

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL LICENSING AND REGULATIONS

CHAPTER 110: GENERAL LICENSING AND REGULATIONS

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GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

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

(A) **APPLICANT.** Any person making an application for a license under this Chapter.

(B) **APPLICATION.** A form with blanks or spaces thereon to be filled in and completed by the applicant at the applicant's request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

(C) **BOND.** A corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

(D) **BUSINESS.** Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

(E) **LICENSE.** A document issued by the City to an applicant permitting the licensee to carry on and transact a business.

(F) **LICENSEE.** An applicant who, pursuant to the applicant's application, holds a valid, current, unexpired, and unrevoked license from the City for carrying on a business.

(G) **LICENSE FEE.** The money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

(H) **SALE, SELL and SOLD.** All forms of barter and all manner or means of furnishing merchandise to persons.

§ 110.02 APPLICATIONS.

All applications shall be made as follows.

(A) All applications shall be made at the office of the City Administrator upon forms that have been formulated by the City for such purposes.

(B) All such applications must be signed, and where necessary subscribed, and includes, but not be limited to, the following:

- (1) Applicant's full name, middle initial, former names and aliases and citizenship;
- (2) Applicant's present address and length of time the applicant has lived at that address;
- (3) Applicant's occupation and length of time so engaged;
- (4) Applicant's addresses and occupations for the three years next preceding the date of application;
- (5) Names and addresses of applicant's employers, if any, for the three years next preceding the date of application;
- (6) Whether or not applicant has ever been convicted of a felony, gross misdemeanor or misdemeanor, including violation of a municipal ordinance but excluding minor traffic violations, and if so, the date and place of conviction and the nature of the offense;

(7) Type of license and location of premises for which application is made;

(8) At least two character references if applicant has not resided in the City for two years next preceding the date of application; and

(9) Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

(C) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on the application form, shall, upon discovery of the falsehood, work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter or any part hereof.

(D) The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as the City Administrator deems necessary. For such investigation, the City Administrator may enlist the aid of the Chief of Police. The Council shall not consider an application before the investigation has been completed. Unless otherwise required by provisions of this Chapter, the Council may authorize the City Administrator to issue licenses hereunder.

(E) Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

§ 110.03 ACTION ON APPLICATION.

(A) *Granting.* A license may be granted for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter.

(B) *Issuing.* If an application is granted, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, payment of the appropriate license fee and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis beginning January 1 and ending December 31. Unless otherwise herein specified, license fees shall be prorated on the basis of 1/12 for each calendar month, or part thereof remaining in the then current license year. Licenses shall be valid only at one location and on the premises therein described. In order to effectuate the change in license year, the City Administrator is authorized to credit the applicant for any unearned portion of a license fee or charge a prorated amount only.

(C) *Transfer.* A license shall be transferable between persons upon consent of the Council. No license shall be transferable to a different location without prior consent of the Council and upon

payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Division.

(D) *Termination.* Licenses shall terminate only by expiration or revocation.

(E) *Refusal and revocation.* The Council, or in certain cases the City Administrator, may, for any reasonable cause, refuse to grant any application or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee established by Council resolution for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

§ 110.04 CARRYING OR POSTING.

All licensees shall post their licenses in their place of business near the licensed activity. However, in the case of machine or other device licensing, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring the sticker. All licensees shall display their licenses upon demand by any officer or citizen.

§ 110.05 RESPONSIBILITY OF LICENSEE.

The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee.

§ 110.06 CONVICTION OF CRIME; DENIAL OF LICENSE.

A license may be denied to an applicant by the Council solely or in part due to a prior conviction of a crime by an applicant only upon a finding that the conviction directly relates to the occupation for which the license is sought, and then only after considering evidence of rehabilitation and such other evidence as may be presented, all in accordance with Minnesota Statutes. However, an applicant must show the applicant's present fitness to perform the occupation for which the license is sought.

§ 110.07 CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefore, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

§ 110.08 INSURANCE REQUIREMENTS.

Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Administrator a policy or certificate of public liability insurance showing:

(A) That the limits are at least as high as required;

(B) That coverage is effective for at least the license term approved; and

(C) That the insurance will not be canceled or terminated without 30 days written notice served upon the City Administrator. Cancellation or termination of the coverage shall be grounds for license revocation.

§ 110.09 PENALTY FOR PROPERTY OWNERS.

It is unlawful for any person to knowingly permit any real property owned or controlled by that person to be used, without a license, for any business for which a license is required by this Chapter.

REGULATIONS**§ 110.25 JUNK DEALERS.**

(A) ***Definition.*** The term *JUNK*, as used in this Section, means and includes, but is not limited to, scrap of all kinds such as metal, paper, rags, and wood.

(B) ***License required.*** It is unlawful for any person to deal in junk without having a license therefore from the City.

