

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. ALCOHOLIC BEVERAGES
- 111. PEDDLERS AND SOLICITORS
- 112. GENERAL BUSINESS PROVISIONS
- 113. ADULT ESTABLISHMENTS
- 114. MASSAGE LICENSES

CHAPTER 110: ALCOHOLIC BEVERAGES

Section

General Provisions

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

Licensing

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

Licensing: Intoxicating Liquor

- 110.40 Licensing of employees

Municipal Liquor Stores

- 110.50 Application of this subchapter
- 110.51 Existing municipal stores continued

110.52 Location

2012 S-6

- 110.53 Operation
- 110.54 Proof of financial responsibility
- 110.55 Issuance of other licenses

GENERAL PROVISIONS

▪ 110.01 ADOPTION OF STATE LAW BY REFERENCE.

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

▪ 110.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

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

▪ 110.03 DEFINITIONS.

In addition to the definitions contained in M.S. ' 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

EMPLOYEE. Any person who may be permitted, required, or directed by any employer in consideration of direct or indirect gain or profit, to engage in any employment regarding the sale, service or delivery of intoxicating liquor.

LIQUOR. As used in this chapter, without modification by the words Aintoxicating@ or A3.2 percent malt,@ includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a Arestaurant@ as defined by this section, an establishment shall have a license from the state as required by M.S. ' 157.16, as it may be amended from time to time, and meet the definition of either a Asmall establishment,@ Amedium establishment@

2008 S-1a

or *Alarge establishment* as defined in M.S. ' 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of *Asmall establishment*, *Amedium establishment* or *Alarge establishment*.

▪ **110.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of ' 110.99(B).

Penalty, see ' 110.99

▪ **110.05 CONSUMPTION IN PUBLIC PLACES.**

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

Penalty, see ' 110.99

LICENSING

▪ **110.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.**

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of license which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or

election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. ' 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

▪ **110.21 TERM AND EXPIRATION OF LICENSES.**

Each license shall be issued for a maximum period of 1 year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

▪ **110.22 KINDS OF LIQUOR LICENSES.**

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in ' 110.20. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in ' 110.55.

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

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

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

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under ' 110.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. ' 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. ' 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under ' 110.23 shall not exceed the amounts provided for in M.S. ' 340A.408, Subd. 2b, as it may be amended from time to time. The

Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. ' 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. ' 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, as authorized by voter approval at a general or special election as provided by M.S. ' 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in ' 110.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of ' 110.23, shall not exceed \$200, or the maximum amount provided by M.S. ' 340A.504, Subd. 3c, as it may be amended from time to time. Intoxicating liquor for consumption on the premises in conjunction with the sale of food may be sold between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays. (Ord. 186, passed 12-10-2002.)

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any 1 organization in 1 calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at 1 time and meet the criteria of M.S. ' 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in ' 110.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. ' 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of ' 110.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

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

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person

who has been issued a consumption and display permit under the provisions of ' 110.23 shall not exceed \$300, or the maximum amount permitted by M.S. ' 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

▪ **110.23 LICENSE FEES; PRO RATA.**

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

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

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. ' 340A.408, Subd. 5, as it may be amended from time to time.

▪ **110.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.**

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

▪ **110.25 APPLICATION FOR LICENSE.**

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, a list of current employees, permit numbers and date of training, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and the City of Maple Plain, and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an

application.

2008 S-1a

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. ' 340A.409, as it may be amended from time to time, with regard to liability under M.S. ' 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. ' 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

Penalty, see ' 110.99

▪ **110.26 DESCRIPTION OF PREMISES.**

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

▪ **110.27 APPLICATIONS FOR RENEWAL.**

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

▪ **110.28 TRANSFER OF LICENSE.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Penalty, see ' 110.99

▪ **110.29 INVESTIGATION.**

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

2008 S-1a

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

▪ **110.30 HEARING AND ISSUANCE.**

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

▪ **110.31 RESTRICTIONS ON ISSUANCE.**

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than 1 license shall be directly or indirectly issued within the city to any 1 person.

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

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

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

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

Penalty, see ' 110.99

▪ 110.32 CONDITIONS OF LICENSE.

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

(A) Within 14 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council and shall be approved by West Hennepin Public Safety. Proof of training shall be provided by the licensee.

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

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

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

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

▪ 110.33 HOURS AND DAYS OF SALE.

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

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

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

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

2008 S-1a

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

Penalty, see ' 110.99

▪ **110.34 MINORS ON PREMISES.**

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

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

Penalty, see ' 110.99

▪ **110.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. ' 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

Penalty, see ' 110.99

▪ **110.36 SUSPENSION AND REVOCATION.**

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

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of ' 110.04, the license shall be revoked.

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

(a) For the first violation within any three-year period, at least 1 day suspension in addition to any criminal or civil penalties which may be imposed.

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

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

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

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

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

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

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

(a) First violation within any 3-year period, \$500 fine.

2008 S-1a

- (b) Second violation within any 3-year period, \$750 fine plus 2 day suspension of license.
- (c) Third violation within any 3-year period, \$1,000 fine plus 18 day suspension
- (d) Fourth violation within any 3-year period, \$1,500 fine plus license revoked.

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

LICENSING: INTOXICATING LIQUOR

• 110.40 LICENSING OF EMPLOYEES.

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

(A) No person shall work as a manager, bartender, cocktail waitress, clerk, delivery person, or in any capacity where such person sells, services or delivers intoxicating liquor in or from premises licensed under this chapter, and no license shall permit any such person to be so employed, unless such person, within 7 days after being first employed, shall apply for a license to engage in such business. No person may be so employed for any length of time if his or her license is denied or revoked. This section shall not apply to persons employed in establishments licensed pursuant to this code described as bona fide clubs.

(B) No person shall make off-sale deliveries of intoxicating liquor in the original package within the city unless such person has obtained a license as an employee.

(C) An application for such license shall be filed with the City Clerk on forms provided by the city, and such application shall be verified under oath and shall contain the following information:

(1) The names and addresses of two residents of Hennepin County, Minnesota, who have known the applicant for a period of 2 years and who will vouch for the sobriety, honesty and general good character of the applicant.

(2) A concise history of the applicant's previous employment.

(3) The record, if any, of arrests and of convictions for crimes and misdemeanors other than traffic offenses.

(4) Before the investigation is undertaken, the applicant must authorize the West Hennepin Public Safety Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Chapter 13 regarding the collection, maintenance and use of the information.

(D) The annual license fee shall be \$20 and shall be paid at the time of application.

(E) The application shall be referred to the West Hennepin Public Safety Department (WHPS) which shall investigate the facts set forth in the application and shall make a written report thereon at the earliest practicable time. In conducting the criminal history background investigation in order to screen license applicants, WHPS is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at WHPS under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by WHPS to the licensing authority, including the City Council, the City Administrator, or other city staff involved in the license approval process.

(F) Except for the positions set forth in M.S. ' 364.09, the city will not reject an applicant for a license on the basis of the applicant=s prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence.

(G) If the city rejects the applicant=s request on this basis, the city shall notify the applicant in writing of the following:

(1) The grounds and reasons for the denial.

(2) The applicant complaint and grievance procedure set forth in M.S. ' 364.06.

(3) The earliest date the applicant may reapply for the license.

(4) That all competent evidence of rehabilitation will be considered upon reapplication.

(Am. Ord. 267, passed 6-25-2012)

Cross-reference:

Conditions of license, see ' 110.32

MUNICIPAL LIQUOR STORES▪ **110.50 APPLICATION OF THIS SUBCHAPTER.**

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

▪ **110.51 EXISTING MUNICIPAL STORES CONTINUED.**

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

Penalty, see ' 110.99

▪ **110.52 LOCATION.**

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

▪ **110.53 OPERATION.**

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

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council

may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

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

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

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in ' 110.33. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease. Penalty, see ' 110.99

• 110.54 PROOF OF FINANCIAL RESPONSIBILITY.

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

• 110.55 ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. ' 340A.404, Subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue on its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this section is governed by M.S. ' 340A.413, as it may be amended from time to time, as limited by the provisions of this chapter. The issuance of these licenses is governed by the provisions of this chapter.

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

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

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

General Provisions

- 111.01 Purpose
- 111.02 Definitions
- 111.03 Exemptions
- 111.04 Practices prohibited
- 111.05 Permit and registration required
- 111.06 Transfer prohibited
- 111.07 Conduct of activity
- 111.08 Hours and days of permitted activity
- 111.09 Revocation of permit
- 111.10 Appeal
- 111.11 False endorsement prohibited
- 111.12 Effective date

Soliciting and Vending by Catering Food Vehicles

- 111.25 Requirements
- 111.26 Definitions
- 111.27 Hours
- 111.28 Routes
- 111.29 Stopping; intersections and curbs
- 111.30 Insurance requirements
- 111.31 Safety requirements
- 111.32 Registration requirements
- 111.33 Prevention of littering
- 111.34 Loud noise prohibited

GENERAL PROVISIONS

▪ 111.01 PURPOSE.

