

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: ALCOHOLIC BEVERAGES

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REGULATION OF LIQUOR

§ 110.01 ADOPTION OF STATE LAW BY REFERENCE

Except as specified herein, the provisions of M.S. Chapter 340A, as it 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% malt liquor are hereby adopted by reference and are

made a part of this subchapter as if set out in full. It is the intention of the Council that all future amendments to M.S. Chapter 340A, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this subchapter is adopted. (Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.02 CITY MAY BE MORE RESTRICTIVE

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 subchapter, additional restrictions on the sale and possession of liquor within its limits beyond those contained in M.S. Chapter 340A, as it may be amended from time to time. (Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 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 words, terms and phrases, when used in this subchapter, shall have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning.

COUNCIL. The City Council of the City of Cokato, Minnesota.

LIQUOR. All alcoholic beverages including, but not limited to, intoxicating liquor and 3.2% malt liquor.

SCHOOL. A premises wherein students are educated to satisfy the compulsory instruction requirements of M.S. § 120A.22, as it may be amended from time to time, and which meets the requirements of Title VI of the Civil Rights Act of 1964, Pub. Law No. 88-352. (Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.04 LICENSE REQUIRED

No person or entity, except wholesalers or manufacturers to the extent authorized by state license, shall directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of liquor as part of a commercial transaction without first having received a license to do so as provided in this subchapter.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012) Penalty, see § 110.99

§ 110.05 TYPES OF LIQUOR LICENSES

(A) The city may issue the following types of liquor licenses pursuant to this subchapter:

- (1) On-sale intoxicating liquor licenses;
- (2) On-sale intoxicating liquor club licenses;
- (3) On-sale 3.2% malt liquor licenses;
- (4) Temporary on-sale intoxicating liquor licenses;
- (5) Temporary on-sale 3.2% malt liquor licenses;
- (6) On-sale wine licenses;
- (7) Off-sale intoxicating liquor licenses;
- (8) Off-sale 3.2% malt liquor licenses;
- (9) Combination on-sale/off-sale licenses;
- (10) Consumption and display permits;
- (11) One-day consumption and display permits; and
- (12) Sunday on-sale intoxicating liquor licenses.

(B) On-sale liquor licenses shall permit the consumption of liquor on the licensed premises only. Off-sale licenses shall permit the sale of liquor in its original package for consumption off the licensed premises only.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.06 NUMBER OF LICENSES

(A) The number of on-sale intoxicating liquor licenses issued by the Council shall be limited to five, excluding licenses authorized under M.S. § 340A.413, Subdivision 4, as it may be amended from time to time.

(B) The number of other liquor licenses the city may issue shall only be limited to the extent provided in state law.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.07 PERSONS INELIGIBLE FOR LICENSES

(A) Only those persons, entities or establishments eligible under M.S. Chapter 340A, as it may be amended from time to time, to hold a particular type of license may apply for, be issued or hold that type of license.

(B) No license shall be granted to or held by any person ineligible to hold a liquor license under M.S. § 340A.402, as it may be amended from time to time, or to any person:

- (1) Who is not the proprietor of the establishment for which the license is issued;
 - (2) Who is not a citizen of the United States or a resident alien, or upon whom it is impractical to conduct a background and financial investigation due to the unavailability of information;
 - (3) Who is or during the period of the license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at the place; and
 - (4) Who is the spouse of a person ineligible for a license pursuant to the provisions of this subchapter or who, in the judgment of the Council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.
- (Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.08 LICENSE APPLICATION

(A) Every application for a license shall be made on the form supplied by the city and shall be filed with the City Clerk-Treasurer at least 30 days before Council action is required.

(B) Every application for the issuance or renewal of a license must include a copy of each summons received by the applicant under M.S. § 340A.802, as it may be amended from time to time, during the preceding year.

(C) Incomplete applications will not be considered.

(D) No person shall make a false statement in an application.

(E) Applicants are required to include a legal description of the property to be licensed, a site plan of the property showing dimensions and locations of buildings, and a description of the compact and contiguous premises within which liquor may be dispensed and consumed.

(F) Every application shall include proof of financial responsibility in the form and for at least the amount prescribed by M.S. § 340A.409, as it may be amended from time to time.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.09 FEES

Every application for a license must be accompanied by the fee applicable to that license. The license fee and investigation fee shall be paid with cash or certified or cashier's check. No application for a license shall be considered until the required fees have been paid to the City Clerk-Treasurer. The fee for a license shall be as established by ordinance and shall be in addition to the fee required by the Commissioner of Public Safety, if any. A pro rata fee shall be applied to licenses issued for less than one year, with any unexpired fraction of a month being counted as one month.
(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.10 INVESTIGATION OF APPLICATIONS

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

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant further investigation, in the sound discretion of the Council, the Council may conduct 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 regardless of whether the application is approved or 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 or withdrawn. 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.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.11 HEARING AND ISSUANCE

The Council shall investigate the 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. Licenses are subject to the applicable

restrictions on issuance contained in M.S. Chapter 340A, as it may be amended from time to time. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the Commissioner of Public Safety approves the proof of financial security and consents to the issuance of the license when the approval or consent is required by law.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.12 CONDITIONS OF LIQUOR LICENSES

(A) Every liquor license shall be granted subject to the following conditions and any other applicable ordinance or state law.

