

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL LICENSING PROCEDURES

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ANTIQUÉ. Any used property offered for sale upon the basis, expressed or implied, that the value of the property, in whole or in substantial part, is derived from its age or its historical association and exceeds the original value of the item when new.

LICENSING AND REGULATION OF PAWNBROKERS, SECONDHAND AND PRECIOUS METALS DEALERS

' 110.01 PURPOSE.

(A) The purpose of this subchapter is to prevent pawnshop, secondhand dealers and precious metals businesses from being used as facilities for the commission of crime. To assure that the businesses comply with basic consumer protection standards and to protect the public health, safety and general welfare of the citizens of the city, the City Council, therefore, finds consumer protection regulation is warranted in transactions involving pawnbrokers, secondhand dealers and precious metals dealers.

(B) To help the Police Department better regulate current and future pawnshop, secondhand goods and precious metals businesses, decrease and stabilize costs associated with regulation of these businesses and increase identification of criminal activities in these businesses through the timely collection and sharing of pawn transaction information, this subchapter also implements and establishes the required use of the Automated Pawn System (APS)⁷.
(Ord. 161, passed 11-8-2005)

' 110.02 DEFINITIONS.

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

ANTIQUÉ DEALER. Any natural person, partnership or corporation, either as principal, agent or employee thereof, whose regular business includes selling or receiving goods previously owned, used,

rented or leased, who offers for sale upon the basis, expressed or implied, that the value of the property, in whole or in substantial part, is derived from its age or its historical association and exceeds the original value of the item when new.

BILLABLE TRANSACTION. Every reportable transaction conducted by a pawnbroker, secondhand dealer or precious metals dealer is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee=s possession, voided transactions and confiscations.

MINOR. Any person under 18 years of age.

PAWNBROKER. Any natural person, partnership or corporation, either as principal, agent or employee thereof, within the city, who loans money on deposits or pledge of personal property or other valuable thing, who deals in the purchasing of personal property or other valuable item on condition of selling that same item back again at a stipulated price, or who loans money secured by a mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a business includes buying personal property previously used, rented or leased, or selling it on consignment, the provision of this section shall be applicable. Any bank, savings and loan association or credit union shall not be deemed a **PAWNBROKER** for purposes of this section.

PAWNSHOP. The location at which or premises in which a pawnbroker regularly conducts business.

PERSON. An individual, partnership including a limited partnership, a corporation including a foreign, domestic or nonprofit corporation, a trust, a political subdivision of the state or any other business organization.

PRECIOUS METALS DEALER. Any person engaged in the business of buying coins or secondhand items containing precious metals, including but not limited to jewelry, watches, eating utensils, candlesticks and religious and decorative objects.

REPORTABLE TRANSACTION. Every transaction conducted by a licensee with any member of the public in which merchandise is received through a pawn, purchase, consignment (including electronic transactions) or trade, or in which a pawn is renewed, extended, redeemed or voided, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item confiscated by law enforcement, is reportable except:

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

(2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired;

(3) Precious metals dealer transactions in which a secondhand item containing precious metals is exchanged for a new item containing precious metals, and the value of the new item exceeds the value of the secondhand item;

(4) Transactions between precious metals dealers if both dealers are licensed under M.S. ' 325F.733, as it may be amended from time to time, or if the seller=s business is located outside of the state and, the item is shipped from outside the state to a dealer licensed under M.S. ' 325F.733, as it may be amended from time to time;

(5) Transactions on behalf of dealers by a licensee, to include the exhibition of dealers= goods by a licensee;

(6) Transactions involving secondhand clothing, athletic gear, athletic footwear and linens where no single item has a value greater than \$50, except that dealers of secondhand bedding must comply with M.S. ' ' 325F.25 through 325F.34, as it may be amended from time to time. This exception does not otherwise apply to the sale of secondhand sporting equipment;

(7) Transactions involving secondhand kitchen or laundry appliances;

(8) Transactions involving the sale of secondhand furniture;

(9) Transactions involving only those secondhand goods taken as part of full payment toward new goods of greater value;

(10) Consignment of clothing, housewares and appliance items;

(11) Consignment by the artists themselves of works of art or craft;

(12) Transactions involving antique furniture. This exception does not exempt antique dealers from reporting transactions from the public involving items with unique identification or serial numbers, precious metals, precious gems, firearms, antique audio or video equipment, antique musical instruments, antique photographic or optical equipment, antique sporting equipment, coin collections, sets of collectable items and/or lighting fixtures or lamps that are, or contain stained, etched, leaded, beveled or art glass; and

(13) Transactions involving items received for which payment in full is made with a credit or voucher redeemable for merchandise from the licensee.

SECONDHAND DEALER. A person, partnership, firm or corporation whose business includes selling or receiving tangible personal property (excluding motor vehicles) previously used, rented, owned or leased, but excluding stores selling solely consigned or donated goods. This definition includes **ANTIQUA DEALERS.**
(Ord. 161, passed 11-8-2005)

' 110.03 LICENSE REQUIRED.

(A) No person, firm or corporation shall conduct or operate the business of pawnbroker, secondhand dealer or precious metals dealer without having first obtained a license therefor, as herein provided; or in violation of any of the provisions herein contained. No pawnbroker, secondhand dealer or precious metals dealer license may be transferred to a different location or a different person. A separate license is required for each place of business. A person may be issued multiple licenses if there has been compliance with this code and all other county, state and federal laws for each license.

(B) **BUSINESS MANAGER** is a person or persons designated by the licensee to operate a business in the licensee=s absence. A licensee must designate a manager to operate the licensed business if the licensee cannot provide on-site supervisory services at the business for at least 40 hours per month.

(1) When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application on forms provided by the city within 14 days.

(2) Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this code. If the investigation process is conducted solely within the state, the fee shall be \$500. If the investigation is conducted outside the state, the issuing authority may recover the actual investigation cost not exceeding \$10,000.

(Ord. 161, passed 11-8-2005) Penalty, see ' 110.99

' 110.04 EXCEPTIONS TO LICENSE REQUIREMENT.

(A) All pawnbrokers must be licensed, and there are no exceptions to the licensing requirements for pawnbrokers.

(B) All secondhand dealers must be licensed, except the following transactions shall not require a secondhand dealer=s license:

(1) The sale of secondhand goods where all of the following are present:

(a) The sale is held on property occupied as a residential dwelling by the seller or owned, rented or leased by a charitable or political organization;

(b) The items offered for sale are owned by the occupant;

(c) No sale exceeds a period of 72 consecutive hours;

(d) No more than two sales are held in any 12 consecutive month period at any residential dwelling; and

(e) None of the items offered for sale have been purchased for resale or received on consignment for purpose of resale.

(2) The sale of secondhand books or magazines where no single book has a value of greater than \$50;

(3) The sale of goods at an auction held by a licensed auctioneer;

(4) The sale of recyclable material, including but not limited to motor oil, aluminum, iron, glass, plastic and paper;

(5) Private occasional sales of secondhand goods;

(6) Sales by charitable organizations that take secondhand goods for no compensation;

(7) The sale of used motor vehicles; and

(8) A bulk sale of property from a merchant, manufacturer or wholesaler having an established place of business or of goods sold at open sale from bankrupt stock.

(C) The following transactions shall not require a precious metals dealer=s license:

(1) Transactions at occasional Agarage@, Ayard@ or estate sales or auctions held at the decedent=s residence, except that precious metals dealers must comply with the requirements of M.S. ' ' 325F.73 to 325F.744, as it may be amended from time to time, for these transactions;

(2) Transactions regulated by M.S. Chapter 80A, as it may be amended from time to time;

(3) Transactions regulated by the Federal Commodity Futures Commission Act;

(4) Transactions involving the purchase of precious metals grindings, filings, slag, sweeps, scraps or dust from an industrial manufacturer, dental lab, dentist or agent thereof;

(5) Transactions involving the purchase of photographic film such as lithographic and x-ray film, silver residue or flake covered in lithographic and x-ray film processing; and

(6) The business of buying or selling only those secondhand goods taken as part of full payment toward new goods of greater value.
(Ord. 161, passed 11-8-2005)

' 110.05 APPLICATION FOR LICENSE.