The purpose of this subchapter is not to interfere with the legitimate business interests of peddlers as herein defined, rather, is intended only for protection of the interests and safety of residents, including privacy interests and interests against crime, to wit: to regulate all illegitimate operations and to regulate and control those who would use their property presence within the city, or their proximity to its residents, for purposes of harassment, nuisance, theft, or other unlawful activities which compromise the safety or privacy rights of all residents of Maple Plain.

(Ord. 194, passed 1-27-2004)

▪ 111.02 DEFINITIONS.

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

PEDDLER. Any person, firm, or corporation, whether or not a Maple Plain resident, who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares, or merchandise and offering or exposing them for sale. This definition shall not include vendors of milk, bakery products, groceries, or other such items distributed on established routes, nor to those selling products of the farm or garden which they themselves occupy or cultivate nor to those selling newspapers.

SOLICITOR. Any person, firm, or corporation, whether or not a Maple Plain resident, who goes from dwelling to dwelling, business to business, place to place, or from street to street soliciting donations or attempting to take orders for any goods, wares, or merchandise for future delivery.

TRANSIENT MERCHANT. Any person, firm, or corporation, whether or not a Maple Plain resident, who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, vacant lot, parking lot, motor vehicle, or trailer; the definition excludes any person, firm, or corporation who sells the items from within the confines of a lawfully established and operating permanent retail sales operation.

(Ord. 194, passed 1-27-2004)

▪ 111.03 EXEMPTIONS.

The terms of this section do not include the following:

(A) Acts of merchants or employees in delivering goods in the regular course of business;

(B) Children, age 18 or younger, soliciting for school sponsored activities, or for the organizations as the scouts or little league where the children are members of the organization and where the proceeds of the sale are mainly devoted to the benefit of the children;

(C) Solicitations for donations, money, or financial assistance for an organization that is philanthropic, religious, political, nonprofit, or education in nature, or selling or distributing literature or merchandise for which a fee is charged or solicited on behalf of the organization. The exception does not include individuals who are paid to engage in the activity; and

(D) Farmer=s markets selling agricultural products of the farm or garden within the city limits. Organizers and/or vendors of such activities must register with the city and may only sell products at locations approved by the City Council.

(Ord. 194, passed 1-27-2004; Am. Ord. 216, passed 7-23-2007)

▪ **111.04 PRACTICES PROHIBITED.**

No peddler or solicitor shall enter into or upon any premises or attempt to enter in or upon any premises herein a sign or placard bearing a notice such as ANo Solicitors@ or APeddlers or Solicitors Prohibited@ is located, notwithstanding that the peddler or solicitor has a valid permit issued by the City of Maple Plain. In addition, no peddler or solicitor shall enter into or upon any premises where the peddler or solicitor has previously been informed by the resident that his or her presence is not welcome or permitted in the future. Any sign prohibiting peddlers or solicitors shall serve to prohibit all the action including those defined as otherwise except under this subchapter.

(Ord. 194, passed 1-27-2004) Penalty, see ' 10.99

▪ **111.05 PERMIT AND REGISTRATION REQUIRED.**

(A) It is unlawful for any peddler, solicitor, or transient merchant to engage in any such business within the City of Maple Plain without first registering with the City Administrator/Clerk and obtaining a permit therefor in compliance with the provisions of this subchapter.

(B) Persons registering for a permit under this subchapter shall first file a sworn statement with the City Administrator/Clerk=s office on a form to be furnished by the city, stating the following:

(1) Full name, alias and date of birth, driver=s license, and its state of issue or other acceptable identification of the person registering; including the name and addresses of all persons working for or assisting the registrant, as well as authorization for background check for registrant and all persons assisting the registrant, pursuant to M.S. Chapter 13;

(2) Permanent home address of applicant and address of place of business or the firm or corporation which the applicant represents;

2012 S-6

Maple Plain - Business Regulations

- (3) Description of the nature of the business and goods to be sold;
 - (4) Length of time for which right to do business is required;
 - (5) Dates and hours when the activity will be conducted;
 - (6) Make, model, year, color, and state license number of each motor vehicle to be used in connection with the proposed activity; and
 - (7) In cases of transient merchant sales, the applicant must also provide:
 - (a) Proof of appropriate permission to operate on proposed site; and
 - (b) Copy of firm or individual=s sale tax permit which must be posted at the site.
- (C) Persons registering shall also be required to pay a registration fee to cover administrative costs of processing and investigation as determined by the City Council resolution; the fee shall be for each individual who is registered under the permit.
- (D) All registered solicitors, peddlers, and persons working for those registered shall wear an identification sticker issued by the city, and all transient merchants shall display a registration permit issued by the city.
- (E) All registrations shall expire 1 year from their issuance.
- (F) Upon receipt of each application for registration with the required information and fee, it shall be referred to the Director of West Hennepin Public Safety or his or her designee to immediately institute a Minnesota Computerized Criminal History (CCH) records check of the applicant including driver=s license, and other law enforcement contracts and warrant check. Every attempt will be made to have the application for registration endorsed within 72 hours of receipt of the application, not including holidays or weekends, and not including the day on which the application is received by the West Hennepin Public Safety Department.
- (G) Any applicant may be found to be unsatisfactory, and the application rejected, for reasons, including fraud, misrepresentation, omission, or incorrect statement in course of business as a solicitor, canvasser, peddler, or transient merchant; past conviction of any crime including fraud, theft, or moral turpitude, or any crime of violence deemed qualified by the Director of Public Safety given the age of offense, nature of offense, and explanation of any mitigating circumstances; conducting the business in an unlawful matter so as to constitute breach of peace, or menace to health, safety, or general welfare; or any other circumstances indicating that the intended recipient may not honestly, lawfully, and safely conduct the proposed activity. The reasons for rejection shall be noted pursuant to M.S. ' 364.05 and

the application returned to the City Administrator/Clerk who shall notify the applicant of the disapproval of the permit. Likewise, the City Administrator/Clerk shall be informed of approval of any application for registration and the City Administrator/Clerk shall promptly communicate the decision to the applicant.

(Ord. 194, passed 1-27-2004; Am. Ord. 267, passed 6-25-2012) Penalty, see ' 10.99

Cross-reference:

Appeal process, see ' 111.10

' 111.06 TRANSFER PROHIBITED.

A permit may not be transferred. Each peddler, solicitor, or transient merchant must separately register under the provisions described herein. An application to register an additional approval person

to assist, under a previous permit must be done and the application approved, before an additional person may conduct business in the City of Maple Plain.

(Ord. 194, passed 1-27-2004) Penalty, see ' 10.99

▪ **111.07 CONDUCT OF ACTIVITY.**

Any permit holder must conduct the regulated activities in a reasonable courteous manner at all times, and must immediately leave private property when requested to do so by the occupant or owner, and must not engage in offensive, obscene, or abusive language, nor may the permit holder make any untrue statements to the people contracted regarding the purpose of the contract or the goods and services offered.

(Ord. 194, passed 1-27-2004) Penalty, see ' 10.99

▪ **111.08 HOURS AND DAYS OF PERMITTED ACTIVITY.**

Registered solicitors, peddlers, and transient merchants shall limit their activities to Monday through Friday from 9:00 a.m. to 8:00 p.m. and Saturday and Sunday from 9:00 a.m. to 5:00 p.m. There shall be no door to door activity on Sunday.

(Ord. 194, passed 1-27-2004) Penalty, see ' 10.99

▪ **111.09 REVOCATION OF PERMIT.**

The City Council may revoke permits issued under this section on grounds of violation of this subchapter or any same or similar ordinance of another city or on grounds identical to those for which the initial registration may be disapproved. Notice of the hearing on the revocation shall be mailed to the last known address at least 5 days prior to the date set for hearing and the aggrieved party shall have the right to be heard with procedures as approved by the Council.

(Ord. 194, passed 1-27-2004)

▪ **111.10 APPEAL.**

Any person aggrieved by the action of the City Administrator/Clerk or Director of West Hennepin Public Safety in denial of permit may appeal to the City Council by filing, within 14 days or notice of the action complained of, a written statement stating the grounds for the appeal. The City Council shall set a date and time for the hearing on the appeal and notice given to the applicant as provided under ' 111.09 for notice of hearing revocation. No individual may conduct any business regulated hereunder while an appeal is pending.

(Ord. 194, passed 1-27-2004; Am. Ord. 267, passed 6-25-2012) Penalty, see ' 10.99

▪ 111.11 FALSE ENDORSEMENT PROHIBITED.

Any permit may not make statements to the people contracted implying or indicating that the city identification or permit constitutes an endorsement of their activities or products by the city.

(Ord. 194, passed 1-27-2004) Penalty, see ' 10.99

▪ 111.12 EFFECTIVE DATE.

This subchapter shall have full force and effect upon its passage and publication.

(Ord. 194, passed 1-27-2004)

SOLICITING AND VENDING BY CATERING FOOD VEHICLES

▪ 111.25 REQUIREMENTS.

No owner or operator of any catering food vehicles as defined in ' 111.26, which is used for on-street soliciting for the sale of or the vending of confections or other goods directly from the vehicle, shall engage in the activity of on-street soliciting, dispensing, or vending unless the provisions of this section are met. This section shall not apply to persons using vehicles for the delivery of goods or services directly to home or establishments where the goods are taken by the operator of the vehicle onto private property for delivery, nor shall it apply to the operation of any political subdivision or unit of government.