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

(1) The liquor license shall be posted in a conspicuous place in the licensed establishment at all times.

(2) 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 for all penalties provided by this subchapter and the law equally with the employee.

(3) 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 without a warrant during business hours and after business hours during the time when customers remain on the premises.

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

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

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.13 RESTRICTIONS ON ISSUANCE

No liquor licenses shall be issued or renewed as follows:

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

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

(C) If the applicant has been convicted of any willful violation of this subchapter, M.S. Chapter 340A, as it may be amended from time to time, or if the applicant has had a liquor license issued in the city revoked for cause, no license shall be issued until one year has elapsed after the conviction or revocation.

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

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

(F) No on-sale liquor license shall be issued for a club that has not been in operation and eligible to receive a license for at least six months immediately preceding the application for a license.

(G) 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.

(H) No liquor license shall be granted for a premises that has a common entrance or exit with another establishment except that a public concourse or public lobby shall not be construed as a common entrance or exit.

(I) No license shall be issued for any building, room or place within 200 feet of any building space that is used primarily and regularly for any public or private school or used primarily and regularly for any church or place of worship, the distance to be measured in a straight line from the principal public entrance of the school, church or place of worship to the main public entrance of the premises for which a license is sought.

(J) A Sunday on-sale intoxicating liquor license may be issued only to a restaurant, club, bowling center or hotel with a seating capacity for at least 30 persons which holds an on-sale intoxicating liquor license for consumption on the premises in conjunction with the sale of food.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.14 TERM AND EXPIRATION OF LICENSES

Licenses shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year. 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.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.15 APPLICATIONS FOR RENEWAL

At least 90 days before a license issued under this subchapter is to be renewed, an application for renewal shall be filed with the City Clerk-Treasurer on the appropriate form. The decision whether to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.16 TRANSFER OF LICENSES

No license issued under this subchapter may be transferred without the written 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 sufficient grounds 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 subchapter applying to applications for a license shall apply.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.17 HOURS AND DAYS OF SALE

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 no licensee may sell on-sale liquor on the licensed premises between the hours of 1:00 a.m. and 2:00 a.m. No Sunday sale of intoxicating liquor for consumption on the premises shall be permitted without a Sunday sale license.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.18 SUSPENSION OR REVOCATION

(A) The Council may suspend a license for up to 60 days, revoke a license or impose a civil fine not to exceed \$2,000 for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to liquor. Any license found selling alcoholic beverages to a minor shall be assessed civil penalties as set out in the city's fee schedule ordinance.

(B) Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.69, as it may be amended from time to time, of the Administrative Procedure Act.

(C) Lapse of required dram shop insurance shall effect an immediate suspension of any license issued pursuant to this subchapter without further action of the Council.

(D) Notice of cancellation or lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license.

(E) The holder of a license who has received notice of the lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if a request is made in writing to the City Clerk-Treasurer, a hearing shall be granted for the next regular meeting of the Council or the longer period as may be requested.

(F) A suspension under this section shall continue until the Council determines that the financial responsibility requirements of this section have again been met.

(G) The Council may waive or modify the civil penalties set out in this section if it finds good cause to do so and makes findings as to the reasons for doing so.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.19 PROHIBITED ACTIVITIES

(A) *Unlawful activities.*

(1) It is unlawful for any licensee, permittee, owner or manager of any establishment licensed under this subchapter to cause, commit, permit or allow in the licensed premises any of the prohibited activities listed in this section or any similar activities, or to sell liquor in any premises from which any prohibited activities may be viewed or heard.

(2) A violation of this section is grounds for the suspension or revocation, as the Council may determine, of any liquor license or permit issued under this subchapter.

(B) (1) *Findings.* The Council finds that it is in the best interests of the public health, safety and general welfare of the community that nudity, sexual conduct and certain shows be prohibited as provided in this section on the premises of any establishment licensed under this subchapter. 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 the following on the premises of any establishment licensed under this subchapter, as set forth in this section, reflects the prevailing community standards of the city. As a result of these findings, the following are prohibited within a licensed premises.

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(2) *Nudity.* It is unlawful for any licensee to permit or allow any person 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.

(3) *Sexual conduct.* It is unlawful for any licensee to permit or allow any person on the licensed premises to engage in any acts by oneself or another or simulation of acts of masturbation, homosexual intercourse, heterosexual intercourse, fellatio, cunnilingus, anal intercourse or the physical contact with a person's unclothed genitals, pubic area, buttocks or, if the person is a female, her breasts.

(4) *Certain shows.* It is unlawful for any licensee to permit or allow mud wrestling, wet T-shirt contests, lingerie shows or displays, or strip-tease dancing on the licensed premises.