(C) ***Application.*** Application for a license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(D) ***License fee.*** The annual license fee for junk dealers shall be established by the Council by resolution and may be changed from time to time.

§ 110.26 SEWAGE HAULERS.

(A) ***License required.*** It is unlawful for any person to discharge or cause to be discharged into any public sewer of the City any septic tank or cesspool wastes without first having obtained a license for such purposes.

(B) Application. Application for a license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(C) License fee. The annual license fee for sewage haulers shall be established by the Council by resolution and changed from time to time. In addition thereto, there shall be paid a discharge fee which shall be established by the Council by resolution and may be changed from time to time.

(D) License restriction. Licensees shall dump only at places designated from time to time by the Public Utilities Director and shall be dumped in accordance with the regulations established by the Public Utilities Director.

§ 110.27 SHOWS.

(A) License required. It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance, or exhibition without first having obtained a license therefor from the City.

(B) Application. Application for a license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(C) License fees.

(1) The annual license fee for each local theater presenting only films shall be established by the Council by resolution and may be changed from time to time.

(2) The license fee for any circus, menagerie, carnival, or like exhibition shall be established by the Council by resolution and may be changed from time to time.

(D) Exceptions. No license shall be required in the following instances:

(1) Performances presented in the local schools and colleges, under the sponsorship of such schools and colleges, and primarily for the students thereof only;

(2) Performance of athletic, musical, or theatrical events sponsored by local schools or colleges using student talent only; or,

(3) Any performance or event in, or sponsored by, bona fide local church and nonprofit organizations, provided that the organization shall be incorporated.

(E) Obscenity prohibited.

(1) Definitions. For the purpose of this Division (E), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) **NUDITY.** Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

(b) **OBSCENE PERFORMANCE.** A performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

(c) **OBSCENITIES.** Those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conductor excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual, or excretory meaning.

(d) **PERFORMANCE.** Any play, motion picture film, dance, or other exhibition pictured, animated or live performed before an audience.

(e) **SADO-MASOCHISTIC ABUSE.** Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

(f) **SEXUAL CONDUCT.** Human masturbation, sexual intercourse or any touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(g) **SEXUAL EXCITEMENT.** The condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(2) **Unlawful acts.** It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly:

(a) Exhibit an obscene performance;

(b) Directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance; or

(c) Directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.

(3) **Defense to prosecution.** In any prosecution under this Section it is an affirmative defense and for the defendant to prove:

(a) That the defendant was a bona fide school, museum, or public library or was acting in the course of their employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization; or

(b) That the defendant was charged with exhibiting or selling an admission ticket, or permitting admission to a performance, those portions of which might otherwise be contraband forming merely an incidental part of an otherwise non-offending whole and serving some legitimate purpose therein other than titillation.

§ 110.28 DANCES.

(A) *Regulation of public dances.* All public dances held in this City shall be conducted in accordance with the provisions of this Section.

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

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

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

(C) No person shall conduct a public dance in this City unless a permit has been obtained from the City Administrator prior to the holding of the dance. The fees for a permit shall be as established by resolution, which resolution may be amended from time to time. In addition to this fee, the applicant shall pay the cost to the City of providing a police officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of police officers required to be present at any dance. No permit shall be issued until the fee and the cost of for providing the police officer or officers has been paid.

(D) *Application.* Any person desiring a permit to hold a public dance in this City shall submit an application for a permit on the form provided by the City Administrator submitted to the City Administrator at least 14 days before the date of the proposed dance. The application shall set forth the name and address of the applicant who shall be the person responsible for conducting the public dance and any business, committee, or organization sponsoring the dance, the place where the dance is to be held, the date of the dance, and the time of its beginning and end. A request for any use of a City building or other City property shall be included with the permit application and no permit shall be issued until the fees for the use of the City building or other City property have also been paid.

(E) *Location.* The applicant shall make sure that adequate parking is available for the persons wishing to attend the dance and make sure that the location is safe and accessible. This information shall also be provided to the City Administrator before a permit shall be issued.

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

(G) *Liquor license required.* No person shall give, hold, conduct, or permit any public dance where

liquor will be served, as defined in M.S. Ch. 340A, without obtaining a license from the City.

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(H) *Police officer presence.* No public dance shall occur without at least one police officer, or more if more are required under the criteria established by the City Council, present at the public dancing place during the duration of the dance and after the dance, until all of the participants have left the public dancing place.

(I) *Hours.* No public dance shall occur between the hours of 1:00 a.m. and 8:00 a.m.

(J) *Minors denied admission.* No person under the age of 21 shall be allowed to be present by the permit holder or any police officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.

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

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

(M)All public dances shall be subject to the provisions of this Code regulating noise.