(Prior Code, ' 42.01) Penalty, see ' 10.99

▪ 111.26 DEFINITIONS.

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

OPERATOR. The operator of a vehicle, for the purposes of this section, is anyone who is charged with the responsibility for driving or otherwise operating a vehicle.

OWNERS. The registered owner of the vehicle used for vending, or the person, firm, or corporation who owns or controls the vending business.

VEHICLE. Any mobile unit being used on public streets for the vending or soliciting of sales of foods or confections.

VENDING, DISPENSING, or SOLICITING. The act of selling, offering for sale, or in any manner distributing or dispensing confections or other goods directly or indirectly from a vehicle to persons in the vicinity of the vehicle.

(Prior Code, ' 42.02)

▪ **111.27 HOURS.**

No person shall carry on the activity of soliciting, dispensing, or vending any foods or confections except between the hours of 1:00 p.m. and 4:30 p.m. and 6:00 p.m. to either dusk or 9:00 p.m., whichever comes earlier. (Prior Code, ' 42.03) Penalty, see ' 10.99

▪ **111.28 ROUTES.**

(A) More than 10 days before commencing his or her operation, the vendor shall file with the Chief of Police a proposed route or routes over which the vehicle or vehicles will travel each day within the city. The vendor shall follow the routes while operating within the city. Proposed route changes shall be filed with the Chief of Police at least 10 days in advance of making the changes.

(B) Only routes which will minimize the hazards to persons who may be customers of the vehicles and which will minimize traffic hazards in the city shall be approved. The City Council, or its duly authorized representative, will indicate certain streets upon which vending or soliciting under this section is entirely prohibited. The streets will be those heavily traveled streets whereon the selling would constitute a per se hazard to customers= safety or to the safety of other vehicles or persons.

(Prior Code, ' 42.04)

▪ **111.29 STOPPING; INTERSECTIONS AND CURBS.**

(A) Operators of vehicles under this section shall not stop to sell goods therefrom within 100 feet of any intersection or alleyway.

(B) Operators of vehicles under this section, when stopping the vehicles to sell goods, must stop in a manner such that the curbside of the vehicles is no more than 2 feet from that curb, or when there is no curb, no more than 2 feet from the edge of the street or roadway.

(C) Operators of vehicles under this section shall sell goods only from the curb side of vehicle. The operator is responsible for preventing the development of a waiting line or accumulation of customers on any side other than the curbside of the vehicle.

(Prior Code, ' 42.05) Penalty, see ' 10.99

▪ 111.30 INSURANCE REQUIREMENTS.

Every owner or operator of vehicles under this subchapter shall maintain liability insurance in the amount of at least \$100,000 for single injuries and \$200,000 for each accident, together with at least \$10,000 property damage insurance coverage.

(Prior Code, ' 42.06) Penalty, see ' 10.99

▪ 111.31 SAFETY REQUIREMENTS.

(A) Each motorized vehicle under this section must be equipped with, and must continually use while vending, flashing lights on both front and rear of the vehicle. The lights must be clearly visible to oncoming cars in full daylight.

(B) Every motorized vehicle while carrying on a vending operation, shall be attended by at least 2 persons, 1 of whom will have the following specific duties. For the full period during which the vehicle is stopped for vending, or which is stopped in such a manner or place as to reasonably cause others to believe that it is proposing to engage in vending operations, the person shall stand alongside the vehicle in such a manner as to be able to observe traffic coming from all directions and also crossing the street by minors in the immediate vicinity of the vehicle. The person shall give adequate warning to both vehicles and minors so as to avoid accident or injury to the minors. The person shall, if necessary, carry the signal or warning device as will enable him or her to give adequate warning.

(Prior Code, ' 42.07) Penalty, see ' 10.99

▪ 111.32 REGISTRATION REQUIREMENTS.

(A) In order to aid the city in contacting the owner or operator of vehicles under this section and to aid the owner or operator with problems of theft or vandalism, the following requirements must be met.

(1) The operator of each vehicle under this section must register with the City Administrator/ Clerk before beginning vending operations within the city.

(2) The registration will be on forms provided by the City Administrator/Clerk, which shall give the following information:

(a) Name and description of the registrant, and whether registrant is a sole proprietorship, partnership, or corporation;

(b) Permanent home address and full local address of the registrant;

(c) A brief description of the nature of the business, the goods to be sold, and the registrant's method of operation;

(d) If employed, the name and address of the registrant's employer and credentials establishing the exact employment relationship;

(e) The length of time which the registrant intends to do business in the city, with the approximate dates;

(f) A photograph of the registrant taken within 60 days immediately prior to the date of filing of the application, which picture shall be 2 inches by 2 inches, showing the head and shoulders of the registrant in a clear and distinguishable manner;

(g) A description of the vehicle to be used, together with the license number of the vehicle, or other means of identification;

(h) If the owner of the vehicle is other than the operator the name and permanent and temporary address of the owner; and

(i) A description, including verification, of the license given to the operator or to his or her employer or to the owner of the vehicle by the Minnesota Commissioner of Agriculture authorizing the licensee to sell food as required under M.S. ' 28A.04, as it may be amended from time to time.

(B) The City Administrator/Clerk will issue to each registrant a registration badge with the name, address, and the picture of the operator contained on the face thereof. Each operator must display the badge in a prominent, visible place on the vehicle.

(Prior Code, ' 42.08)

• 111.33 PREVENTION OF LITTERING.

Every vehicle under this subchapter must have a rubbish container located on the curbside of the vehicle, which is adequate to contain any food wrappers discarded by the customers purchasing food from the vehicle. The operator is required to request the customers discarding food wrappers immediately after purchase, to place the wrappers in the rubbish container. The operator is required to collect and deposit in the container any wrappers dropped or improperly discarded in his or her presence.

(Prior Code, ' 42.09) Penalty, see ' 10.99

• 111.34 LOUD NOISE PROHIBITED.

No operator or person accompanying the operator of a vehicle under this subchapter shall call attention to their business by crying out, blowing a horn, ringing a bell, playing music, or any other noises; provided, however, that the ringing of a bell or the playing of music is permissible for no more than a period of 10 seconds in each minute, during the times in which the operator is authorized to vend under ' 111.27. Provided further, that the ringing of a bell or playing of music be of a moderate volume and not raucous in nature.

(Prior Code, ' 42.10) Penalty, see ' 10.99

2008 S-1

CHAPTER 112: GENERAL BUSINESS PROVISIONS

Section

Pawn Brokers

- 112.01 Purpose
- 112.02 Definitions
- 112.03 License required
- 112.04 License fees
- 112.05 Investigation fee
- 112.06 Expiration of license
- 112.07 Application required
- 112.08 Bond required
- 112.09 Records required
- 112.10 Daily reports to police
- 112.11 Receipt required
- 112.12 Redemption period
- 112.13 Holding period
- 112.14 Police order to hold property
- 112.15 Inspection of items
- 112.16 Label required
- 112.17 Prohibited acts
- 112.18 Denial, suspension, or revocation
- 112.19 Business at only 1 place

Bed and Breakfast Establishments

- 112.30 Definition
- 112.31 Purpose
- 112.32 Permitted locations
- 112.33 License
- 112.34 General requirements
- 112.35 Revocation
- 112.36 Effective date

PAWN BROKERS

▪ 112.01 PURPOSE.

(A) The City Council finds that use of services provided by pawn brokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawn brokers. The City Council further finds that the pawn industry has outgrown the city=s current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this subchapter is to prevent pawn businesses from being used as facilities for the commission of crimes and to assure that the businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

(B) To help the Police Department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry 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).
(Prior Code, ' 51.01)

▪ 112.02 DEFINITIONS.

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

BILLABLE TRANSACTION. Every reportable transaction conducted by a pawn broker except renewals, redemptions, or extensions of existing pawns on item previously reported and continuously in the licensee=s possession is a billable transaction.

PAWN BROKER.

(1) Except as provided in division (2) below, means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

(2) The following are exempt from the definition of ***PAWN BROKER***: any bank regulated by the state of Minnesota, the comptroller of the currency of the United States, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any other federal or state authority and their affiliates; any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of

those banks and savings associations; any state or federally chartered credit union; and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the Department of Commerce.

REPORTABLE TRANSACTION. Every transaction conducted by a pawn broker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, or redeemed, 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 pawn broker 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; and

(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.

(Prior Code, ' 51.02)

▪ **112.03 LICENSE REQUIRED.**

No person shall engage in the business of pawn broker at any location without a pawn broker license for that location. No pawn broker license may be transferred to a different location or a different person. Issuance of a license under this subchapter shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other locations.

(Prior Code, ' 51.03) Penalty, see ' 10.99

▪ **112.04 LICENSE FEES.**

(A) The annual license fees for licenses issued under this subchapter shall be as follows: \$2,500. The annual license fee shall be payable semi-annually in accordance with procedures established by the Director of Licenses and Consumer Services.