(5) *Displays of the foregoing.* The display of any of any of the foregoing by any means, including, but not limited to, books, printed material, magazines, movies, pictures, videos, plays, exhibitions, recordings, closed circuit television, productions or any other device or contrivance in any way that is capable of being used or adapted to arouse interest, or to affect the human senses, whether through the medium of reading, observation, sound or any other means is also prohibited.

(C) *Gambling.* No gambling or any gambling device shall be permitted on any licensed premises with the exception of lawful gambling on a licensed on-sale liquor premises by charitable nonprofit organization licensed by the state and operated in compliance with all applicable statutes, rules and ordinances.

(D) *Restrictions on purchase and consumption.* No person shall mix or prepare liquor for consumption in any public place of business unless he or she 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.

(E) *Consumption in public places.* No person shall consume liquor in any public park, on any public street, sidewalk or alley, public or private parking lot, or in any place other than within the licensed premises of an establishment licensed under this subchapter or where the consumption and display of liquor is lawfully permitted.

(Ord. 01-2007, passed 4-25-2007; Am. Ord. 05-2012, passed 12-10-2012)

§ 110.20 OFF-SALE LIQUOR DELIVERY

(A) *Prohibition.* No off-sale establishment licenses under the City of Cokato shall deliver or permit any employee to deliver any alcoholic beverages if:

(1) The licensee has not provided notice of delivery service to the license issuing authority. Annual notice is required at the time of license renewal; and

- (2) The delivery driver is under 21 years of age; and
- (3) It cannot be determined that the person receiving such beverage is of legal age to purchase and consume alcoholic beverages under M.S. § 340A.503; and
- (4) The order was not taken in person or by phone at the establishment licensed by the City of Cokato. Orders placed over the internet or by text or email do not constitute “in person or by phone” orders; and
- (5) Delivery is to a place where display and/or consumption of alcoholic beverages is prohibited.

(B) *Records Required.* Off-sale establishments are required to obtain an invoice signed by the person receiving such alcoholic beverages. The invoice shall state the names and addresses of the seller and person receiving the delivery, the quantity, size and brand of alcoholic beverages delivered, and the time, date, and place of delivery. The invoice shall be kept by the off-sale licensee for a period of one (1) year and shall be made available for inspection by the license issuing authority and the Wright County Sheriff’s Department.

(C) *Times of Delivery.* No off-sale licensee shall deliver or permit any employee to deliver to a residential address:

- (1) Between 10 p.m. and 8 a.m.

(D) *Suspension or Revocation of Delivery.* The City may suspend or revoke the licensee’s delivery services for violations of any requirements of this Chapter or violations of Minnesota Statutes Chapter 340A as amended.

§ 110.99 PENALTY

Any person violating any provision of this chapter shall be guilty of a misdemeanor.
(Ord. 01-2007, passed 4-25-2007; Res. 2007-13, passed 8-6-2007; Am. Ord. 05-2012, passed 12-10-2012)

CHAPTER 111: CABLE SERVICE

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GENERAL PROVISIONS

§ 111.001 FINDINGS AND INTENT

The city finds that the delivery of cable service and related communications services may contribute significantly to the communication needs and desires of residents of the city, benefit local economic development and improve public and municipal services. The city’s intent in adopting this chapter is to encourage further development of cable service and related communications services in the city, and to ensure that all cable service providers are subject to comparable obligations and burdens. (Ord. 2005-1, passed 1-31-2005)

§ 111.002 SHORT TITLE

This chapter will be known and cited as the Cable Ordinance. (Ord. 2005-1, passed 1-31-2005)

§ 111.003 DEFINITIONS

(A) For the purposes of this chapter, the following terms, phrases, words and their derivations have the meaning given herein. Unless otherwise provided herein, terms, phrases and words contained in this chapter shall have the meaning ascribed in the Cable Act, 47 U.S.C. §§ 521 *et seq.*, or if not defined herein or in the Cable Act, will have their normal and customary meaning. When not inconsistent with the context, words in the singular number include the plural number. The words “must” and “will” are always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.

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

BASIC CABLE SERVICE. Has the meaning ascribed in Cable Act §§ 522(3) and 543(b)(7).

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CABLE COMMUNICATIONS SYSTEM, CABLE SYSTEM or SYSTEM. Has the meaning ascribed in Cable Act § 522(7) and M.S. § 238.02, Subdivision 3, as it may be amended from time to time.

CABLE PROGRAMMING SERVICE. Has the meaning ascribed in Cable Act § 543(1)(2).

CABLE SERVICE. Has the meaning ascribed in Cable Act § 522(6).

CHANNEL. Has the meaning ascribed in Cable Act § 522(4).

CITY. The City of Cokato, Minnesota, a municipal corporation in the State of Minnesota.

COMMISSION. The Sherburne/Wright Counties Cable Communications Commission, a municipal joint powers entity consisting of the following municipalities: Buffalo, Big Lake, Dassel, Delano, Elk River, Maple Lake, Monticello, Rockford and Watertown.

DROP. The cable that connects the ground block on the subscriber's terminal device to the nearest feeder cable of the system.

FCC. The Federal Communications Commission, or its lawful successor.