(A) *Application form.* Every application for a license under this section, whether for a natural person, partnership, corporation or other organization, shall be made on a form supplied by the city and shall contain all information on the license form as required by law.

(B) *Application execution.* All license applications under this section shall be signed and sworn to under oath or affirmation by the applicant. If the applicant is a natural person, it must be signed and sworn to by the person. If the applicant is a corporation, it must be signed and sworn to by an officer. If the applicant is a partnership, it must be signed and sworn to by one of the general partners. If the applicant is an unincorporated association, it must be signed and sworn to by the manager or managing officer. Any license obtained by use of false information shall result in the denial or revocation of a license.

(C) *Application verification.* All applications shall be referred to the Police Department for verification and investigation of the facts set forth in the application. The Police Department shall make a written report and recommendation to the City Council as to issuance or non-issuance of the license. The city may order and conduct additional investigation as it deems necessary during normal business hours.

(D) *Certificate of occupancy.* If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises. (Ord. 161, passed 11-8-2005)

' **110.06 FEES.**

Each application shall be submitted with an investigation fee of \$500 and the annual license fee.

(A) The investigation fee is non-refundable, whether the application is approved or not. The investigation fee covers the costs involved in verifying the license application and any expenses incurred by investigating compliance with this section. Investigative costs for applications requiring investigation outside the State of Minnesota will be billed to the applicant in

A pawnbroker license will not be issued unless the applicant files with the City Clerk Treasurer a bond with corporate surety, cash or a U.S. Government Bond in the amount of \$2,000 for a pawnbroker, \$1,000 for secondhand dealer and \$1,000 for precious metals dealer license. The bond must be conditioned on the licensee obeying the laws and ordinances governing the licensed business and paying all fees, taxes, penalties

accordance with this subchapter.

(B) The investigation fee and license fee shall be paid in full before the license application is accepted.

(C) The license fee shall be paid annually. The initial license fee will be prorated from the date of issuance. Renewal shall occur on or before January 15 of each calendar year.

(D) The application fee shall be credited to the first annual license fee, if the application is approved.

(E) Upon rejection, denial or withdrawal of any license application, only the annual license fee shall be refunded in full.

(F) The annual license fee is \$1,000. (Ord. 161, passed 11-8-2005)

' **110.07 BILLABLE TRANSACTION FEE.**

(A) The billable transaction license fee shall be set by ordinance.

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

(C) Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this code. (Ord. 161, passed 11-8-2005) Penalty, see ' 110.99

' **110.08 BOND.**

and other charges associated with the business. The bond must be furthered conditioned that the principal will account for and deliver to any person legally entitled any goods which have come into the principal=s hand through the principal=s business as a pawnbroker, secondhand dealer or precious metals dealer, or in lieu thereof, pay the reasonable value in money to the

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person. The bond must provide that it is forfeited to the city upon violation of any law or ordinance, and that it cannot be canceled except upon 30 days= written notice to the city, which shall be served upon the licensing authority.

(Ord. 161, passed 11-8-2005)

' 110.09 APPLICATION RENEWAL.

All licenses issued as per this section shall expire on January 1 following the date of approval by the city. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in the form as the city requires. No expiration of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledger.

(Ord. 161, passed 11-8-2005)

' 110.10 DEATH OF A LICENSEE.

In the case of the death of a licensee, the relative or personal representative of the licensee may continue operation of the business for not more than 90 days after the licensee=s death.

(Ord. 161, passed 11-8-2005)

' 110.11 CONDITIONS FOR APPROVAL OF LICENSE/ELIGIBILITY.

To be eligible for or to maintain a pawnbroker, secondhand dealer or precious metals dealer license, a person must operate lawfully and fairly within the provisions of this section, all other applicable laws and:

(A) No license under this section shall be issued to an applicant who is a natural person if the applicant:

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

(2) Has been convicted of any crime directly

(5) Is not of sufficient good moral character or repute as determined by the City Council.

(C) No license under this section shall be issued to

related to the occupation licensed as prescribed by M.S. ' 364.03, Subdivision 2, as it may be amended from time to time, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker, secondhand dealer or precious metals dealer as prescribed by M.S. ' 364.03, Subdivision 3, as it may be amended from time to time;

(3) Holds an intoxicating liquor license under this code;

(4) Is not a citizen of the United States or a resident alien, or upon whom it is impractical to conduct a background and financial investigation due to the unavailability of information; and/or

(5) Is not of sufficient good moral character or repute as determined by the City Council.

(B) No license under this section shall be issued to an applicant that is a partnership if the applicant has any general partner or managing partner who:

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

(2) Has been convicted of any crime directly related to the occupation and the person licensed, as prescribed by M.S. ' 364.03, Subdivision 2, as it may be amended from time to time, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker, secondhand dealer or precious metals dealer, as prescribed by M.S. ' 364.03, Subdivision 3, as it may be amended from time to time;

(3) Holds an intoxicating liquor license under this code;

(4) Is not a citizen of the United States or a resident alien, or upon whom it is impractical to conduct a background and financial investigation due to the unavailability of information; or

an applicant that is a corporation or other organization if the applicant has any manager, proprietor or agent in charge of the business to be licensed who:

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

(2) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. ' 364.03, Subdivision 2, as it may be amended from time to time, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a pawnbroker, secondhand dealer or precious metals dealer, as prescribed by M.S. ' 364.03, Subdivision 3, as it may be amended from time to time;

(3) Holds an intoxicating liquor license under this code;

(4) Is not a citizen of the United States or a resident alien, or upon whom it is impractical to conduct a background and financial investigation due to the unavailability of information; or

(5) Is not of sufficient good moral character or repute as determined by the City Council.

(D) Any change, directly or beneficially, in the ownership of any licensed pawnshop, secondhand or precious metals dealer shall require the application for a new license, and the new owner must satisfy all current eligibility requirements.

(E) The following locations shall be ineligible for a license under this section:

(1) No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for a license under any of the requirements of this code;

(2) Where operation of a licensed premise would violate the Bagley Ordinance; and

(3) Where the applicant=s present license was issued conditioned upon the applicant making specified improvements to the licensed premises or the property of the licensed premises which improvements have not been completed.

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

(6) The purchase price, amount of money

(Ord. 161, passed 11-8-2005) Penalty, see ' 110.99

' 110.12 GENERAL LICENSE RESTRICTIONS.

(A) Record keeping. At the time of a receipt of an item of property (other than pawn renewals, extensions or redemptions), whether sold or pawned, the pawnbroker, secondhand dealer and precious metals dealer shall immediately record, using the English language, in an indelible ink or in a computerized record approved by the City Manager, the following information:

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

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

(3) The full name, current residence address, current residence telephone number, address, date of birth, sex, height, weight, race and color of hair and eyes of the pledger or seller;

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

(a) Current valid Minnesota driver=s license;

(b) Current valid Minnesota identification card; and

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

loaned upon or pledged therefor;

(7) The maturity date of the pawn transaction and the amount due;

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

(9) (a) The licensee must also take color photographs or color video recording of:

1. Each customer involved in a billable transaction; and

2. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed;

(b) If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which it relates. The photographs must be available to the Director of Public Safety or the Director's designee upon request. The licensee must display a sign of sufficient size in a conspicuous place in the premises indicating that images are recorded; and

(c) If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must display a sign of sufficient size in a conspicuous place on the premises indicating that images are recorded. The licensee must keep the exposed videotape for three months.

(10) The licensee may fulfill the color photograph requirements in this code by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. The digital images may be captured from required video recordings, so long as all image requirements in this code are met.

(1) *Transactions and transaction information.* Licensees must provide to the Police Department all reportable transaction information by transferring it from their computer to the Automated

(B) *Printed record keeping.* The following shall be printed on all pawn tickets:

(1) The statement that Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment made on the account for a period of not less than 90 days past the date of the pawn transaction, renewal or extension; no further notice is necessary. There is no obligation for the pledger to redeem pledged goods@;

(2) The statement that The pledger of this item attests that it is not stolen, it has no liens or encumbrances against it and the pledger has the right to sell or pawn the item@;

(3) The statement that This item is redeemable only by the pledger to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record@; and

(4) A blank line for the pledger's signature.