(B) The billable transaction license fee shall be classified according to the medium by which daily reports required by ' 112.10 are submitted to the West Hennepin Public Safety Department. These classifications shall be as follows: modem - required of all licensees.

(C) The billable transaction license fee shall reflect the cost of processing transactions from the licensees and other related regulatory expenses as determined by the City Council and shall be reviewed and adjusted, if necessary, at least every 6 months. Licensees shall be notified in writing 30 days before any adjustment is implemented.

(D) Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this subchapter.

(Prior Code, ' 51.04)

▪ 112.05 INVESTIGATION FEE.

An applicant for a new license under this subchapter, or for the renewal of an existing license that is more than 6 months past due, shall deposit \$1,500 with West Hennepin Public Safety at the time an original application is submitted to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this subchapter. If the investigation process is conducted solely within the State of Minnesota, the fee shall be \$500 and the remainder of the deposit shall be returned to the applicant upon completion of the investigation. If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding \$10,000.

(Prior Code, ' 51.05)

▪ 112.06 EXPIRATION OF LICENSE.

All licenses shall expire on January 1.

(Prior Code, ' 51.06)

▪ 112.07 APPLICATION REQUIRED.

(A) *Contents.* An application form provided by the City of Maple Plain must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

(1) If the applicant is a natural person:

(a) The name, place and date of birth, street resident address, and phone number of applicant;

(b) Whether the applicant is a citizen of the United States or resident alien;

(c) Whether the applicant has ever used or has been known by a name other than the applicant=s name, and if so, the name or names used and information concerning dates and places used;

(d) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. ' 333.01, as it may be amended from time to time;

(e) The street address at which the applicant has lived during the preceding 10 years;

(f) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding 10 years and the name(s) and address(es) of the applicant=s employer(s) and partner(s), if any, for the preceding 10 years;

(g) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all the convictions;

(h) The physical description of the applicant;

(i) Applicants current personal financial statement and true copies of the applicant=s federal and state tax returns for the 2 years prior to application; and

(j) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions (A)(1)(a) through (A)(1)(h) above.

(2) If the applicant is a partnership:

(a) The name(s) and address(es), of all general and limited partners and all information concerning each general partner required in division (A)(1) above;

(b) The name(s) of the managing partner(s) and the interest of each partner in the licensed business;

(c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. ' 333.01, as it may be amended from time to time, a certified copy of the certificate must be attached to the application;

(d) A true copy of the federal and state tax returns for partnership for the 2 years prior to application; and

(e) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions (A)(1)(a) through (A)(1)(h) above.

(3) If the applicant is a corporation or other organization:

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

(b) A true copy of the certificate of incorporation, articles of incorporation or association agreement, and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. ' 303.06, as it may be amended from time to time, must be attached;

(c) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in (A)(1)(a) through (A)(1)(h) above; and

(d) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning the persons required in division (A)(1) above. This division (A)(3)(d), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.

(4) For all applicants:

(a) Whether the applicant holds a current pawn broker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;

(b) Whether the applicant has previously been denied, or had revoked or suspended, a pawn broker, precious metal dealer, or secondhand dealer license from any other governmental unit;

(c) The location of the business premises;

(d) If the applicant does not own the business premises, a true and complete copy of the executed lease;

(e) The legal description of the premises to be licensed;

(f) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;

(g) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and

(h) Any other information as the City Council or issuing authority may require.

(B) *New manager.* 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 Department of Licenses and Consumer Services, within 14 days. The application must include all appropriate information required in ' 112.08. 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 subchapter. If the investigation process is conducted solely within the State of Minnesota, the fee shall be \$500. If the investigation is conducted outside the State of Minnesota, the issuing authority may recover the actual investigation costs not exceeding \$10,000. Fees are payable to West Hennepin Public Safety.

(C) *Application execution.* All applications for a license under this subchapter must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by the person; if that of a corporation, by an officer thereof if that of a partnership, by 1 of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(D) *Investigation.* The police must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the police investigator the evidence as the investigator may reasonably require in support of the statements set forth in the application.

(E) *Public hearing.* The Council will request a public hearing.

(F) *Persons ineligible for a license.* No licenses under this subchapter will be issued to an applicant who is a natural person, a partnership if the applicant has any general partner or managing partner, a corporation or other organization if the applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

(1) Is a minor at the time that 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, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S. ' 364.03, Subdivision 3, as it may be amended from time to time; or

(3) Is not of good moral character or repute.

(Prior Code, ' 51.07)

▪ 112.08 BOND REQUIRED.

Before a license will be issued, every applicant must submit a \$5,000 bond on the forms provided by the City of Maple Plain. All bonds must be conditioned that the principal will observe all laws in relation to pawn brokers, and will conduct business in conformity thereto, and 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 principals business as a pawn broker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30-days written notice to the city, which shall be served upon the City Administrator/Clerk or Administrator, and West Hennepin Public Safety.

(Prior Code, ' 51.08)

▪ 112.09 RECORDS REQUIRED.

(A) *Generally.* At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by West Hennepin Public Safety.

(B) *Information.*

- (1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;
- (2) The purchase price, amount of money loaned upon, or pledged therefore;
- (3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;
- (4) Date, time, and place 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;
- (5) Full name, residence address, residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes, and color of hair;
- (6) 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/or
 - (c) Current valid photo identification card issued by another state.
- (7) The signature of the person identified in the transaction;
- (8) Licensee must also take a color photograph or color video recording of each customer involved in a billable transaction and every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed. The photographs taken must be at least 2 inches in length by 2 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 they relate. The photographs must be available to the Chief of Police, or the Chief=s designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. 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 inform the person that he or she is being videotaped orally and by displaying

a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for 3 months;

(9) Licensees may fulfill the color photograph requirements in division (B)(8) above 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. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in division (B)(8) above;

(10) For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction; and

(11) The records must at all reasonable times be open to inspection by the Police Department. Data entries shall be retained for at least 3 years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

(Prior Code, ' 51.09)

• 112.10 DAILY REPORTS TO POLICE.

(A) *Method.* Licensees must provide to the Police Department the information required in ' 112.09(B)(1) through (B)(6), by transferring it from their computer to the Police Department via modem. 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 issuing authority using a dial-callback protocol or other procedures that address security concerns of the licensees and the issuing authority. 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.

(B) *Billable transaction fees.* Licensees will be charged for billable transactions at the current rate for the medium by which they were reported to the Police Department except:

(1) If a licensee, who has consistently reported via modem, is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department printed copies of all reportable transactions along with the video tape(s) for that date, by 12:00 the next business day, and must be charged at the modem rate for billable transactions;

(2) 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 ' 112.09, and must be charged at the modem rate for transactions through the close of the first business day following the failure, and at the manual rate for all subsequent billable transactions until the error is corrected;

(3) If the problem is determined to be outside the licensee's system, the licensee must provide the required reports in detail in division (B)(1) above, and will be billed at the modem rate for billable transactions until the error is corrected;

(4) If a licensee who has consistently reported via modem, is unable to capture, digitize, or transmit the photographs required in ' 112.09, the licensee must immediately take all required photographs with a still camera, immediately develop the pictures, cross-reference the photographs to the correct transaction, and deliver them to the Police Department by 12:00 p.m. the next business day. Billable transactions will be charged at the modem rate for transactions through the close of the first business day following the failure, and at the manual rate for all subsequent billable transactions until the error is corrected;

(5) Second and subsequent occurrences of circumstances detailed in section ' 112.09, within any 6 consecutive months, will be charged at the manual rate for billable transactions until the error is corrected; and

(6) Divisions (B)(1) through (B)(5) above notwithstanding, the Police Chief or the Chief=s designee may, upon presentation of extenuating circumstances, extend the period that a qualifying licensee is billed at the modem rate for billable transactions.

(Prior Code, ' 51.10)

' 112.11 RECEIPT REQUIRED.

(A) Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years.

(B) The receipt must include at least the following information:

- (1) The name, address, and telephone number of the licensed business;
- (2) The date and time the item was received by the licensee;
- (3) Whether the item was pawned or sold, or the nature of the transaction;
- (4) An accurate description of each item received including but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;
- (5) The signature or unique identifier of the licensee or employee that conducted the transaction;
- (6) The amount advanced or paid;
- (7) The monthly and annual interest rates including all pawn fees and charges;
- (8) The last regular day of business 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;

- (9) The full name, residence address, residence telephone number, and date of birth 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/or
 - (c) Current valid photo driver=s license or identification card issued by another state.
- (11) Description of the pledger or seller including approximate sex, height, weight, race, color of eyes, and color of hair;
- (12) The signature of the pledger or seller; 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.
(Prior Code, ' 51.11)

▪ **112.12 REDEMPTION PERIOD.**

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 provided in this subchapter. 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, or with approval of the police license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with ' 112.09.
(Prior Code, ' 51.12)

▪ **112.13 HOLDING PERIOD.**

Any item purchased by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.
(Prior Code, ' 51.13)

▪ **112.14 POLICE ORDER TO HOLD PROPERTY.**

(A) *Investigative hold.* Whenever a law enforcement official from any agency notifies a licensee 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, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to division (B) below, whichever comes first.