FRANCHISE, CABLE FRANCHISE or FRANCHISE AGREEMENT. An agreement between the city and any provider of cable service pursuant to this chapter granting authorization to construct, operate and maintain a system and provide cable service in the city.

FRANCHISE FEE. Has the meaning ascribed in Cable Act § 542(g).

GRANTEE. Any recipient of a franchise and its agents and employees, lawful successors, transferees or assignees.

GROSS REVENUES. All revenues, as determined in accordance with Generally Accepted Accounting Principles (GAAP), received by a grantee or its affiliates from the operation of a cable system to provide cable service in the city. By way of example and not limitation, ***GROSS REVENUES*** shall include any advertising revenues received by a grantee or its affiliates in connection with the provision of cable service. ***GROSS REVENUES*** shall not include revenues received by a grantee or its affiliates from the provision of telecommunications services or other non-cable services in the city, bad debt, credits, refunds and deposits paid to subscribers, or any taxes, fees or assessments of general applicability collected by a grantee which are imposed directly on a subscriber and which are collected by a grantee for the governmental unit including any PEG capital fees. A franchise fee is not a tax, fee or assessment.

INSTALLATION. The connection of a system with the subscriber terminal device.

MPUC. The Minnesota Public Utilities Commission, or its lawful successor.

NORMAL BUSINESS HOURS. Has the meaning ascribed in the FCC's rules, 47 C.F.R. 76.309(c)(4).

NORMAL OPERATING CONDITIONS. Has the meaning ascribed in the FCC's rules, 47 C.F.R. 76.309(c)(4).

PEG ACCESS FACILITIES. Public, educational and governmental programming channels, or any equipment or facilities for use of the channels.

PERSON. Has the meaning ascribed in Cable Act § 522(15).

RIGHT-OF-WAY or ***RIGHTS-OF-WAY.*** The area on, below or above a public roadway, highway, street, cart-way, bicycle lane and public sidewalk in which the local government unit has an interest, including other dedicated rights-of-way for travel purposes and utility easements of local government units. ***RIGHT-OF-WAY*** does not include the airwaves above a right-of-way with regard to wireless or other non-wire telecommunications or broadcast services.

RIGHT-OF-WAY ORDINANCE. An ordinance of general applicability adopted by the city establishing requirements regarding regulation, management and use of rights-of-way, including registration and permitting requirements.

STANDARD INSTALLATION. Any residential installation that can be completed using a drop of 150 feet or less.

SUBSCRIBER. Any person who lawfully receives cable service via a system.

TELECOMMUNICATIONS SERVICES. Shall have the meaning ascribed in 47 U.S.C. § 153(46).

TERMINAL DEVICE. An electronic device that converts signals to a form accessible by the subscriber.
(Ord. 2005-1, passed 1-31-2005)

FRANCHISES

§ 111.020 GENERALLY

(A) No person may construct, operate or maintain a cable system or provide cable service in the city unless and until the person is granted a franchise. All franchises must be granted pursuant to the provisions of this chapter.

(B) Any franchise granted hereunder will authorize a grantee to deliver cable service and construct, operate and maintain a cable system in the rights-of-way in the city.

(C) All franchises shall be nonexclusive and city may grant additional franchises at any time. The city will not grant an additional franchise on terms and conditions more favorable or less burdensome than those in an existing franchise. The city may impose additional terms and conditions in any additional franchise.

(D) In the event the city grants an additional franchise that a grantee believes is more favorable or less burdensome than its existing franchise, the grantee shall have a right to petition for franchise amendments to relieve the grantee of provisions making its franchise less favorable or more burdensome. The grantee shall file a petition that:

- (1) Identifies the competitor(s);
- (2) Identifies the basis for the grantee's belief that certain provisions of the additional franchise are more favorable or less burdensome than its existing franchise; and
- (3) Identifies the franchise provisions to be amended. The city shall not unreasonably deny such a petition.

(E) This chapter and franchises granted pursuant hereto are intended to comply with M.S Chapter 238, as it may be amended from time to time. Any applicable requirement established by M.S. § 238.084, as it may be amended from time to time, not expressly incorporated in this chapter or a franchise shall be deemed incorporated by reference in the franchise as though fully set forth therein.

(F) The performance of any grantee is subject to periodic evaluation by the city upon reasonable notice to the grantee.

(Ord. 2005-1, passed 1-31-2005)

§ 111.021 USE OF RIGHTS-OF-WAY

(A) Use of rights-of-way to operate a cable system and provide cable service must not be inconsistent with the terms and conditions by which the rights-of-way were created or dedicated. Use of rights-of-way is subject to all applicable legal requirements including any right-of-way ordinance enacted by the city; provided, however, that to the extent that rights, duties and obligations regarding the use of rights-of-way are specifically addressed in a franchise, the franchise terms shall prevail over any conflicting provisions of a right-of-way ordinance.

(B) The city may construct, maintain, repair or relocate sewers; grade, pave, maintain, repair, relocate and/or alter any right-of-way; construct, repair, maintain or relocate water mains or construct, maintain, relocate or repair any sidewalk or other public work.