(C) *Inspection of records.* The pawnbroker, secondhand dealer or precious metals dealer shall make available the information required in this section during business hours for inspection by the city. The information required in this section shall be retained by the pawnbroker, secondhand dealer or precious metals dealer for at least three years. These records shall be a correct copy of its entries made of the pawn transactions.

(D) *Daily reports to police.* Licensees must submit every reportable transaction to the Bagley Police Department daily, in the following manner.

Pawn System via modem, using the current version of the Minneapolis Automated Pawn System Interchange File Specification⁷. All required records must be

transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the city using a dial-callback protocol or other procedures that address security concerns of the licensee and the city. Any transaction that does not meet the Automated Pawn System Interchange File Specification⁷ must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily.

(2) *Billable transaction fees.* Licensees will be charged for each billable transaction reported to the Police Department.

(a) If a licensee is unable to transfer the required reports by modem successfully, the licensee must provide the Police Department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by 12:00 p.m. noon the next business day.

(b) If the problem is determined to be in the licensee=s system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports, as detailed in this section, and must be charged a \$50 reporting failure penalty, daily, until the error is corrected.

(c) If the problem is determined to be outside the licensee=s system, the licensee must continue to provide the required reports and resubmit all the transactions via modem when the error is corrected.

(d) If a licensee is unable to capture, digitize or transmit the photographs required in this code, the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction and make the photographs available to law enforcement upon request.

(e) Regardless of the cause or origin of

(2) *Order to hold.* Whenever the Director of Public Safety or the Director=s designee notifies a pawnbroker, secondhand dealer or precious metals dealer not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Director or the Director=s designee.

the technical problems that prevented the licensee from uploading his or her reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem existed.

(f) Division (D)(2)(b) above notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(E) *All new licensees are required to submit reportable transactions daily via modem.* Pawnbrokers, secondhand dealers and precious metals dealers in business prior to the passage of this subchapter that conduct fewer than 400 reportable transactions annually, may apply for approval by the licensing authority to submit daily reports manually until they exceed the annual minimum. The reports must be submitted to the Police Department in writing and on forms approved by the licensing authority, by 12:00 p.m. noon the first business day following the date of the transaction. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily. Billable transaction fees for licensees who submit reports manually will reflect the additional costs for entering the data in the Automated Pawn System.

(F) *Police order to hold property.*

(1) *Investigative hold.* Whenever a law enforcement official from any agency notifies a pawnbroker, secondhand dealer or precious metals dealer not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, until the investigative order is canceled or until an order to hold/confiscate is issued, pursuant to this code, whichever comes first.

The order to hold shall expire 90 days from the date it is placed unless the Director of Public Safety or the Director=s designee determines the hold is still necessary and notifies the licensee in writing.

(3) *Order to confiscate.* If an item is

identified as stolen or evidence in a criminal case, the Director or Director=s designee may:

(a) Physically confiscate and remove it from the licensed premises, pursuant to a written order from the Director or the Director=s designee; or

(b) Place the item on hold or extend the hold as provided in this code, and leave it at the licensed premises.

1. When an item is confiscated, the person doing so shall provide identification upon request of the pawnbroker, secondhand dealer or precious metals dealer, and shall provide the licensee the name and phone number of the confiscating agency and investigator and the case number related to the confiscation.

2. When an order to hold/confiscate is no longer necessary, the Director of Public Safety or the Director=s designee shall so notify the licensee.

(G) *Redemption period for pawned goods.* Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90-day holding period, items may not be removed from the licensed location except as to off-site locked storage facilities approved under the license or by law enforcement personnel. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the

pledger at the time of the initial transaction and signed by the pledger. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with this code.

(1) *Pledged goods.* A pledger shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 90 days of the date of the pawn, transaction, renewal or extension shall automatically be forfeited to the pawnbroker, and qualified right, title and interest in and to the goods shall automatically vest in the pawnbroker, secondhand dealer or precious metals dealer.

(2) *Pledger=s right.* The licensee=s right, title and interest in the pledged goods under this subchapter is qualified only by the pledger=s right, while the pledged goods remain in possession of the pawnbroker, secondhand dealer or precious metals dealer, and not sold to a third party to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.

(3) *Transaction.* A pawn transaction that involves holding only the title to property is subject to M.S. Chapter 168A or 336, as it may be amended from time to time.

(4) *Date.* The date by which an item of property that has been pawned must be redeemed by the pledger without risk that the item will be sold must be a day on which the pawnbroker is open for regular business.

(5) *Redemption, risk of loss.* Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledger at the time of the initial transaction and signed by the pledger shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledger, in cash or replacement goods acceptable to the pledger, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

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

(I) *Holding period for sold goods.* Any item sold to a pawnbroker, secondhand dealer or precious metals dealer, for which a report to the police is required, shall not be sold or otherwise transferred for 30 days after the date of the transaction. However, an individual may redeem an item 72 hours after the item was received on deposit by the pawnbroker, secondhand dealer or precious metals dealer, excluding Sundays and legal holidays.

(J) *Receipt.* The pawnbroker, secondhand dealer or precious metals dealer shall provide a receipt to the party identified in the reportable transaction and must maintain a duplicate of that receipt for three years. The receipt shall include:

- (1) The name, address and phone number of the licensed business;
- (2) The date on which the item was received by the licensee;
- (3) An accurate description of the item received (including any identifier such as a trademark,

serial number, identification number, model number and/or brand name) and amount paid to the pledger or seller in exchange for the item pawned or sold;

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

(5) The signature of the pawnbroker agent or licensee/employee conducting the transaction;

(6) The amount advanced or paid;

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

(8) The monthly and annual rate of interest charged on pawned items received;

(9) The full name, residence address, residence telephone number, date of birth, sex, height, weight, race and color of hair and eyes of the pledger or seller;

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

(a) Current valid Minnesota driver=s license;

(b) Current valid Minnesota identification card; and

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

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

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

(13) All printed statements as required by M.S. ' 325J.04, Subdivision 2, as it may be amended from time to time, or any other applicable statutes.

(K) *Hours of operation.* No pawnbroker, secondhand dealer or precious metals dealer shall keep the pawnbroker, secondhand or precious metals business open for the transaction of business on any day of the

week before 7:00 a.m. or after 10:00 p.m.

(L) *Minors.* The pawnbroker, secondhand dealer or precious metals dealer shall not purchase or receive

(M) *Inspection of items.* The licensee shall, at all times during the term of the license, allow the city to enter the licensed premises for the purpose of inspecting the premises and inspecting the items, wares and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed.

(N) *License display.* A license issued under this section must be posted in a conspicuous place in the premises for which it is used.

(O) *Maintenance of order.* A licensee under this section shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

(P) *Gambling.* No licensee under this section may operate or permit the operation on the licensed premises of dice, slot machines, roulette wheels, punch boards, blackjack tables or pinball machines which return coins or slugs, chips or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under M.S. ' ' 349A.11 through 349A.16, as it may be amended from time to time, may be operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the Director of the lottery pursuant to M.S. ' ' 349A.01 through 349A.15, as it may be amended from time to time.

(Q) *Prohibited goods.* No licensee under this section shall accept any item of property which contains an altered or obliterated serial number, AOperation Identification@ number or any item of property that has had its serial number removed.

(R) *Proper identification.* A licensee under this section shall not accept items of property unless the seller or pledger provides to the pawnbroker or secondhand dealer one of the following forms of photo identification:

- (1) A valid driver=s license;

personal property of any nature, deposit or pledge from any minor.

- (2) A Minnesota identification card; or

(3) A photo identification issued by the seller=s state of residency and current Minnesota address. Pursuant to state law, no other forms of identification shall be accepted.

(S) *Payment.* When a pawnbroker accepts an item for purchase or as security for a loan, payment for any article deposited, left, pledged or pawned may be made by cash or by check, draft or other negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution. This policy must be posted in a conspicuous place in the premises.