(B) *Order to hold.* Whenever the Chief of Police, or the Chief=s designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief=s designee. The order to hold shall expire 90 days from the date it is placed unless the Chief of Police or the Chief=s designee determines the hold is still necessary and notifies the licensee in writing.

(C) *Order to confiscate.*

(1) If an item is identified as stolen or evidence in a criminal case, the Chief or Chief=s designee may:

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

(b) Place the item on hold or extend the hold as provided in division (B) above, and leave it in the shop.

(2) When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Chief of Police, or Chief=s designee, shall so notify the licensee.

(Prior Code, ' 51.14)

▪ **112.15 INSPECTION OF ITEMS.**

At all times during the terms of the license, the licensee must allow the Police Chief or the Chief=s designee(s) to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in this subchapter, during normal business hours, except in an emergency, for the purpose of inspecting the premises and inspecting the item, ware and merchandise and records therein to verify compliance with this subchapter or other applicable laws.

(Prior Code, ' 51.15) Penalty, see ' 10.99

▪ **112.16 LABEL REQUIRED.**

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 re-used.

(Prior Code, ' 51.16) Penalty, see ' 10.99

▪ **112.17 PROHIBITED ACTS.**

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

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

(C) No licensee may receive any goods, unless the seller presents identification in the form of a valid driver=s license, a valid State of Minnesota identification card, or current valid photo driver=s license or identification card issued by the state of residency of the person from whom the item was received.

(D) No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

(Prior Code, ' 51.17) Penalty, see ' 10.99

▪ **112.18 DENIAL, SUSPENSION, OR REVOCATION.**

(A) *Generally.* Any license under this subchapter may be denied, suspended, or revoked for 1 or more of the following reasons.

(B) *Reasons.*

(1) The proposed use does not comply with the Maple Plain zoning code.

(2) The proposed use does not comply with any health, building, building maintenance, or other provisions of this code of ordinances or state law.

(3) The applicant or licensee has failed to comply with 1 or more provisions of this subchapter.

(4) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

(5) Fraud, misrepresentation, or bribery in securing or renewing a license.

(6) Fraud, misrepresentation, or false statements made in the application and investigation for, or in the course of, the applicant's business.

(7) Violation within the preceding 5 years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

(8) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this subchapter.

(Prior Code, ' 51.18)

• 112.19 BUSINESS AT ONLY 1 PLACE.

A license under this subchapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the Police Chief or Chief's designee may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with ' 112.15. 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 6 months.

(Prior Code, ' 51.19)

BED AND BREAKFAST ESTABLISHMENTS

• 112.30 DEFINITION.

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

BED AND BREAKFAST INN. An owner-manager occupied single-family dwelling where lodging in up to 4 guest rooms is rented on a nightly basis, and only breakfasts are provided to the traveling public by the resident owner for compensation.

(Ord. 159, passed 9-26-1995)

▪ **112.31 PURPOSE.**

The City of Maple Plain recognizes that bed and breakfast inns are an asset to the community by providing temporary lodging in an area that attracts tourists due to the close proximity of public parks and lakes, as well as the many antique shops and sites of historical significance.

(Ord. 159, passed 9-26-1995)

▪ **112.32 PERMITTED LOCATIONS.**

A bed and breakfast inn, as defined herein, may only be operated in a single-family dwelling, and located in either the R-1 or R-2 zoning districts of the city.

(Ord. 159, passed 9-26-1995) Penalty, see ' 10.99

▪ **112.33 LICENSE.**

(A) It is unlawful for any person to operate a bed and breakfast inn anywhere within the city without first obtaining a license as herein provided.

(B) Every operating license shall be issued for a period of 1 year from its date of issuance unless sooner revoked, and may be renewed for successive periods of not to exceed 1 year by the City Administrator/Clerk. License is not transferable.

(C) Prior to application for a license, an applicant shall cause the fire or building authority to inspect the premises verifying that smoke alarms are installed and in operating order along with an overall assessment of the facility for a bed and breakfast operation. The report shall accompany the application.

(D) An annual license fee of \$75 will be required.

(E) Prior to issuance of a license, the City Council shall hold a public hearing after 10-days mailed notice to property owners located within 350 feet of the proposed bed and breakfast property.

(F) No license shall be granted except upon motion of the City Council.
(Ord. 159, passed 9-26-1995) Penalty, see ' 10.99

▪ **112.34 GENERAL REQUIREMENTS.**

(A) The facility shall be licensed for a specific number of guest rooms not to exceed 4.

(B) The facility shall be an owner occupied single-family dwelling having a minimum of 1,500 square feet of residential floor area. The owner must reside on the premises and be the operator of the facility.

2008 S-1

(C) No cooking facilities shall be permitted in any guest room, and breakfasts provided by the operator shall be served only to registered overnight guests.

(D) Off-street parking shall be provided in accordance with the parking requirements of the zoning ordinance. A minimum of 1 space per guest room and 1 space for the operator shall be required.

(E) No more than 2 licensed facilities shall be located in the city. No license will be issued to a new facility which is within 1,000 feet from any existing facility.

(F) An on-premises sign advertising a facility located in any zoning district shall be limited to 2 square feet in area. The content of the sign shall be limited to identifying not more than the name and address of the facility. There shall be only 1 such sign per facility which may not be illuminated. The a sign may be placed in any front yard, but in no case may it be placed in any side yard.

(G) No guest shall be permitted to rent accommodations or remain occupancy for a period in excess of 10 days during any consecutive 30-day period.

(H) All facilities shall comply with applicable state health and building code requirements, and the owner/operator of the facility shall maintain a policy of liability insurance providing at least \$1,000,000 combined/single limit coverage.

(I) No other commercial enterprise, including a home occupation, shall be operated in the facility during the term of the license.

(Ord. 159, passed 9-26-1995) Penalty, see ' 10.99

▪ 112.35 REVOCATION.

A license issued under this subchapter may be revoked or suspended for a violation of this code following notice to licensee and a public hearing pursuant to the Administrative Procedures Act, M.S. ' ' 14.01 *et seq.*, as it may be amended from time to time.

(Ord. 159, passed 9-26-1995)

▪ 112.36 EFFECTIVE DATE.

This subchapter shall have full force and effect upon its passage and publication.

(Ord. 159, passed 9-26-1995)

CHAPTER 113: ADULT ESTABLISHMENTS

Section

- 113.01 Findings and purpose
- 113.02 Definitions
- 113.03 Location
- 113.04 Hours of operation
- 113.05 Additional conditions for adult cabarets
- 113.06 License required
- 113.07 Findings and purpose conduct
- 113.08 Additional definitions
- 113.09 Public health regulations
- 113.10 Exceptions
- 113.11 Health enforcement powers

▪ 113.01 FINDINGS AND PURPOSE.

(A) Studies conducted by the Minnesota Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks.

(B) Based on these studies and findings, the City Council concludes:

- (1) Adult establishments have adverse secondary impacts of the types set forth above;
- (2) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by geographic, licensing, and health requirements;
- (3) It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the city;
- (4) M.S. ' ' 462.357 and 412.221, as they may be amended from time to time, allow the city to adopt regulations to promote the public health, safety, morals, and general welfare; and

(5) The public health, safety, morals, and general welfare will be promoted by the city adopting regulations governing adult establishments.
(Prior Code, ' 52.01)

▪ **113.02 DEFINITIONS.**

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

ADULT ESTABLISHMENT. Means:

(1) Any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business, except any business licensed under this chapter;

(2) Any business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to or derives 25% or more of its revenues from, items, merchandise, devices, or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing; discussing, or relating to specified sexual activities or specified anatomical areas; or

(3) Any business that engages in any adult use as defined in this section.

ADULT USE. Any of the following activities or businesses.

(1) ***ADULT BODY PAINTING.*** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) ***ADULT BOOKSTORE.*** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if:

(a) The business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; or

(b) 25% or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or 25% or more of the revenue of the business is derived from, items, merchandise, or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

(3) ***ADULT CABARET.*** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) ***ADULT COMPANIONSHIP ESTABLISHMENT.*** A business or establishment that excludes minors by reason of age, and that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) ***ADULT CONVERSATION/RAPPARLOR.*** A business or establishment that excludes minors by reason of age, and that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) ***ADULT HEALTH/SPORT CLUB.*** A health/sportclub that excludes minors by reason of age, and that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) ***ADULT HOTEL OR MOTEL.*** A hotel or motel that excludes minors by reason of age, and that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

(8) ***ADULT MASSAGE PARLOR/HEALTH CLUB.*** A massage parlor or health club that excludes minors by reason of age, and that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) ***ADULT MINI-MOTION PICTURE THEATER.*** A business or establishment with a capacity of less than 50 persons that presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) ***ADULT MODELING STUDIO.*** A business or establishment that provides figure models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

(11) ***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited where coin- or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to 5 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) ***ADULT MOTION PICTURE THEATER.*** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice excludes minors by reason of age or that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) ***ADULT NOVELTY BUSINESS.*** An establishment or business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives 25% or more of its revenues from, items, merchandise, or devices that either simulate specified sexual activities or specified anatomical areas or are designed for sexual stimulation.