(C) All system facilities, lines and equipment in the city must be located so as not to obstruct or interfere with the proper use of rights-of-way, alleys and other public ways and places, and cause minimum interference with the rights of property owners who abut any of the rights-of-way, alleys and other public ways and places, and not interfere with existing public utility installations.

(D) To the extent required in a right-of-way ordinance, a grantee must file with the city strand maps, plats or other records of the location of all facilities constructed in the city, including underground facilities. A grantee must update the maps, plats and permanent records annually if changes have been made in the system. Consistent with applicable state law, the grantee may identify the maps, plats or other records as “confidential trade secret”, and the city shall comply with all state laws regarding the protection and dissemination of the materials.

(E) If the city alters or changes the grade or location of any right-of-way, alley or other public way, a grantee shall, at its own expense, upon reasonable notice by the city, remove and relocate poles, wires, cables, conduits, manholes and other system fixtures, and in each instance comply with the standards and specifications of the city. If the city reimburses other occupants of the right-of-way, the affected grantee will be likewise reimbursed.

(F) A grantee shall not place poles, conduits or other system fixtures where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all poles, conduits or other fixtures placed in any right-of-way shall be so placed as to comply with all lawful requirements of the city.

(G) A grantee will, on request of any person holding a moving permit issued by the city, temporarily move wires or fixtures to permit the moving of buildings with the expense of the temporary removal to be paid by the person requesting the same, and the grantee will be given no less than ten business days’ advance notice to arrange for the temporary changes.

(H) A grantee will be liable for the failure to exercise reasonable care during construction, operation or maintenance of a system.

(Ord. 2005-1, passed 1-31-2005)

§ 111.022 TREE TRIMMING

A grantee is authorized to trim any trees upon and overhanging the rights-of-way, alleys, sidewalks or public easements of the city so as to prevent the branches of the trees from coming in contact with wires and cables of a system. The city may supervise tree trimming activities and condition the authority to trim trees as it deems appropriate.

(Ord. 2005-1, passed 1-31-2005)

§ 111.023 FRANCHISE TERM

(A) Franchises will be granted for a term established in the franchise agreement.

(B) No franchise may be granted for a period exceeding 15 years from the date of acceptance by the grantee.

(Ord. 2005-1, passed 1-31-2005)

§ 111.024 REGULATION OF CABLE SERVICE

Any franchise agreement adopted pursuant to this chapter will define the contractual rights and obligations of the city and the grantee; provided, however, that a grantee remains subject to the lawful exercise of the city's police power, ordinance-making authority and power of eminent domain.

(Ord. 2005-1, passed 1-31-2005)

§ 111.025 INITIAL FRANCHISE APPLICATIONS

(A) Upon request or its own initiative, the city may initiate the cable franchise application process required by M.S. § 238.081, as it may be amended from time to time. Any person desiring an initial franchise must file an application with the city.

(B) The city will establish an application fee in an amount to offset the costs of processing applications and awarding an initial franchise. The application fees will not constitute a franchise fee.

(C) Upon receipt of an application for an initial franchise, city staff will prepare a report and recommendations to the City Council regarding the application(s).

(D) A public hearing concerning applications will be held prior to rejection or acceptance of applications and award of any initial franchises.

(Ord. 2005-1, passed 1-31-2005)

§ 111.026 FRANCHISE RENEWAL

(A) Franchise renewals will be conducted in accordance with applicable laws.

(B) To the extent authorized by applicable laws, the city may require reimbursement of its expenses incurred in processing the renewal.

(Ord. 2005-1, passed 1-31-2005)

CONSTRUCTION STANDARDS**§ 111.040 REGISTRATION, PERMITS AND CONSTRUCTION CODES**

(A) Within 90 days of acceptance of an initial franchise, a grantee shall apply for any necessary governmental permits, licenses, certificates and authorizations to construct, repair, replace, relocate, operate, maintain or reconstruct a system. A grantee may submit permit applications as construction

progresses, as agreed upon with the city. A grantee must strictly adhere to all state and local laws and Building and Zoning Codes currently or hereafter applicable to location, construction, installation, operation or maintenance of the facilities used to provide cable service in the city.

(B) The city may inspect any construction or installation work performed pursuant to the provisions of a franchise. The city may make such tests as it must find reasonably necessary to ensure compliance with the terms of this chapter, the franchise and applicable provisions of local, state and federal law.

(Ord. 2005-1, passed 1-31-2005)

§ 111.041 REPAIR OF RIGHTS-OF-WAY AND PROPERTY

(A) Any rights-of-way or other property disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of a cable system shall be promptly and fully restored by the grantee performing the work, at its expense, to a condition as good as that prevailing prior to the work.

(B) If a grantee fails to promptly perform the restoration required herein, the city shall have the right, following ten business days= written notice to the grantee, to restore rights-of-way and other public property to a condition as good as that prevailing prior to the grantee's work. The city shall be fully reimbursed by the grantee for its actual costs relating to the restoration.