(T) *Business at only one place.* A license under this section authorizes the licensee to conduct his or her business only at the permanent place of business designated in the license. The city may issue more than one license to a person if that person complies with this section for each license. However, upon written request, the Director of Public Safety or his or her designee may approve an off-site locked and secure storage facility. The licensee shall permit inspection of the facility in accordance with this subchapter. All provisions of this subchapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city code. The licensee must either own the building in which the business is conducted and any approved off-site storage facility, or have a lease on the business premises which extends for more than six months.

(U) *Restrictions on weapons.*

(1) A pawnbroker, secondhand dealer or precious metals dealer may not receive as a pledge or otherwise, or accept for consignment or sale any revolver, pistol, rifle, shotgun or other firearm unless the dealer also maintains a federal firearms dealer=s license.

(2) A pawnbroker, secondhand dealer or precious metals dealer may not receive as a pledge or otherwise, or accept for consignment or sale, any sawed off shotgun, automatic rifle, black jack, switchblade or

other similar illegal weapons or firearms.

' 110.13 RESTRICTIONS REGARDING LICENSE TRANSFER.

Each license under this division shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.

(Ord. 161, passed 11-8-2005) Penalty, see ' 110.99

' 110.14 SUSPENSION OR REVOCATION OF LICENSE.

(A) *Reasons for suspension and revocation of license.* The City Council may suspend or revoke a license issued under this section upon a finding of a violation of:

- (1) Any of the provisions of this section;
- (2) Any state statute regulating pawnbrokers, precious metals dealers or secondhand dealers;
- (3) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical to impossible to conduct a background or financial investigation due to the unavailability of information;
- (4) Fraud, misrepresentation or bribery in securing or renewing a license;
- (5) Fraud, misrepresentation or false statements made in the application and investigation for, in the course of, the applicant=s business; and
- (6) Any conviction by the pawnbroker, secondhand dealer or precious metals dealer for theft, receiving stolen property or any other crime or violation involving stolen property, damage or trespass to property, sale of controlled substances or violation of any law relating to the operation of a business, or any crime of violence (as defined in M.S. ' 624.712, as it may be amended from time to time) shall result in the immediate suspension pending a hearing on revocation of any license issued hereunder.

(C) Interest shall not be deducted in advance, nor

(Ord. 161, passed 11-8-2005) Penalty, see ' 110.99

(B) *Suspension and revocation of license.* Except in the case of a suspension pending a hearing or revocation, a revocation or suspension by the City Council shall be preceded by written notice to the licensee and a public hearing. The written notice shall give at least ten days notice of the time and place of the hearing and shall state the nature of the charges against the pawnbroker, secondhand dealer or precious metals dealer. The Council may, without any notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days. The notice may be served upon the pawnbroker, secondhand dealer or precious metals dealer by the United States mail addressed to the most recent address of the business in the license application.

(C) *Appeal procedure.* Any licensee whose license is suspended or revoked by the City Council may appeal from the order to the District Court. The appeal shall be taken by service of written notice hereof upon the Council within ten days after service upon the licensee of the order appealed from and by filing with the District Court, within ten days after service, the notice of appeal with proof of service thereof upon the Council. An appeal will not stay implementation of the Council=s order.

(Ord. 161, passed 11-8-2005)

' 110.15 PERMITTED CHARGES.

(A) Notwithstanding any other statutes, ordinance, rule or regulation, a pawnbroker may contract for and receive a charge not to exceed 3% per month of the principal amount advanced in the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20 if the property is not in the possession of the pawnbroker.

(B) The charge allowed under division (A) above shall be deemed earned, due and owing as of the date of the pawn transaction and a like sum shall be deemed earned, due and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding month, the pawnbroker shall remit one-half of the pawnshop charge for that month to the pledger.

shall any loan be divided or split so as to yield greater

interest or fees that would be permitted upon a single, consolidated loan or for otherwise evading any provisions of this section.

(D) Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amount permitted under this section, shall be uncollectible and the pawn transaction shall be void.

(E) A schedule of charges permitted by this section shall be posted on the pawnshop premises in a place clearly visible to the general public.
(Ord. 161, passed 11-8-2005)

' 110.16 PROHIBITED ACTS.

(A) No pawnbroker, secondhand dealer or precious metals dealer licensed under this section shall:

(1) Intentionally possess stolen goods; and

(2) Refuse to permit law enforcement officers to examine records or items in the licensee=s premises or possession.

(B) No pawnbroker licensed under this section shall:

(1) Lend money on a pledge at a rate of interest above that allowed by law;

(2) Intentionally possess stolen goods;

(3) Sell pledged goods before the time to redeem has expired;

(4) Make a loan on a pledge to a minor; and

(5) Refuse to permit law enforcement officers to examine records or items in the licensee=s premises or possession.

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver=s license, a valid state identification or a photo identification issued by the seller=s state of residency and current Minnesota address.

(D) No licensee may receive any item of property which contains an altered or obliterated serial number, AOperation Identification@ number or any item of property that has had its serial number removed.

(E) No person under the age of 18 years may pawn, sell or attempt to pawn or sell goods to any licensee, nor shall any licensee receive any goods from a person under the age of 18 years.

(F) No licensee may receive any goods from a person of unsound mind or an intoxicated person.

(G) No person may pawn, pledge, sell, consign, leave or deposit any article of property not his or her own; nor shall any person pawn, pledge, sell, consign, leave or deposit the property of another, whether with permission or without; nor shall any person pawn, pledge, sell, consign, leave or deposit any article of property in which another has a security interest, with any licensee.

(H) No person seeking to pawn, pledge, sell, consign, leave or deposit any article of property with any licensee shall give a false or fictitious name; nor give a false date of birth, nor give a false or out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another to any licensee.

(Ord. 161, passed 11-8-2005) Penalty, see ' 110.99

GENERAL LICENSES

' 110.30 SALE OF MERCHANDISE OR PRODUCE FROM TEMPORARY OR MOVABLE SITE.

(A) No person, firm or corporation shall sell merchandise or produce from a temporary or moveable sales location in the city without first obtaining a license therefor from the City Clerk Treasurer's Office.

(B) The potential vendor shall apply to the City Clerk Treasurer and must disclose his or her name and address, the names and addresses of the persons who will be making the sales to the public, the location where the sales will be made, a description of the merchandise to be sold and the dates that the sales will be made. The City Clerk Treasurer may then issue a temporary license which must be prominently displayed at the place of business.

(C) The fee for the license shall be \$25 for each day or part of a day that sales will be made.

(D) This section shall not apply to any person who may sell or peddle the products of the farm or garden occupied and cultivated by him or her. This section shall not apply to any fundraising project sponsored by any church, school, civic or charitable institution in Clearwater County. This section shall not apply to activities on the county fairgrounds.

(E) This section takes effect upon its passage and publication.

(Ord. 125, passed 6-14-1988) Penalty, see ' 110.99

' 110.31 LICENSING AND REGULATION OF MOTION PICTURE THEATERS.

(A) *License required.* On and after the date hereof, no person shall construct, maintain or operate a motion picture theater within the city unless a license therefor shall first have been obtained as provided in this section.

(A) No person, firm or corporation shall maintain or operate a slaughterhouse within the city limits of the

(B) *Application and issuance.* Application for the license shall be made to the City Clerk Treasurer. The application shall state the full name and address of the applicant, the location of the building and the part intended to be used by the applicant under the license and type of construction of the building and the information as shall be required. Upon the filing of the application with the City Clerk Treasurer, it shall be presented to the City Council for its consideration and if granted by the Council, a license to operate the motion picture theater shall be issued by the City Clerk Treasurer upon payment of the required fee.

(C) *License fee.* The fee for every license shall be \$50 per annum. Every license shall expire on the first Tuesday of December of each year. For any license issued after the first Tuesday of December in any year, the fee shall be computed at the rate of one-twelfth of the license fee of \$50 for each month or fractional part of a month covered by the license. Licenses shall not be transferable from one person to another.

(D) *License shall be displayed.* Every license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

(E) *Restrictions.* No license shall be issued except to a person of good moral character nor for the operation of motion pictures at more than one place of business. No license shall be issued unless the building to be used as a motion picture theater shall in all respects fully comply with all state laws and all city ordinances relative thereto.