(14) ***ADULT SAUNA.*** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) ***ADULT STEAM ROOM/BATHHOUSE FACILITY.*** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

NUDE OR SPECIFIED ANATOMICAL AREAS. Means:

- (1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state; even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Means:

- (1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of asexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism, sapphism; or zooerastia;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

(6) Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, or vaginal or anal irrigation.
(Prior Code, ' 52.02)

▪ **113.03 LOCATION.**

An adult establishment may not be located within 500 feet of any residentially guided area. For purposes of this section, this distance is a horizontal measurement from the main public entrance of the adult establishment to the nearest point of any residentially guided area.

(Prior Code, ' 52.03) Penalty, see ' 10.99

▪ **113.04 HOURS OF OPERATION.**

An adult establishment may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

(Prior Code, ' 52.04) Penalty, see ' 10.99

▪ **113.05 ADDITIONAL CONDITIONS FOR ADULT CABARETS.**

The following additional conditions apply to adult cabarets:

(A) An owner, operator, or manager of an adult cabaret, may not allow any dancer or other live entertainer to display specified anatomical areas or to display or perform specified sexual activities on the premises of the adult cabaret;

(B) A dancer, live entertainer, performer, patron, or any other person may not display specified anatomical areas in the adult cabaret;

(C) The owner, operator, or manager of an adult cabaret must provide the following information to the city concerning any person who dances or performs live entertainment at the adult cabaret; the person=s name, home address, home telephone number, date of birth, and any aliases;

(D) A dancer, live entertainer, or performer may not be under 18 years old;

(E) Dancing or live entertainment must occur on a platform intended for the purpose and that is raised at

least 2 feet from the level of the floor;

(F) A dancer or performer may not perform a dance or live entertainment closer than 10 feet from any patron;

(G) A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;

(H) A patron may not pay or give any gratuity to any dancer or performer; and

(I) A dancer or performer may not solicit or accept any pay or gratuity from any patron.
(Prior Code, ' 52.05) Penalty, see ' 10.99

• 113.06 LICENSE REQUIRED.

(A) A person may not own or operate an adult establishment without having first secured a license as provided for in this section. Notwithstanding any other provision of this code to the contrary, the procedures set forth in this section establish the exclusive method for obtaining an adult establishment license.

(B) The application for an adult establishment license must be submitted on a form provided by the city and must include:

(1) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than 5% of the issued and outstanding stock of the corporation;

(2) The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner=s;

(3) The address and legal description of the premises where the adult establishment is to be located;

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

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

(6) The hours of operation;

- (7) The provisions made to restrict access by minors; and
- (8) A building plan of the premises detailing all internal operations and activities.

(C) The license fee provisions for adult establishments are as follow.

(1) The annual license fee is set by Council resolution.

(2) An application for a license must be submitted to the City Administrator/Clerk and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.

(3) Licenses will expire on December 31 in each year. Each license will be issued for a period of 1 year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as 1 month.

(4) No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the City Council within 30 days from the happening of 1 of the following events, provided that the event occurs more than 30 days before the expiration of the license:

(a) Destruction or damage of the licensed premises by fire or other catastrophe;

(b) The licensee=s illness, if the illness renders the licensee unable to continue operating the licensed adult establishment;

(c) The licensee=s death; or

(d) A change in the legal status making it unlawful for the licensed business to continue.

(5) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City Council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the Police Chief or the City Administrator/Clerk in writing and they will report it to the City Council. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

(D) The investigative fee for an adult establishment license is established by Council resolution.

(E) The procedures for granting an adult establishment license are as follows.

(1) The Chief of Police will conduct and complete an investigation within 30 days after the City Administrator/Clerk receives a complete application and all license and investigative fees.

2008 S-1

(2) If the application is for a renewal, the applicant will be allowed to continue business until the City Council has determined whether to renew or refuse to renew a license.

(3) If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, then the license will be issued by the City Council within 30 days after the investigation is completed. If the City Council fails to act within 30 days after the investigation is completed, the application will be deemed approved.

(4) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than 5% of the issued and outstanding stock of the corporation will be deemed a transfer of the license adult establishments existing at time of the adoption of this section must obtain an annual license.

(F) A license will not be granted to or held by a person who:

(1) Is under 21 years of age;

(2) Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines, or penalties assessed against them or imposed upon them;

(3) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments;

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

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

(6) Who has not paid the license and investigative fees required by this section.

(G) An adult establishment license will not be granted for:

(1) Any adult establishment on premises where the applicant or any of its officers, agents, or employees have been convicted of a violation of this chapter, or where a license hereunder has been revoked for cause, until 1 year has elapsed after the conviction or revocation;

(2) Any adult establishment that is not in full compliance with the city code and all provisions of state and federal law; or

(3) Any premises that are licensed under this code.

(H) A license is subject to the provisions of this chapter, and of any applicable sections of the city code and all provisions of state and federal law.

(I) Licensed premises must have the license posted in a conspicuous place at all times.

(J) A minor may not be permitted on the licensed premises.

(K) Any designated inspection officer of the city has the right to enter, inspect, and search the premises of a licensee during business hours.

(L) The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.

(M) Adult goods or materials may not be offered, sold, transferred, conveyed, given, or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

(N) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least 1 year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the city upon request.

(O) Suspensions, revocations, and nonrenewals of adult establishment licenses are governed by the following provisions.

(1) A violation of this chapter is a basis for the suspension or revocation of a license granted hereunder. In the event that the City Council proposes to revoke or suspend the license, the licensee must be notified in writing of the basis for the proposed revocation or Council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The City Council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The Council must notify the licensee of its decision within that period.

(2) If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action, then the suspension or revocation is stayed until the conclusion of the action.

(3) If the City Council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of the nonrenewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the city acted properly, the licensee may continue in business until the conclusion of the action.

(4) If the City Council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the city acted properly. The applicant may not commence doing business unless the action is concluded in its favor.

(Prior Code, ' 52.06) Penalty, see ' 10.99

▪ 113.07 FINDINGS AND PURPOSE CONDUCT.

(A) *Generally.* The City Council of the City of Maple Plain makes the following findings regarding the need to regulate commercial premises, buildings, and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health.

(B) *Findings.*

(1) The experience of other cities establishes that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of the premises, buildings, or structures are conducive to the spread of communicable disease of danger to persons frequenting the premises, buildings, or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating the commercial premises, buildings, and structures.

(2) The experience of other cities where the commercial premises, buildings, and structures are present indicates that the risk of spreading the sexually transmittable disease of Acquired Immune Deficiency Syndrome (AIDS) is increased by the presence of the premises, buildings, and structures, because the design or use of the premises, buildings, and structures, or parts thereof can facilitate high-risk sexual conduct.

(3) Medical publications of the Center for Disease Control of the United States Department of Health and Human Services indicate that the sexually transmittable disease of AIDS is currently irreversible and uniformly fatal. Medical research has further established that the risk factors for obtaining or spreading AIDS are associated with high risk sexual conduct.

(4) Certain commercial premises, buildings, and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings, and structures.

(5) The public health, safety, morals, and general welfare will be promoted by the city adopting regulations governing commercial premises, buildings, and structures conducive to high-risk sexual conduct.

(6) The purpose of these regulations is to prescribe regulations governing commercial premises, buildings, and structures that are conducive, by virtue of design and use, to high-risk sexual conduct

which can result in the spread of sexually transmitted diseases to persons frequenting the premises, buildings, and structures.

(Prior Code, ' 52.07)

▪ **113.08 ADDITIONAL DEFINITIONS.**

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

BOOTHES, STALLS, OR PARTITIONED PORTIONS OF A ROOM OR INDIVIDUAL ROOM. Means:

(1) Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct; or

(2) Enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

DOORS, CURTAINS, OR PORTAL PARTITIONS. Full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.

HAZARDOUS SITE. Any commercial premises, building, or structure, or any part thereof, which is a site of high-risk sexual conduct as defined herein.

HIGH-RISK SEXUAL CONDUCT. Means:

(1) Fellatio;

(2) Anal intercourse; or

(3) Vaginal intercourse with persons who engage in sexual acts in exchange for money.

OPEN TO AN ADJACENT PUBLIC ROOM SO THAT THE AREA INSIDE IS VISIBLE TO PERSONS IN THE ADJACENT PUBLIC ROOM. Either the absence of any entire door, curtain, or portal partition or a door or other device which is made of clear, transparent material such as glass, plexiglass, or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

PUBLIC HEALTH OFFICIAL. An agent or employee of the city, county, or state charged with the enforcement of the state or local health laws.
(Prior Code, ' 52.08)

▪ **113.09 PUBLIC HEALTH REGULATIONS.**

(A) A commercial building, structure, premises, or part thereof, or facilities therein may not be constructed, used, designed, or operated in the city for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct.