(Ord. 2005-1, passed 1-31-2005)

§ 111.042 UNDERGROUNDING OF FACILITIES

(A) In all areas of the city where utility facilities are required to be placed underground, or where all other utility lines are underground, a grantee must construct and install system facilities underground.

(B) A grantee must bury new drops within a reasonable time period, subject to weather conditions. In the event the ground is frozen, a grantee will be permitted to delay burial until the ground is suitable for burial, which in no event must be later than June 30.

(Ord. 2005-1, passed 1-31-2005)

§ 111.043 ERECTION, REMOVAL AND JOINT USE OF POLES

(A) In any area of the city where facilities may be located above ground, a grantee must make use of existing poles and other facilities to the extent technically and economically feasible.

(B) No poles, above-ground conduits, amplifier boxes, similar structures or other wire-holding structures may be erected or installed by the grantee on public property without prior approval of the city with regard to location, height, type and other pertinent aspects.

(C) All facilities are subject to applicable zoning and other land use regulations.
(Ord. 2005-1, passed 1-31-2005)

§ 111.044 SAFETY REQUIREMENTS

(A) A grantee must at all times employ ordinary and reasonable care in the construction, installation and maintenance of system facilities and must use ordinary and reasonable methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. All system facilities must at all times be kept and maintained in good condition, order and repair so that the same must not menace or endanger the life or property of the city or any person.

(B) A grantee must install and maintain equipment and facilities in accordance with all applicable federal and state laws and regulations, any right-of-way ordinance, the requirements of the National Electric Safety Code and in the manner that they will not interfere with private radio, police and fire communications or any installations of city or of any public utility serving city.
(Ord. 2005-1, passed 1-31-2005)

SYSTEM DESIGN AND EXTENSION PROVISIONS

§ 111.060 SYSTEM CAPACITY AND CHANNELS

At a minimum, any franchise granted hereunder shall describe the grantee's network in terms of the total system capacity such as the total number of analog and digital video channels that can be provided.
(Ord. 2005-1, passed 1-31-2005)

§ 111.061 CABLE SERVICE AVAILABILITY

(A) Each franchise will identify a required service area in which a grantee will be required to offer cable service to all dwellings, homes and businesses, subject to a reasonable density threshold. Any additional franchise will include a service area that is no more favorable or less burdensome than the service area in an existing franchise.

(B) Any franchise granted hereunder may establish requirements for the extension of the system and provision of cable service to areas that may be annexed by the city beyond the initially required service area.

(C) Cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which the group resides.
(Ord. 2005-1, passed 1-31-2005)

§ 111.062 NONSTANDARD INSTALLATIONS

A grantee must provide cable service to any person requesting other than a standard installation, except that a grantee may charge for the incremental increase in material and labor costs incurred above the cost of making a standard installation.

(Ord. 2005-1, passed 1-31-2005)

§ 111.063 TECHNICAL STANDARDS

Any system offering cable service in the city must comply, at minimum, with the technical standards promulgated by the FCC relating to cable systems pursuant to Title 47, §§ 76.601 to 76.617, as may be amended or modified from time to time.

(Ord. 2005-1, passed 1-31-2005)

§ 111.064 SYSTEM TESTING

(A) A grantee shall perform all system testing required pursuant to the FCC's technical standards and requirements. In the event the city identifies signal or system performance difficulties which may constitute violations of applicable FCC technical standards, the grantee will be notified and afforded ten days to correct problems or complaints. If the performance difficulty is not resolved within ten days in the city's sole determination, the city may require the grantee to demonstrate compliance via testing or other means selected by the grantee.

(B) The city may test any system or facilities used to provide cable service in the city. The city will seek to arrange its testing so as to minimize hardship or inconvenience to the grantee and subscribers. In the event that testing reveals that the source of the technical difficulty is within the grantee's reasonable control, the cost of the testing must be borne by the grantee. If the testing reveals the difficulties to be caused by factors that are beyond the grantee's reasonable control, the cost of the testing must be borne by the city.

(Ord. 2005-1, passed 1-31-2005)

§ 111.065 FCC REPORTS

A grantee must, upon written request from the city, file all required FCC technical reports with the city.

(Ord. 2005-1, passed 1-31-2005)

§ 111.066 EMERGENCY ALERT SYSTEM

A grantee must provide an emergency alert system (EAS) that complies with FCC requirements. A grantee must further ensure that the city can insert, or direct the insertion of, brief audio and video

emergency messages simultaneously on all channels or a single channel to which subscribers are directed. The city shall indemnify the grantee for city's use of a cable system for emergency messages.

(Ord. 2005-1, passed 1-31-2005)

CONSUMER PROTECTION AND CUSTOMER SERVICE STANDARDS

§ 111.080 REGULATION OF CABLE SERVICE RATES

The city may regulate rates for the provision of cable service to the extent allowed under federal or state law(s). A grantee must file a list of current subscriber rates and charges with the city, which list will be maintained on file with the city and will be available for public inspection. A grantee must give the city and subscribers written notice of any change in a cable service rate or change no less than 30 days prior to the effective date of the change.