(N) *Exceptions.* This section shall not apply to any dance sponsored by a local school, incorporated church, youth center, or non-profit organization where the dance is held on the premises of the local school, incorporated church, youth center, or non-profit organization.

§ 110.29 PLUMBERS.

No person, firm, or corporation shall engage in or work at the business of a master plumber or journeyman plumber unless licensed to do so by the State Commissioner of Health.

§ 110.30 LODGING TAX.

(A) The City imposes a tax of three percent on the gross receipts from the furnishing for consideration of lodging at a motel, hotel, tourist court, or other use of space by a transient within the City other than the renting or leasing of the space for a continuous period of 30 days or more.

(B)The tax authorized herewith shall be the personal obligation of the operator of any such motel, hotel, or other space used by a transient and shall constitute a debt owed to the City by the operator

extinguishable only by payment to the City. The operator is defined to be the person who is the proprietor of

the hotel, whether in the capacity of owner, lessee, sublessee, licensee, or any other capacity.

(C) The tax shall be collected by the operator at the time the payment for the lodging is made and shall be remitted to the City on or before the twenty-fifth day of the month following the month within which the tax is collected.

(D) The City Administrator is authorized to establish administrative regulations to effect the collection of the tax and any interest and penalties thereon.

(E) Any operator failing to make payment by the twenty-fifth day of the month as specified in Division (C) of this Section shall be required to pay a late fee of 5% of the tax amount remaining unpaid, and thereafter, an additional late fee of 10% if the tax is not paid within 30 days thereafter; in addition, interest at the rate of 7% per annum shall be paid in addition to the late fees on the amount of tax remaining unpaid until the tax shall have been paid in full. The City Attorney is authorized to commence such legal action as is necessary to collect all taxes, interest, and late fees due hereunder.

(F) At least 95% of the gross proceeds derived from the tax imposed by this Section shall be used by the City to fund its local convention and tourist bureau for the purposes of marketing and promoting the City as a tourist and convention center, with the balance of the gross proceeds to be used to provide reimbursement for administrative costs of collection and administration of the tax by the City.

§ 110.31 PAWN BROKERS.

(A) **Definition.** As used in this Section, the term *PAWN BROKER* means a person who loans money on deposit or pledge of personal property or other valuable thing, who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

(B) **License required.** It is unlawful for any person to operate as a pawn broker without a license therefor from the City.

(C) **Application.** Application for a license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(D) **License fee.** The license fee shall be established by the Council by resolution and may be changed from time to time.

(E) **Records required.** Every person who shall be engaged in the business of pawn broker shall keep a book in which shall be clearly written in ink or typewritten, in the English language, at the time of each loan or purchase, an accurate account or description of the goods, articles, or other thing pawned, pledged or purchased, the amount of money loaned or paid therefor; the time of the receipt of the same; the full name, residence, driver's license number and state of issuance; description; and such other information as required by the Police Division of the person pawning, pledging, or selling the same. For each article pawned, pledged, or purchased, the person engaged in the business of pawn broker shall record all serial

"operation identification" numbers of each article in the book required hereunder. The book, as well as the article pawned or purchased, shall at all reasonable times be opened to the inspection by the members of the Police Division.

(F) *Reports to police.* Every pawn broker shall make out and deliver to the Chief of Police, Deputy Chief of Police or their designee, every Monday before noon, a legible and correct copy, from the book required in Division (E) of this Section, all of the personal property or other valuable things received or deposited or purchased during the preceding week, together with the time when received or purchased and a description of the person by whom left in pledge or from whom the same was purchased.

(G) *Redemption period.* Any person pledging an article shall have 30 days to redeem the same before the pledge becomes forfeitable.

(H) *Required holding period.* No personal property received on deposit by any pawn broker shall be redeemed from the place of business of the pawn broker for the space of 48 hours next after the delivery to the Chief of Police, Deputy Chief of Police or their designee, of the copy and statement relating thereto as required by Division (G) of this Section, and no personal property purchased by any pawn broker shall be sold or disposed of in any way within the period of 48 hours next after the delivery to the Chief of Police, Deputy Chief of Police, or their designee of the copy and statement relating thereto as required in Division (G) of this Section.

(I) *Police order to hold property.* Whenever the Chief of Police or any member of the Police Division designated by the Chief of Police shall notify a pawn broker not to sell any property so received on deposit or purchased by them, permit the same to be purchased by them or permit the same to be redeemed, the property shall not be sold or permitted to be redeemed until such time as may be determined by the Chief of Police or member of the police force designated by the Chief of Police so requiring them to be held.

(J) *Dealing with minors.* No pawn broker shall purchase or receive on deposit or pledge anything of value as security for a loan of money from any person under the age of 18 years or from persons of unsound mind or intoxicated persons.