(B) It is unlawful to own, operate, manage, rent, lease, or exercise control of a commercial building, structure, premises, or portion or part thereof in the city, that contains:

(1) Partitions between subdivisions of a room, portion or part of a building, structure, or premises having an aperture which is designed or constructed to facilitate sexual activity, including but not limited to vaginal intercourse, anal intercourse, or fellatio, between persons on either side of the partition; and/or

(2) Booths, stalls, or partitioned portions of a room or individual room as defined herein which have doors, curtains or portal partitions as defined herein unless the booths, stalls or partitioned portions of a room or individual room have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls, or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but the lighting need not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

(Prior Code, ' 52.09) Penalty, see ' 10.99

▪ **113.10 EXCEPTIONS.**

The regulations set forth in this chapter do not apply to premises, buildings, or structures that are operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

(Prior Code, ' 52.10)

▪ **113.11 HEALTH ENFORCEMENT POWERS.**

(A) In exercising powers conferred by this chapter or any other section of this code relating to communicable diseases, the Public Health Official is to be guided by the most recent instructions, opinions, and guidelines of the Center for Disease Control of the United States Department of Health and Human Services that relate to the spread of infectious diseases.

(B) In order to ascertain the source of infection and reduce its spread, the Public Health Official, and persons under the Public Health Official=s direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure, or premises, or any part thereof, that may be a site of high-risk sexual conduct. If the Public Health Official determines that a hazardous site as defined herein exists, the Public Health Official will declare it to be a public health hazard and public health nuisance and will:

(1) Notify the manager, owner, or tenant of the hazardous site that the Public Health Official has reasonable belief that the premises, building, or structure is a hazardous site as defined herein;

(2) Issue 2 written warnings at least 10 days apart to the manager, owner, or tenant of the premises stating the specific reasons for the Public Health Official=s opinion that the premises, building, or structure is a hazardous site as defined herein; and

(3) Once the notices and warnings have been issued, the Public Health Official must proceed as follows.

(a) After the manager, owner, or tenant of the premises has been notified in writing as to the basis of the Public Health Official=s determination, the manager, owner, or tenant will have 10 days from the date of the last warning to request a hearing before the Public Health Official or the Public Health Official=s appointee for the determination as to the existence of the hazardous site. If the manager, owner, or tenant of the premises does not request a hearing within 10 days of the date of the last warning notice, the Public Health Official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the Public Health Official will issued to the manager, owner, or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent high-r isk sexual conduct from taking place within the premises.

(b) If the manager, owner, or tenant of the premises requests a hearing, the hearing will be held before the Public Health Official or the Public Health Official=s appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the Public Health Official or the Public Health Official=s appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the Public Health Official or the Public Health Official=s appointee makes a determination that the premises constitute a hazardous site, the Public Health Official will then issue orders to the manager, owner, or tenant of the premises to take corrective measures to prevent high-risk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.

(c) If, within 30 days after issuance of the orders to the manager, owner, or tenant of the hazardous site, the Public Health Official determines that the corrective measures have not been undertaken, the Public Health Official; may order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in court of competent jurisdiction; or, may secure a court order for the closure of the premises constituting the hazardous site until the premises, building, or structure is in compliance with all provisions of this code.

(Prior Code, ' 52.11)

CHAPTER 114: MASSAGE LICENSES

Section

- 114.01 Purpose
- 114.02 Findings
- 114.03 Definitions
- 114.04 License required
- 114.05 Exceptions
- 114.06 License application
- 114.07 License fees
- 114.08 License application verification and consideration
- 114.09 Persons ineligible for license
- 114.10 Locations ineligible for therapeutic massage enterprise license
- 114.11 License restrictions
- 114.12 Restrictions regarding sanitation, health and safety
- 114.13 Term, renewal of license
- 114.14 Sanctions for license violations

- 114.99 Violations and penalties

▪ 114.01 PURPOSE.

The purpose of this chapter is to prohibit massage businesses and services to the public except those licensed by the city as therapeutic massage enterprises and massage therapists pursuant to this chapter. The licensing regulations prescribed herein are necessary in order to protect businesses that are operating legitimate enterprises, to prevent criminal activity, and to protect the health and welfare of the community. The purpose of this chapter is not to impose restrictions or limitations on the freedom of protected speech or expression.
(Ord. 280, passed 12-8-2014)

▪ 114.02 FINDINGS.

The City Council makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

(A) Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.

Maple Plain - Business Regulations

(B) Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.

(C) License qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.

(D) Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.

(E) Massage businesses which employ persons with no specialized and standardized training can tax city law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.

(F) The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.
(Ord. 280, passed 12-8-2014)

▪ **114.03 DEFINITIONS.**

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

ACCREDITED INSTITUTION. An educational institution holding accredited status with the United States Department of Education.

ACCREDITED PROGRAM. A professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA).

BUSINESS LICENSEE. The individual who has obtained a valid therapeutic massage enterprise license from the city, on behalf of himself or herself or on behalf of a business entity, and is designated to be responsible for the enterprise's compliance with all aspects of this chapter.

CLEAN. The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

GOOD REPAIR. Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

MASSAGE. Any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or arms with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

MASSAGE THERAPIST. An individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

- (1) Has current insurance coverage of \$1,000,000 for professional liability in the practice of massage;
- (2) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and

(3) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program or accredited institution that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma.

OPERATE. To own, manage, or conduct, or to have control, charge, or custody over.

PERSON. Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

THERAPEUTIC MASSAGE ENTERPRISE. An entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public. A therapeutic massage enterprise may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public.

WITHIN THE CITY. Physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

(Ord. 280, passed 12-8-2014)

(A) *Therapeutic massage enterprise license.* It shall be unlawful for any person or entity to own, operate, engage in, or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this chapter.

2015 S-8

60

Maple Plain - Business Regulations

(B) *Massage therapist license.* It shall be unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city pursuant to this chapter.

(Ord. 280, passed 12-8-2014)

▪ 114.05 EXCEPTIONS.

A therapeutic massage enterprise or therapist license is not required for the following persons and places:

(A) Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.

(B) Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck.

(C) Places licensed by this state as a "salon" pursuant to M.S. ' 155A.29, provided such places do not hold themselves out as offering massage treatments and provided the massage by salon employees is limited to the head, hand, neck, and feet.

(D) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry.

(E) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.

(F) Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study, provided that the students are performing the massage services at the location of the accredited institution and provided the students are identified to the public as students of massage therapy. Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution must have at least 150 hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution, must have proof of liability insurance, and must be identified to the public as a student of massage therapy.

(Ord. 280, passed 12-8-2014)

• 114.06 LICENSE APPLICATION.

(A) *Therapeutic massage enterprise license application.* An application for a therapeutic massage enterprise license shall be made on a form supplied by the City Clerk and shall request the following information:

2015 S-8

Massage Licenses

61

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

(a) Whether the applicant is an individual, corporation, partnership, or other form of organization.

(b) The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.

(c) The floor number, street number, and rooms where the massage services are to be conducted.

(d) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

(e) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the city's building and inspection department, no plans need be submitted to the issuing authority.

(f) The name and street address of the business if it is to be conducted under a designation, name, or style other than the name of the applicant, and a certified copy of the certificate as required by M.S. ' 333.02.

(g) The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment.

(h) All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license.

(i) The full name, place and date of birth, and street residence address of the designated business licensee along with a color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Director of the West Hennepin Public Safety Department, the department may take photographs for the file.

(j) All applicants shall agree, in writing, to submit to a criminal background check.

(k) Such other information as the City Council or issuing authority shall require.

2015 S-8

62

Maple Plain - Business Regulations

(2) *Individuals.* For applicants who are individuals:

(a) The full name, place and date of birth, and street residence address of the applicant, who shall also be the designated business licensee, along with a copy of a valid identification card, as required under ' 114.06(A)(1)(i).

(b) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

(c) Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.

(d) Street addresses at which the applicant has lived during the preceding 5 years.

(e) The type, name, and location of every business or occupation the applicant has been engaged in during the preceding 5 years.

(f) Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.

(g) Names and addresses of the applicant's employers for the preceding 5 years.

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

(i) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last 5 years of the date the license application is submitted to the issuing authority.

(j) Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place and length of time of the involvement in such an establishment.

(3) *Partnerships.* For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in division (2) above. The

managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under M.S. ' 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

2015 S-8

Massage Licenses

63

(4) *Corporations and other organizations.* For applicants that are corporations or other types of organizations:

(a) The name of the organization, and if incorporated, the state of incorporation.

(b) A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in M.S. ' 303.02.

(c) The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in division (2) above.

(d) A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in division (2) above.

(B) *Massage therapist license application.* An application for a massage therapist license shall be made on a form supplied by the City Clerk and shall request the following information:

(1) The applicant's name and current address.

(2) The applicant's current employer.

(3) The applicant's employers for the previous 5 years, including the employer's name, address and dates of employment.

(4) The applicant's addresses for the previous 5 years.

(5) The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Director of the West Hennepin Public Safety Department, the department may take photographs for the file.

(6) Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, and offense for which convictions were had.

(7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last 5 years of the date the license application is submitted to the issuing authority.

(8) The names, resident and business addresses of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as the applicant's character.

2015 S-8

64

Maple Plain - Business Regulations

(9) Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.

(10) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.

(11) Whether the applicant has met the definition of a massage therapist as defined.

(12) All applicants shall agree, in writing, to submit to a criminal background check.

(13) Such other information as the City Council or issuing authority shall require.
(Ord. 280, passed 12-8-2014)

▪ 114.07 LICENSE FEES.