(Ord. 2005-1, passed 1-31-2005)

§ 111.081 SALES PROCEDURES

(A) A grantee may not exercise deceptive sales procedures that violate state laws when marketing any of its cable services within the city.

(B) A grantee may conduct marketing consistent with local ordinances and other applicable laws and regulations.

(Ord. 2005-1, passed 1-31-2005)

§ 111.082 TELEPHONE INQUIRIES AND COMPLAINTS

(A) A grantee must maintain local, toll-free or collect call telephone access lines which will be available to its subscribers 24 hours a day, seven days a week.

(B) A grantee must comply with the FCC's customer service standards, a current copy of which is attached to Ord. 2005-1, which is hereby adopted by reference.

(Ord. 2005-1, passed 1-31-2005)

§ 111.083 COMPLAINT AND OTHER SERVICE RECORDS

(A) Upon written request by the city, and subject to a grantee's obligation to maintain the privacy of certain information, a grantee must prepare and maintain written records of all written complaints received and the resolution of the complaints, including the date of the resolution.

(B) Written complaint records must be on file at the office of a grantee. Upon written request by the city, a grantee must provide the city with a written summary of the complaints and their resolution and in a form mutually agreeable to the city and the grantee.

(C) Upon written request by the city, a grantee must provide detailed compliance reports on a quarterly basis with respect to the objectively measurable service standards required in division (A) above, the grantee will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards contained in this section unless a historical record of complaints indicates a failure to comply.

(Ord. 2005-1, passed 1-31-2005)

§ 111.084 SUBSCRIBER CONTRACTS

A grantee must provide to the city, upon request, any standard form subscriber contract utilized.

(Ord. 2005-1, passed 1-31-2005)

§ 111.085 VIDEO PROGRAMMING

All franchises will comply with 47 U.S.C. § 544(b), regarding the broad categories of video programming provided. Individual programming decisions may be made in the grantee's sole discretion.

(Ord. 2005-1, passed 1-31-2005)

§ 111.086 BILLING AND SUBSCRIBER COMMUNICATIONS

(A) A grantee must give the city and subscribers 30 days' advance written notice of any changes in rates, programming services or channel alignments.

(B) Bills must be clear, concise and understandable. Bills must clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the grantee must respond to a written complaint from a subscriber within 30 days.

(Ord. 2005-1, passed 1-31-2005)

§ 111.087 REFUNDS AND CREDITS

(A) Credits must be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(B) In the event a subscriber establishes or terminates cable service and receives less than a full month's cable service, the grantee must prorate the monthly rate on the basis of the number of days in

the period for which cable service was rendered to the number of days in the billing. Refund checks will be issued promptly, but no later than the next billing cycle following the return of the equipment supplied by the grantee if cable service is terminated.

(Ord. 2005-1, passed 1-31-2005)

§ 111.088 ADDITIONAL CUSTOMER SERVICE REQUIREMENTS

The city may adopt additional or modified customer service requirements to address subscriber concerns or complaints to the extent permitted by law.

(Ord. 2005-1, passed 1-31-2005)

COMMUNITY SERVICES

§ 111.105 PEG ACCESS FACILITIES

(A) Franchises will establish obligations to provide PEG access facilities to meet the community's needs and interests.

(B) The city will operate, administer and manage PEG access programming and the city may delegate its PEG access authority and responsibilities to the Commission.

(C) All franchises must contain equivalent PEG access obligations on any franchised provider of cable services.

(Ord. 2005-1, passed 1-31-2005)

§ 111.106 SERVICE TO PUBLIC OR EDUCATIONAL INSTITUTIONS

Franchises will establish obligations for the provision of free or reduced cost cable services to identified public or educational institutions.

(Ord. 2005-1, passed 1-31-2005)

ADMINISTRATION PROVISIONS

§ 111.120 ADMINISTRATION OF FRANCHISE

(A) The city will have continuing regulatory authority over cable systems, cable services and franchise compliance. The city may delegate any and all regulatory authority to the Commission.

(B) A grantee must fully cooperate with the Commission in the exercise of regulatory authority delegated by the city.

(Ord. 2005-1, passed 1-31-2005)

§ 111.121 FRANCHISE FEE

(A) A grantee must pay to the city a franchise fee in the amount established in the franchise agreement.

(B) Each franchise fee payment must be accompanied by a report certified by an authorized representative of the grantee, in form reasonably acceptable to the city, detailing the computation of the payment. All amounts paid must be subject to audit and re-computation by the city and acceptance of any payment must not be construed as an accord that the amount paid is in fact the correct amount.

(C) A grantee may designate that portion of a subscriber's bill attributable to the franchise fee as a separate line item on the bill.

(Ord. 2005-1, passed 1-31-2005)

§ 111.122 ACCESS TO RECORDS

(A) (1) The city may, upon reasonable notice and during normal business hours, and subject to the privacy provisions of 47 U.S.C. §§ 521 *et seq.*, inspect at a mutually convenient location any records of system operations maintained by a grantee that relate to a grantee's compliance with its franchise, including specifically the grantee's gross revenue records.

(2) A grantee may identify and label documents as "confidential trade secret" in accordance with § 111.021.