(F) *Revocation.* Every license may be revoked by the Council for a violation of any provision of this section if the license has been given a reasonable notice and an opportunity to be heard.

(Ord. 52, passed 9-6-1945)

' 110.32 PERMIT FOR OPERATION OF SLAUGHTERHOUSES.

City of Bagley, Clearwater County, State of Minnesota, where any animals or fowls, either domestic or wild, are

Bagley - Business Regulations

killed or slaughtered, either for human food or for products which are to be used otherwise, until a permit has been granted therefor by the Board of Health of the city as herein provided.

(B) Any person, firm or corporation desiring to engage in the business of slaughtering meat animals or fowl within the corporate limits of the city shall, before so doing, make application to the Board of Health of Bagley for a permit so to do, which application shall be signed by the person, firm or corporation making the same, and shall specify the location of the house or place where it is proposed to slaughter the animals or fowl. Upon the filing of the application with the Board of Health of the city, the Board of Health shall arrange for an inspection of the proposed house and if the same shall be found to comply with the provisions of this section, the Board of Health shall issue the permit applied for, without charge therefor, and cause a record thereof to be kept in the Health Office. The permits so issued shall not be transferrable or assignable.

(C) All slaughterhouses shall be at all times open to inspection by the Board of Health, any member or any duly appointed representative thereof.

(D) Any slaughterhouse shall be constructed pursuant to and in accordance with all laws of the State of Minnesota relative to the public health, and all rules and regulations now issued or to be issued by the State Board of Health and/or the Department of Agriculture, Dairy and Food of the State of Minnesota, and that all laws and regulations of the State of Minnesota, the State Board of Health and the Department of Agriculture, Dairy and Food relative to the operation thereof shall be strictly complied with.

(E) Any violation of any of the terms and provisions herein provided shall be cause for revocation of any permit issued hereunder.

(F) This section shall be in full force and effect from and after its passage and publication.
(Ord. 50, passed 2-1-1945) Penalty, see ' 110.99

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) A violation of ' ' 110.01 through 110.16 shall be a petty misdemeanor under Minnesota law.

(C) Any person who violates any provision of ' 110.30, upon conviction thereof, shall be punished by a fine not exceeding \$700 or by imprisonment for a period not exceeding 90 days or both.

(D) Any person who shall violate any provision of ' 110.31 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not to exceed \$100 or by imprisonment for not to exceeding 90 days.

(E) Every person, firm or corporation violating any of the terms and provisions of ' 110.32 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$100 or by imprisonment in a county jail for not more than 90 days.
(Ord. 50, passed 2-1-1945;
Ord. 52, passed 9-6-1945; Ord. 125, passed 6-14-1988;
Ord. 161, passed 11-8-2005)

' 110.99 PENALTY.

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

General Provisions

- 111.01 Regulating the possession and consumption of beer and liquor in streets and public property
- 111.02 Entrance and presence of minors in establishment where liquor is served; prohibited

Liquor Dispensary

- 111.15 Definitions
- 111.16 Dispensary established
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- 111.20 Conditions of operation and restrictions on consumption

Licensing and Regulating the Sale and Consumption of Intoxicating Liquor

- 111.35 Provisions of state law adopted
- 111.36 License required
- 111.37 Application for license
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- 111.40 Persons ineligible for license
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- 111.43 Suspension and revocation
- 111.44 Effective date

- 111.99 Penalty

(D) This section shall take affect upon its passage and publication according to law.
(Ord. 117, passed 6-23-1986) Penalty, see ' 111.99

GENERAL PROVISIONS

' 111.01 REGULATING THE POSSESSION AND CONSUMPTION OF BEER AND LIQUOR IN STREETS AND PUBLIC PROPERTY.

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

BEER. Three point two percent malt liquor which contains not in excess of 3.2% alcohol by weight.

INTOXICATING LIQUOR and ALCOHOL. Ethel alcohol, distilled, fermented, spiritous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight.

PACKAGE and ORIGINAL PACKAGE. Any container or receptacle holding liquor or beer, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

PUBLIC PROPERTY. As used herein, means any public property owned by the city except leased camping sites or leased picnic sites at the Bagley City Park and the golf course property.

(B) It is unlawful for any person to consume any beer, intoxicating liquor or liquor on any street or other public property.

(C) It is unlawful for any person to have in his or her possession any beer, intoxicating liquor or liquor on any street or other public property, unless the same is in the original package and with the seal thereon unbroken.

' 111.02 ENTRANCE AND PRESENCE OF

MINORS IN ESTABLISHMENT WHERE LIQUOR IS SERVED; PROHIBITED.

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

EMPLOYEE. An employee of any owner as herein defined.

OWNER. Any person or corporation who has a current 3.2% malt liquor license issued by the city.

(B) *Prohibition of permitting minors in beer or liquor establishments.* It shall be unlawful for any owner or employee in any on-sale 3.2% malt liquor establishment or in any establishment where liquor is sold, to permit any person under the age of 18 years to enter or be present in any room where 3.2% malt liquor is sold or served.
(Ord. 69, passed 6-30-1966; Ord. 86, passed 6-27-1973)
Penalty, see ' 111.99

LIQUOR DISPENSARY

' 111.15 DEFINITIONS.

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

BEER. Any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

INTOXICATING LIQUOR and **LIQUOR.** Distilled, vinous and fermented beverages containing more than 3.2% by weight.

MINOR. Any person under 18 years of age.

(2) The Manager shall operate the dispensary under the Council's direction and shall perform the duties in connection with the dispensary as may be imposed upon him or her by the Council. He or she shall be responsible to the Council for the conduct of the

OFF-SALE. Retail sale in the original package for consumption away from the dispensary.

ON-SALE. Sale by the drink for consumption in the dispensary.

SELL. All barter, gifts and other means of furnishing intoxicating liquor or beer in violation or evasion of this subchapter.
(Ord. 53, passed 10-24-1946; Ord. 86, passed 6-27-1973)

' 111.16 DISPENSARY ESTABLISHED.

There is hereby established a municipal liquor dispensary for the on- and off-sale of intoxicating liquor. No liquor may be sold at retail elsewhere in the city or by anyone not employed in the dispensary, except in the clubs as may lawfully be authorized by the Council. No person shall consume liquor in a public park, on a public street or in any public place other than the dispensary.
(Ord. 53, passed 10-24-1946) Penalty, see ' 111.99

' 111.17 LOCATION AND OPERATION.

(A) The dispensary shall be located at such suitable place in the city as the Council determines by motion. However, no premises upon which taxes or other public levies are delinquent shall be leased for dispensary purposes.

(B) (1) The dispensary shall be in the immediate charge of a liquor store manager selected by the Council and paid the compensation as is fixed by the Council. He or she shall furnish a surety bond to the municipality, conditioned upon the faithful discharge of his or her duties, in a sum as the Council specifies. The bond premium may be paid by the city or by the Manager in the discretion of the Council.

dispensary in full compliance with this subchapter and with the laws relating to the sale of liquor and beer.

(C) The Council shall also appoint additional employees as may be required for the dispensary and

shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No minor shall be employed in the dispensary.

(Ord. 53, passed 10-24-1946) Penalty, see ' 111.99

' 111.18 DISPENSARY FUND CREATED.

(A) A Municipal Liquor Dispensary Fund is hereby created in which all revenues received from the operation of the dispensary shall be deposited and from which all ordinary operating expenses shall be paid. Any amounts it may be necessary to borrow from the general fund of the city for initial costs of rent, fixtures and stock or for operating expenses shall be reimbursed to that fund out of the first available monies coming into the Dispensary Fund thereafter. Surpluses accumulating in the Dispensary Fund may be transferred to the general fund or to any other appropriate fund of the city, by resolution of the Council and expended for any municipal purpose.

(B) The handling of municipal liquor dispensary receipts and disbursements shall comply with the procedure prescribed by law for the receipts and disbursement of city funds generally.

(Ord. 53, passed 10-24-1946)

' 111.19 HOURS OF OPERATION.

