).

Sections 617.23 to 617.296 of the Minnesota Criminal Code (Obscenity Statute).

Sections 152.01 to 152.21 of the Minnesota Criminal Code (Controlled Substances law).

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

- A. Fondling or other erotic touching of human genitals, pubic region or anus.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- C. Masturbation, actual or simulated.
- D. Human genitals in a state of sexual stimulation, arousal or tumescence.
- E. Excretory functions as part of or in connection with any of the activities set forth in sections A, B, D, or D of this definition.

SUBSTANTIAL ENLARGEMENT of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.

TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

- A. the sale, lease, or sublease of the business;

- B. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

1160.04 License Required.

It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this ordinance.

- A. An application for a license must be made on a form provided by the City.
- B. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this ordinance.
- C. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.
- D. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
- E. If the Applicant is:
 - 1. an individual, the individual shall state his/her legal name and any aliases and submit proof the he/she is 18 years of age;
 - 2. a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
 - 3. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent, and the address of the registered office for service of process.

- F. The name of the owner of the property where to be located; if a corporation, then the names of the principal owners of corporation.
- G. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state (1) the sexually oriented business's fictitious name and (2) submit the required registration documents.
- H. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each conviction.
- I. Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this ordinance whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial suspension or revocation.
- J. Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
- K. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone, if any.
- L. The applicant's mailing address and residential address.
- M. The applicants driver's license number, Social Security number, and/or his/her state or federally issued tax identification number.
- N. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- O. A straight-line drawing prepared within thirty (30) days prior to application depicting the property lines and the structures containing any existing sexually oriented businesses within 250 feet of the property to be licensed; the property

lines of and established religious institution/synagogue, day care facility, state or federal wildlife area or preserve, school, or public park or recreation area within 250 feet of the property to be licensed. For purposes of this Section, a use shall be considered existing or established, if it is in existence at the time an application is submitted. The drawing shall be reviewed by the Planning Commission for accuracy. In the event of a dispute between the applicant and the City as to the accuracy of the drawing, the Planning Commission may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.

- P. Copy of lease and all financing documents, all business related contracts for supply of materials and consulting management.

1160.05. Issuance of License

Upon the filing of said application for a sexually oriented business license said application shall be referred to the appropriate city departments for an investigation to be made on such information as is contained in the application. The application process shall be completed within sixty (60) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- A. An applicant is under eighteen (18) years of age.
- B. An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
- C. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- D. An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
- E. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance.
- F. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
- G. The license fee required by this ordinance has not been paid.

- H. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.

The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 3. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.

1160.06 Fees

Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$1,000.00 non-refundable application and investigation fee.

In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee of \$1,000.00 within thirty (30) days of license issuance or renewal.

All license applications and fees shall be submitted to the City Administrator of the City.

1160.07 Inspection

An applicant or license shall permit representatives of the Police Department, County Health Department, Fire Department, Zoning Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

A person who operates a sexually oriented business or his agent or employee commits a violation of this chapter if he refuses to permit such lawful inspection of the premises at any time it is open for business.

1160.08 Expiration of License.

Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least thirty (30) days before the expiration date.

When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

1160.09 Regulation of Sexually Oriented Businesses.

All licensed sexually oriented businesses shall comply with the provisions of this ordinance, all other applicable City ordinances, and all other applicable federal, state and local laws.

No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the Licensed Premises is located. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. This Subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

All signs for sexually oriented businesses shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this Ordinance shall contain only (1) the name of the sexually oriented business and/or (2) the specific type of sexually oriented business conducted on the Licensed Premises. Temporary signage shall not be permitted in connection with any sexually oriented business. Signs must be in compliance with City Code Chapter 15 Section 1530..

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of ten o'clock pm and ten o'clock am on weekdays and Saturdays. There shall be no Sunday opening.

A person commits a violation of this chapter if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

1160.10 Suspension/Revocation.

- A. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a license or an employee of a license has:
 - 1. violated or is not in compliance with any section of this ordinance;
 - 2. refused to allow an inspection of the sexually oriented business as authorized by this chapter.
- B. The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.
- C. The City shall revoke a license if it determines that:

1. a licensee gave false or misleading information in the material submitted during the application process;
 2. a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 3. a licensee has knowingly allowed prostitution on the premises.
 4. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 5. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
 6. a licensee is delinquent in payment to the City, County, or State for any taxes or fees past due.
 7. When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

1160.11 Transfer of License.

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

1160.12 Penalty.

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provision or requirements of this ordinance is guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense.