(A) The fees for a therapeutic massage enterprise and therapist licenses shall be as set forth in the city's fee schedule. An investigation fee shall be charged for therapeutic massage enterprise licenses and an individual therapeutic massage license. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. No investigation fee shall be refunded.

(B) Beginning in 2014, the first year of massage therapy licensing, license fees for new enterprises and individuals shall be pro-rated to one-half the annual fee. Licenses approved for 2014 will be effective July 1 through December 31, 2014. Thereafter the full license fee will be charged on an annual basis regardless of when the application is received. Background investigation fees will not be pro-rated for a new application.
(Ord. 280, passed 12-8-2014)

▪ 114.08 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.

(A) *Verification of information in therapeutic massage enterprise license and massage therapist license.* All applications shall be referred to the Director of the West Hennepin Public Safety Department, or his or her

designee, and such other city departments as the City Administrator shall deem necessary for verification and investigation of the facts set forth in the application. The Director, or his or her designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The Director, or his or her designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy.

2015 S-8

Massage Licenses

65

(B) *Consideration of application.*

(1) Within a reasonable period after receipt and verification of a complete therapeutic massage enterprise license application or a massage therapist license application and receipt of the applicable fees, the Director, or his or her designee, and other consultants shall make a written recommendation to the City Council as to the issuance or non-issuance of the license. The City Council may order and conduct such additional investigation as it deems necessary. Upon completion of its investigation, the Council shall grant or deny the license. Notice shall be sent by the City Clerk by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the City Council within 20 days. If an appeal is properly made, the matter shall be placed on the next available City Council agenda.

(2) Photo I.D. cards. Photo identification cards shall be issued to individuals receiving a therapeutic massage enterprise license and to those receiving a massage therapist license.
(Ord. 280, passed 12-8-2014)

▪ 114.09 PERSONS INELIGIBLE FOR LICENSE.

(A) *Therapeutic massage enterprise license.* No therapeutic massage enterprise license shall be issued to an individual or entity operated by an individual who:

(1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;

(2) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. ' 364.03, Subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S. ' 364.03, Subd. 3;

(3) Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last 5 years of the date the license application is submitted to the issuing authority;

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;

(5) Is not of good moral character or repute;

(6) Is not the real party in interest of the enterprise;

(7) Has knowingly misrepresented or falsified information on the license application;

(8) Cannot meet the definition of therapeutic massage enterprise as defined by the city;

2015 S-8

66

Maple Plain - Business Regulations

(9) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent;
or

(10) Is the spouse of a person whose massage-related license has been suspended or revoked in the past 5 years.

(B) *Massage therapist license.* No massage therapist license shall be issued to a person who:

(1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;

(2) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. ' 364.03, Subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by M.S. ' 364.03, Subd. 3;

(3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last 5 years of the date the license application is submitted to the issuing authority;

(4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;

(5) Is not of good moral character or repute;

(6) Has knowingly misrepresented or falsified information on the license application;

(7) Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city; or

(8) Cannot meet the definition of massage therapist as defined.
(Ord. 280, passed 12-8-2014)

▪ **114.10 LOCATIONS INELIGIBLE FOR THERAPEUTIC MASSAGE ENTERPRISE LICENSE.**

(A) *Delinquent taxes.* No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes, assessments, or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under M.S. ' ' 278.01 through 278.13, questioning the amount or validity of taxes, the City Council may, on application, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding 1 year after becoming due.

2015 S-8

Massage Licenses

67

(B) *Improper zoning.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with the city's zoning code.
(Ord. 280, passed 12-8-2014)

▪ **114.11 LICENSE RESTRICTIONS.**

(A) *Posting and production of license.* A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. Upon the demand of the City Administrator or a licensed peace officer, a therapeutic massage enterprise must also immediately produce a current and complete list of all licensed massage therapists who are employed by the therapeutic massage enterprise. A person licensed as a massage therapist shall also post his or her massage therapist license, with color photo, in a conspicuous place on the premises at which the therapist is associated. A massage therapist shall produce his or her massage therapist license upon demand by the City Administrator or a licensed peace officer.

(B) *Licensed premises.* A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the City Clerk within 10 business days. It shall be the continuing duty of each licensee to properly notify the City Clerk, within 10 business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license.

(C) *Transfer of license prohibited.* The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(D) *Affiliation with enterprise required.* A massage therapist shall be employed by, affiliated with, or own a

massage enterprise business licensed by the city, unless a person or place is specifically exempted from obtaining a therapeutic massage enterprise license as defined.

(E) *Employment of unlicensed massage therapists prohibited.* No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section, unless the person is specifically exempted from obtaining a therapist license as defined.

(F) *Coverage of genitals during massage.* The licensee shall require that the person who is receiving the massage shall at all times have his or her genitals covered with non-transparent material or clothing.

(G) *Therapist dress/uniform requirements.* Any massage therapist performing massage shall at all times be dressed professionally, shall have his or her breasts, buttocks, anus, and genitals covered with non-transparent material or clothing.

2015 S-8

68

Maple Plain - Business Regulations

(H) *Effect of license suspension or revocation.* No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.

(I) *Massage of certain body parts prohibited.* At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, anus, mons veneris, vulva, or vaginal area of a person.

(J) *Restrictions regarding hours of operation.* No therapeutic massage enterprise shall be open for business, nor will any therapeutic massage therapist offer massage services, before 8:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 8:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.

(K) *Restrictions regarding use of the business premises outside of business hours.* No licensee shall permit any person to occupy the business premises outside of business hours, unless it is to complete the support activities outlined in division (J) above. No licensee shall permit any person to reside at the business premises.

(L) *Proof of local residency required.* In the case of a therapeutic massage enterprise, the licensee, operator, managing partner, or manager of the licensed premise must show proof of residency in 1 of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix or Pierce in Wisconsin. In the case of therapeutic massage therapists, the licensee must show proof of residing in 1 of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix or Pierce in Wisconsin.

(M) *Inspections.* In light of the high risk of involvement with illegal conduct an establishment providing massage therapy poses to the general public and in the interests of public safety, the issuing authority,

Environmental Health Department or designee, and/or the West Hennepin Public Safety Department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section and any other applicable sections of the city code and state building code. Any searches of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The licensee is subject to a \$250 fee for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.

(N) *Posting of rates.* All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.

2015 S-8

Massage Licenses

69

(O) *Illegal activities.* In addition to the license restrictions set forth in this section, any advertising by a licensee of any potential unlawful or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

(P) *Restrictions involving minors.* No person under the age of 18 shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by his/her parent or guardian. (Ord. 280, passed 12-8-2014)

▪ 114.12 RESTRICTIONS REGARDING SANITATION, HEALTH AND SAFETY.

(A) *Toilet room requirements.* A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.

(B) *Paper/linen requirements.* A licensed therapeutic massage enterprise shall provide single-service disposal paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the massage; or in the alternative, if the table, chair, or furniture on which the patron receives the massage is made of material impervious to moisture, such table, chair, or furniture shall be properly sanitized after each massage.

(C) *Washing of hands required.* The massage therapist shall wash his or her hands and arms with water and

soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.

(D) *Door latches and locks.* Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door with or without a key cannot be present on any doors of rooms intended for massage therapy.

(Ord. 280, passed 12-8-2014)

▪ **114.13 TERM, RENEWAL OF LICENSE.**

(A) The term of a massage therapist license and a therapeutic massage enterprise license is 1 year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire December 31 of the year of issuance. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the issuing authority after June 30.

2015 S-8

70

Maple Plain - Business Regulations

(B) Licenses must be renewed annually. A massage therapist license issued under this chapter shall expire on December 31 of the year of issuance of the license. A therapeutic massage enterprise license issued under this section shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.

(C) An application for a renewal of an enterprise or individual license shall be made in the same manner as the original application. The license and investigation fees for a renewal shall be the same as those contained in the city's fee schedule. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than 10% of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.

(D) After the completion of the renewal license verification process, the issuing authority shall present the license application to the City Council in accordance with this section. If the application is denied, the City Clerk shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the City Clerk, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.

(Ord. 280, passed 12-8-2014)

▪ 114.14 SANCTIONS FOR LICENSE VIOLATIONS.

(A) *Suspension or revocation.* The City Council may impose an administrative penalty, suspend or revoke a license issued pursuant to this chapter, at its discretion, for:

(1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.

(2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

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

(4) A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by M.S. ' 364.03, Subd. 2.

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

2015 S-8

Massage Licenses

71

(6) If the owner, operator, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription.

(7) If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this chapter.

(8) A material variance in the actual plan and design of the premises from the plans submitted.

(9) Neither the charging of a criminal violation nor a criminal conviction is required in order for the Council to impose an administrative penalty or suspend or revoke a license.

(B) *Notice and hearing.* A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

(Ord. 280, passed 12-8-2014)

▪ **114.99 VIOLATIONS AND PENALTIES.**

Any person or entity violating the provisions of this chapter is guilty of a misdemeanor under Minnesota law, and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this chapter shall constitute a separate offense. Conviction of a violation of this chapter, while not required, may be grounds for the suspension or revocation of any license issued under this chapter.
(Ord. 280, passed 12-8-2014)