(A) No sale of intoxicating liquor shall be made after 1:00 a.m. on Sunday, nor between the hours of 1:00 a.m. and 3:00 p.m. on any Memorial Day. No on-sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday. No off-sale shall be made before 8:00 a.m. or after 10:00 p.m. of any day. No sale of intoxicating liquor shall be made after 1:00 a.m. on New Year's Day, January 1; Memorial Day, the last Monday of May; Independence Day, July 4; Thanksgiving Day or Christmas Day, December 25. No off-sale shall be made after 8:00 p.m. on December 24.

(H) No minor shall misrepresent his or her age for the purpose of obtaining liquor or beer.

(I) No liquor or beer shall be sold or served to an

(B) The Minnesota state law which allows liquor establishments to remain open during primaries and general elections, is hereby adopted.

(Ord. 53, passed 10-24-1946; Ord. passed 4-12-1994)

Penalty, see ' 111.99

' 111.20 CONDITIONS OF OPERATION AND RESTRICTIONS ON CONSUMPTION.

(A) The dispensary shall not have swinging doors. All windows in the front of the dispensary shall be of clear glass, and the public view of the whole interior shall be unobstructed by screens, curtains or partitions. There shall be no partition, box, stall, screen, curtain or other device to obstruct the general observation of any part of the dispensary room by persons in the room; however, partitions, subdivisions or panels not higher than 48 inches from the floor are not to be construed as obstructions.

(B) No business other than the sale of liquor shall be carried on in the dispensary except the retail sale of cigars, cigarettes, all forms of tobacco, beer and soft drinks, both on-sale and off-sale.

(C) No pool or billiard table shall be kept in any part of the dispensary.

(D) No person shall keep, possess or operate in any part of the dispensary any slot machine, dice or other gambling device or permit the same to be kept or used. No person shall gamble on the premises and no gambling of any character shall be permitted thereon.

(E) No liquor or beer shall be sold on credit.

(F) No minor shall be permitted to remain on the dispensary premises.

(G) No liquor or beer shall be sold or served to a minor directly or indirectly.

intoxicated person.

(J) No person shall be permitted to loiter about the dispensary habitually.

(K) No person of a known immoral character and no disorderly person shall be permitted on the dispensary premises.

(L) The dispensary shall be inspected by the City Health Officer of the city at least once a month and as many other times as he or she deems necessary to insure that the premises are maintained in a sanitary condition. (Ord. 53, passed 10-24-1946) Penalty, see ' 111.99

**LICENSING AND REGULATING THE SALE
AND CONSUMPTION OF INTOXICATING
LIQUOR**

**' 111.35 PROVISIONS OF STATE LAW
ADOPTED.**

(A) *Provisions of state law adopted.* The provisions of M.S. Chapter 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale (except as limited in division (B) below) and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this subchapter as if set out in full.

(B) *Restriction on hours of sale.* Notwithstanding the reference to 2:00 a.m. in M.S. ' 340A.504, Subdivisions 1, 2 and 3, as it may be amended from time to time, no sales are permitted after 1:00 a.m. (Ord. 114, passed 3-5-1985; Ord. 155, passed 8-12-2003)

' 111.36 LICENSE REQUIRED.

(A) *Form.* Every application for a license to sell liquor shall state the name of the applicant, his or her age, representations as to his or her character, with references as the Council may require, his or her citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place and other information

(A) *General requirement.* No person, except a wholesaler or manufacturer to the extent authorized under state law, shall directly or indirectly deal in, sell or keep for sale in the city any intoxicating liquor without a license to do so as provided in this subchapter. Liquor licenses shall be of three kinds: Aon-sale@, Aon-sale wine@ and Aclub license@.

(B) *On-sale licenses.* On-sale licenses shall be issued only to hotels, clubs and restaurants that serve food to at least 25 guests at a time.

(C) *On-sale wine license.* On-sale wine licenses shall be issued only to restaurants that serve food to at least 25 guests at a time and otherwise meet the qualifications of M.S. Chapter 340A, as it may be amended from time to time, and shall permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

(D) *Special club licenses.* Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans= organizations which have been in existence for ten years.

(E) *Special license for Sunday sales.* A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant or club which has facilities for serving at least 30 guests at one time, and which has an on-sale license. (Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

' 111.37 APPLICATION FOR LICENSE.

as the Council may require from time to time. In addition to containing the information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the City Clerk Treasurer. No person shall make a false statement in an application.

(B) *Bond.* Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or

United States Government bonds of equivalent market value as provided in M.S. Chapter 340A, as it may be amended from time to time. The surety bond or other security shall be in the sum of \$3,000 for an Aon-sale@ license and \$3,000 for Aon-sale wine@ license.

(C) *Financial responsibility.* Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in M.S. Chapter 340A, as it may be amended from time to time, with reference to liability under M.S. Chapter 340A, as it may be amended from time to time. The proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to M.S. Chapter 340A, as it may be amended from time to time.

(D) *Approval by security.* The security offered under division (B) above shall be approved by the City Council, and in the case of applicants for Aon-sale@ wine license, by the State Commissioner of Public Safety. Liability insurance policies required by this subchapter but not by state law and surety bonds required under division (B) above shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in divisions (B) and (C) above is a cause for revocation of the license.

(E) *Proof.* Before the City Clerk Treasurer may issue any license hereunder, the applicants shall file with the City Clerk Treasurer proof of workers= compensation insurance coverage, Minnesota Business Identification Number and Social Security number of each applicant. The applicant must also obtain approval of the premises by the City Board of Health.
(Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

' 111.38 LICENSE FEES.

(A) *Fees.* The annual fee for a liquor license shall be \$1,200 for an Aon-sale@ license, \$100 for an Aon-sale wine@ license and \$100 for a special club license.

(B) *Payment.* Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee required under ' 111.39(A) if any. All fees shall be paid into the general fund. If an application for a license is rejected, the Treasurer shall refund the amount paid as the license fee.

(C) *Term; pro rata fee.* Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

(D) *Refunds.* No refund of any fee shall be made except as authorized by statute.
(Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

' 111.39 GRANTING OF LICENSES.

(A) *Preliminary investigation.* On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with his or her application an investigation fee of \$50, and the city shall conduct a preliminary background and financial investigation of the applicant.

(1) The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation.

(2) No license shall be issued, transferred or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest.

(3) If an investigation outside the state is required, the applicant shall be charged the cost not to exceed \$10,000 which shall be paid by the applicant after deducting any initial investigation fee already paid.

(4) The fee shall be payable by the applicant whether or not the license is granted.

(B) *Hearing and issuance.* The City Council shall investigate all facts set out in the application and not be investigated in the preliminary background and financial investigation conducted pursuant to division (A) above. 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 discretion, grant or refuse the application. No on-sale wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

(C) *Person and premises licensed; transfer.* Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license.

(Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

(5) Prohibition against gambling or gambling

' 111.40 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the city. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

(Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

' 111.41 PLACES INELIGIBLE FOR LICENSE.

(A) *General prohibition.* No license shall be issued for any place or any business ineligible for such a license under state law.

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

(Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

' 111.42 CONDITIONS OF LICENSE.

(A) *In general.* Every license is subject to the conditions in the following divisions and all other provisions of this subchapter and of any other applicable ordinance, state law or regulation:

(1) The posting of the license in a conspicuous place on the premises (M.S. Chapter 340A, as it may be amended from time to time);

(2) The confining sales to the compact and contiguous place named in the license (M.S. Chapter 340A, as it may be amended from time to time);

(3) A prohibition against sales to intoxicated persons, persons under 19 and habitual drunkards (M.S. Chapter 340A, as it may be amended from time to time);

(4) A restriction against the employment of minors in on-sale places except as musicians, bus boys or dishwashers (M.S. Chapter 340A, as it may be amended from time to time);
devices on licensed premises except paddle wheels, tip

boards and raffles licensed by the city under M.S. Chapter 349, as it may be amended from time to time (M.S. Chapter 340A, as it may be amended from time to time);

(6) Prohibition against the use of licensed premises or adjoining premises under the licensee's control as a resort for prostitutes or other disorderly persons (M.S. Chapter 340A, as it may be amended from time to time);

(7) Restrictions against any interest by manufacturers or wholesalers in a licensed place (M.S. Chapter 340A, as it may be amended from time to time); and

(8) Prohibition against refills (M.S. Chapter 340A, as it may be amended from time to time).

(B) *Insurance.* Compliance with financial responsibility requirements of state law and of this subchapter is a continuing condition of a license granted pursuant to this subchapter.

(C) *Licensee's responsibility.* Every licensee is responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this subchapter and the law equally with the employee.

(D) *Federal stamps.* No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp. (Ord. 114, passed 3-5-1985) Penalty, see ' 111.99

' 111.43 SUSPENSION AND REVOCATION.

(A) The Council may either suspend for a period not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor. Except in cases of failure of financial responsibility, no suspension or revocation

shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. ' 14.57 through 14.69, as it may be amended from time to time.

(B) Lapse of required dram shop insurance, bond or withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this subchapter without further action of the City Council. Notice of cancellation or lapse of a current liquor liability policy, bond or withdrawal of deposited cash or securities 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, bond or withdrawal of a required deposit or of suspension or revocation of a license may request a hearing thereon and if such a request is made in writing to the City Clerk Treasurer, a hearing shall be granted within ten days or such longer periods as may be requested. Any suspension under this division shall continue until the City Council determines that the financial responsibility requirements of this subchapter have again been met.

(Ord. 114, passed 3-5-1985)

' 111.44 EFFECTIVE DATE.

This subchapter becomes effective upon its passage and publication according to law. (Ord. 114, passed 3-5-1985)

' 111.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Every person who violates ' 111.01, when he or she performs an act thereby prohibited or declared unlawful or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor.

(C) Any owner or employee as defined in ' 111.02, who permits any minor to enter or be present in any room where 3.2% malt liquor or liquor is sold or served, shall be guilty of a misdemeanor and shall be punished by a fine of up to \$100 or imprisonment for a period of not more than 30 days.

(D) (1) It shall be the duty of all police officers and constables of the city to enforce the provisions of ' ' 111.15 through 111.20 and to search premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating ' ' 111.15 through 111.20, and to prepare the necessary processes and papers therefor.

(2) Any person violating any provision of ' ' 111.15 through 111.20 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100 or shall be imprisoned in the city lockup or county jail for not to exceed 90 days, plus the costs of prosecution in either case. Provided, also, that any employee of the dispensary wilfully violating any provision hereof or any provision of the laws of Minnesota relating to gambling or the sale of intoxicating liquor or beer shall be discharged.

(E) Any person violating any provision of ' ' 111.35 through 111.44 is guilty of a misdemeanor. (Ord. 53, passed 10-24-1946; Ord. 69, passed 6-30-1966; Ord. 114, passed 3-5-1985; Ord. 117, passed 6-23-1986)

CHAPTER 112: PEDDLERS AND SOLICITORS

Section

- 112.01 Definitions
- 112.02 Exceptions to definitions
- 112.03 Licensing; exemptions
- 112.04 License ineligibility
- 112.05 License suspension and revocation
- 112.06 License transferability
- 112.07 Registration
- 112.08 Prohibited activities
- 112.09 Exclusion by placard

' 112.01 DEFINITIONS.

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

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

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

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR** and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal

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

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

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

' 112.02 EXCEPTIONS TO DEFINITIONS.

property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable

food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

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

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under ' 112.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

' 112.03 LICENSING; EXEMPTIONS.

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

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to ' 112.07.

(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);

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

- (1) Applicant=s full legal name;
- (2) All other names under which the applicant conducts business or to which the applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of applicant=s permanent residence;
- (5) Telephone number of applicant=s permanent residence;
- (6) Full legal name of any and all business operations owned, managed or operated by the applicant, or for which the applicant is an employee or agent;
- (7) Full address of the applicant=s regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (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, 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 owner's agent for any property to be used by a transient merchant;

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

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

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

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

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the ordinance establishing fees and charges, adopted pursuant to the city's procedures, 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 Clerk Treasurer, within two 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 Clerk Treasurer determines that the application is incomplete, the City Clerk Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application, the City Clerk Treasurer must issue the license unless there exist grounds for denying the license under ' 112.04, in which case the City Clerk Treasurer must deny the license. If the City Clerk Treasurer denies the license, the applicant must be notified in writing of the decision, the reason for denial and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

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

(G) *License exemptions.*

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

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

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

Penalty, see ' 10.99

' 112.04 LICENSE INELIGIBILITY.

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

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

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

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

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

(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 General's Office or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

' 112.05 LICENSE SUSPENSION AND REVOCATION.

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

(1) Fraud, misrepresentation or incorrect statements on the application form;

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

(3) Conviction of any offense for which granting of a license could have been denied under ' 112.04; and

(4) Violation of any provision of this chapter.

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

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

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

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

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
Penalty, see ' 10.99

' **112.06 LICENSE TRANSFERABILITY.**

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.
Penalty, see ' 10.99

' **112.07 REGISTRATION.**

All solicitors, and any person exempt from the licensing requirements of this chapter under ' 112.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term *DOOR-TO-DOOR ADVOCACY* includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the

registration form, the City Clerk Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable.
Penalty, see ' 10.99

' **112.08 PROHIBITED ACTIVITIES.**

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

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

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

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

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

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

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

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

' 112.09 EXCLUSION BY PLACARD.

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating ANo Peddlers, Solicitors or Transient Merchants@ or APeddlers, Solicitors and Transient Merchants Prohibited@ or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

Penalty, see ' 10.99

CHAPTER 113: TOBACCO REGULATIONS

Section

113.01 Licensing and regulating the retail sale of cigarettes and cigarette wrappers

113.99 Penalty

' 113.01 LICENSING AND REGULATING THE RETAIL SALE OF CIGARETTES AND CIGARETTE WRAPPERS.

(A) *Licence required.* After December 31, 1941, no person shall directly or indirectly or by means of any device keep for retail sale, sell at retail or otherwise dispose of any cigarette or cigarette wrapper at any place in the city unless a license therefor shall first have been obtained as provided in this section.

(B) *Application and issuance.* Application for the license shall be made to the City Clerk Treasurer on a form supplied by the city. The application shall state the full name and address of the applicant, the location of the building and the part intended to be used by the applicant under the license, the kind of business conducted at the location and the other information as shall be required by the application form. Upon the filing of the application with the City Clerk Treasurer, it shall be presented to the City Council for its consideration, and if granted by the Council, a license shall be issued by the City Clerk Treasurer upon payment of the required fee.

(C) *License fee.* The fee for every license shall be \$12 per annum. Every license shall expire on December 31 in any year. The fee shall be computed at the rate of \$1 for each month or fractional part of a month covered by the license. Licenses shall not be transferable from one person to another.

(D) *License shall be displayed.* Every license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

(E) *Restrictions.* No license shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of cigarettes at any place other than his or her established place of business. No license shall be issued for the sale of cigarettes at a movable place of business, nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any cigarette, cigarette paper or cigarette wrapper to any person below the age of 18 years. No person shall keep for sale, sell or dispose of any cigarette containing opium, morphine, jimson weed, Bella donna, strychnia, cocaine, marijuana or any other deleterious or poisonous drug except nicotine.

(F) *Revocation.* Every license may be revoked by the Council for a violation of any provision of this section if the licensee has been given a reasonable notice and an opportunity to be heard.
(Ord. 47, passed 11-6-1941) Penalty, see ' 113.99

' 113.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person who shall violate any provision of ' 113.01 shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed \$100 or by imprisonment for not to exceed 90 days.

(Ord. 47, passed 11-6-1941)

CHAPTER 114: AMUSEMENTS

Section

General Amusements

- 114.01 Licensing and regulating the conduct of bingo

Gambling

- 114.15 Charitable gambling
114.16 Raffles and gambling devices
114.99 Penalty

GENERAL AMUSEMENTS

' 114.01 LICENSING AND REGULATING THE CONDUCT OF BINGO.

(A) *Provisions of state law adopted.* The provisions of M.S. ' ' 349.11 through 349.23, as it may be amended from time to time, relating to the game of bingo are adopted and made a part of this section as if set out in full. In addition, the regulations of this section shall apply to the conduct of bingo within the city.

(B) *Licenses.*

(1) *License required.* The conduct of bingo within the city without a license is prohibited. Any organization authorized by law to conduct bingo occasions may do so only after receiving a license so

authorizing from the Council.

(2) *Application.* An application for a bingo license shall state the location, time and hours of bingo occasions for which permission is requested. Each application shall be made to the City Clerk Treasurer on a form prescribed by him or her and shall be sufficient to show that the applicant is eligible for a license and that the operations described conform to the law and this section. Each application shall be verified by a duly authorized officer of the organization seeking the license and by the designated bingo or gambling manager. No application shall be accepted unless it is accompanied by the full annual fee for the license sought. No person shall make a false statement in an application. Copies of each application shall be referred to the Police Chief, Fire Chief and the Building Inspector of the city for their recommendations.

(3) *Duration of licenses.* All licenses issued under this section shall be for a period of one year and shall expire on December 31.

(4) *Fees.* The annual license fee for a bingo license shall be \$100.

(5) *Transfer.* No license issued under this section shall be transferred to any other person or organization. No license shall be transferred to any location other than that specified in the license without the prior approval of the Council.

(C) *Suspension and revocation.* No licensee shall have a vested right in any license issued under this section. Any license may be suspended for a period not exceeding 60 days or revoked by the Council at any time for violation of any provision of this section or applicable state law. The licensee shall be granted an opportunity for a hearing upon at least ten days notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

(Ord. 108, passed 3-22-1983) Penalty, see ' 114.99

GAMBLING

' 114.15 CHARITABLE GAMBLING.

(A) All organizations applying to have gambling activities inside the city must have been headquartered in Bagley, Minnesota and hold regular membership meetings five years previous to application for charitable gambling.

(B) This section shall take effect and be in full force and effect from and after its publication.

(Ord. 141, passed 3-14-1995)

' 114.16 RAFFLES AND GAMBLING DEVICES.

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

GAMBLING DEVICES. Those devices known as Apaddle wheels@, Atip boards@, Apull-tabs@ (or Aticket jars@) or apparatus used in conducting raffles.

GAMBLING MANAGER. A member who has paid all his or her dues to the organization, who has been a member of the organization for at least two years and who has been designated by the organization to supervise gambling activities conducted by it.

ORGANIZATION. Any fraternal, religious, veterans or other nonprofit organization.

PADDLE WHEEL. A wheel marked off into sections containing one or more numbers and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

PULL-TABS (or TICKET JARS).

(a) A single folded or banded ticket or a card, the face of which is initially covered, or otherwise hidden from view, to conceal a number or set of numbers or a symbol or set of symbols. A few of the numbers or symbols out of every set of pull-tabs (or ticket jars) will have been designated in advance and at random as prizewinners. A participant pays a consideration to an operator for the opportunity to obtain a folded or banded ticket or card, view the numbers or symbols on it and passably obtain a prize-winning pull-tab (or ticket jar).

(b) Only paddle wheel, tip board or raffles are permitted. Use or possession of any gambling device activated by insertion of a coin or token is prohibited. Also prohibited is any game or device in which the winner is determined by outcome of any athletic contest or sporting event. (Pull-tabs or Aticket jars@ are considered tip boards.)

RAFFLE. A game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing.

TIP BOARD. A board, placard or other device measuring at least 12 inches square, marked off in a grid or columns, in which each section contains a hidden number, numbers or other symbol which determines the winning chances.

(B) *License required.* The operation of raffles or other permitted gambling devices, as defined in Laws 1978, Ch. 507, is hereby declared illegal unless the following requirements are fully complied with, namely the following provisions.

(C) *Licenses.* Licenses for the conduct of operation of raffles or gambling devices shall be issued only to religious, fraternal, veterans or other nonprofit organizations not organized for pecuniary profit and duly existing under the laws of the State of Minnesota, provided that the proceeds therefrom are not to inure to the profit of any individual; further, the organization

shall have been in existence for at least three years, shall have at least 30 active members and shall comply with

(D) *Application.*

(1) Application for license to conduct raffles or to operate gambling devices shall be made to the City Council not less than 35 days prior to the game by an organization authorized by statute to conduct the activities. The application shall be verified by a duly authorized officer and by the gambling manager of the organization who is charged by the organization with the conduct and supervision of the activities. The application, together with all fees required herein, shall be submitted to the issuing authority for presentation to the Council.

(2) The application shall be in the form specified by the issuing authority and shall state the place where the activities will be played and the date(s) and the hours for which permission is requested. The applicant organization shall not conduct the activities at any other place or time than that specified in the application. Raffles and gambling devices can only be conducted or operated on the premises of a nonprofit organization.

(3) The City Council shall act on the application within 180 days from the date of application but shall not issue a license until at least seven days after the date of application. The City Council shall, in its discretion, either grant or deny the application.

(E) *Additional requirements.*

(1) *Conduct.* The applicants shall be responsible for both the proper conduct and operation of the activities and for compliance with the provisions of Laws 1978, Ch. 507, and all other statutes, ordinances and regulations of any governmental agency pertaining to the conduct of the activities or to the premises upon which it is proposed that the activities shall be conducted.

Laws 1978, Ch. 507.

(2) *Prior approval.* Before any organization which is licensed pursuant to this division conducts a raffle or uses a tip board or paddle wheel, it shall file with the issuing authority a description of the gambling device to be used. Only those devices approved by the issuing authority shall be used. The issuing authority shall approve all devices meeting the definitions found in this section. A request to use any other device shall be denied.

(3) *Operation.* Only persons who have been members of the organization for six months and who are current on dues shall be permitted to conduct the activities. Active members shall be deemed to include auxiliary members and spouses or surviving spouses of active members.

(4) *Change of officers.* If subsequent to the issuance of the license there is a change of officers of the organization or of the gambling manager as identified in the application, the licensee and the manager shall promptly notify the issuing authority of the change or changes.

(F) *Fee.*

(1) License fees shall be submitted with the application and shall be as follows:

(a) *Amount.* One hundred dollars annually for all devices; and

(b) *Special event raffle.* If an organization conducts no more than three raffles per year, there shall be no fee.

(2) Each license shall expire on December 31 of the year for which the license is issued, unless a lesser time period is established by the City Council at the time of granting a license.

(G) *Reports.*

(1) At least 30 days prior to conducting its first occasion of the year, and on an annual basis thereafter, an organization shall file with the issuing authority copies of the following:

Bagley - Business Regulations

(a) Department of Treasury, Internal Revenue Service, AReturn of Organization Exempt from Income Tax@ Form 990 or a comparable form if the

(b) Department of the Treasury, Internal Revenue Service, AExempt Organization Business Income Tax@ Form 990-T or a comparable form if the organization is required to file the form with the Department of Treasury; and

(c) The annual report required of charitable organizations by M.S. ' 309.53.

(2) Not more than 15 days after each occasion or after the close of each month for those holding yearly gambling licenses, a detailed report shall be submitted to the issuing authority. This report shall contain a report on income and expenses prepared in accordance with generally accepted accounting principles and shall also show distributions of proceedings for each reporting period.

(3) Such other and further information as the City Council may require.

(H) *Manager.* No person shall act as a gambling manager for more than one organization.

(I) *Fidelity bond.* The gambling manager shall give a fidelity bond in the sum of \$10,000 in favor of the organization, conditioned on the faithful performance of his or her duties. Terms of the bond shall provide that notice shall be given in writing to the issuing authority not less than 30 days prior to its cancellation. A copy of the bond shall be filed with the issuing authority.

(J) *Miscellaneous provisions.* No compensation in excess of \$25 a week shall be paid in connection with the operation of a gambling device.

organization is required to file the form with the Department of the Treasury;

(K) *Revocation.* No license shall have a vested right in any license hereunder, and the licenses issued hereunder may be revoked by resolution of the Council in its discretion at any time. The license shall be revoked in the event that the licensee violates or causes to be violated any of the provisions of this division, of the statutes hereinbefore mentioned relating to raffles and gambling devices or of any other law, ordinance or regulation pertaining to the conduct of the activities or to the premises on which it shall be conducted or in the event the applicant is guilty of any misrepresentation in the application.

(Ord. 106, passed 4-12-1982) Penalty, see ' 114.99

' 114.99 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.