(B) A grantee must prepare and furnish to the city the reports as the city may reasonably request with respect to operation of the system and provision of cable services in the city, or any other operations, affairs, transactions or property subject to this franchise.

(Ord. 2005-1, passed 1-31-2005)

INDEMNIFICATION AND INSURANCE

§ 111.135 INDEMNIFICATION OF THE CITY

(A) A grantee must indemnify, defend and hold harmless the city, its officers, boards, committees, commissions, elected officials, employees and agents from and against any loss or damage to any real or personal property of any person, or for any injury to or death of any person, arising out of or in

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connection with the construction, operation, maintenance, repair or removal of a system or other facilities used by a grantee to deliver cable service.

(B) A grantee must indemnify, defend and hold the city, its officers, boards, committees, commissions, elected officials, employees and agents, harmless from and against all lawsuits, claims, actions, liability, damages, costs, expenses or penalties incurred as a result of the award or enforcement of its franchise.

(C) A grantee shall not be required to provide indemnification or defense for any intentional misconduct, willful neglect or negligence by an indemnified party, for any enforcement action taken by the city against a grantee, of for any claim based solely on the city's operation of PEG access facilities, delivery of PEG access programming or EAS messages originated by the city. Subject to the limitations in M.S. Chapter 466, as it may be amended from time to time, the city shall indemnify, defend and hold a grantee harmless from any damage resulting from any intentional misconduct, willful neglect or negligence by the city, its officers, boards, committees, commissions, elected officials, employees and agents, in utilizing PEG access facilities or channels, delivering EAS messages originated by the city, or in connection with work performed on or adjacent to the system.

(D) With respect to each claim for indemnification:

- (1) The city must promptly notify the grantee in writing of any suit, claim or proceeding which gives rise to the right;
 - (2) The grantee must afford the city an opportunity to participate in any compromise, settlement or other resolution or disposition of any suit, claim or proceeding; and
 - (3) The city must cooperate with reasonable requests of the grantee, at the grantee's expense, in its participation in a suit, claim or proceeding.
- (Ord. 2005-1, passed 1-31-2005)

§ 111.136 INSURANCE

(A) A grantee must obtain and maintain in full force and effect, at its sole expense, a comprehensive general liability insurance policy, in protection of the grantee and the city, its officers, elected officials, boards, commissions, agents and employees for damages which may arise as a result of operation of the system or delivery of cable service.

(B) The policies of insurance must be in the sum of not less than \$1,000,000 for personal injury or death of any one person, and \$2,000,000 for personal injury or death of two or more persons in any one occurrence, \$500,000 for property damage to any one person and \$2,000,000 for property damage resulting from any one act or occurrence.

(C) The insurance policy must be maintained by grantee in full force and effect during the entire term of the franchise. Each policy of insurance must contain a statement on its face that the insurer will

not cancel the policy or fail to renew the policy, whether for non-payment of premium, or otherwise, and whether at the request of the grantee or for other reasons, except after 60 days' advance written notice have been provided to the city.

(Ord. 2005-1, passed 1-31-2005)

FRANCHISE TRANSFER OR ABANDONMENT

§ 111.150 ABANDONMENT OF SERVICE

A grantee may not discontinue the provision of cable service without having first given three months written notice to the city.

(Ord. 2005-1, passed 1-31-2005)

§ 111.151 SYSTEM REMOVAL AFTER ABANDONMENT, TERMINATION OR FORFEITURE

(A) In the event of termination or forfeiture of the franchise or abandonment of the system, the city may require the grantee to remove all or any portion of its system from all rights-of-way and public property within the city; provided, however, that the grantee will not be required to remove its system to the extent it lawfully provides telecommunications services over the system.

(B) If the grantee has failed to commence removal of its system, or the part thereof as was designated by the city, within 120 days after written demand for removal is given, or if the grantee has failed to complete the removal within 12 months after written demand for removal is given, the city may apply funds secured by the franchise toward removal.

(Ord. 2005-1, passed 1-31-2005)

§ 111.152 SALE OR TRANSFER OF FRANCHISE

(A) No sale or transfer of ownership of a grantee or fundamental corporate change in a grantee as defined in M.S. § 238.083, as it may be amended from time to time, nor sale or transfer of a franchise, is permitted without city approval. Any sale or transfer of stock in a grantee creating a new controlling interest constitutes a sale or transfer of ownership. A controlling interest includes majority stock ownership or a lesser amount sufficient to confer actual working control in whatever manner exercised. City approval shall not be required where a grantee grants a security interest in its franchise or system to secure an indebtedness.

(B) A grantee must file a written request with the city prior to any transaction described above. The city will approve or deny a transfer request within 120 days of receipt of a written request. The city will not unreasonably withhold its approval.

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(C) In no event will a transaction be approved unless any proposed new grantee becomes a signatory to, and assumes all rights and obligations under, the franchise.

(D) (1) In the event of any proposed transaction described above, the city will have the right to purchase the system.

(2) In the event a grantee has received a bona fide offer for purchase of its system, the city shall have the right to purchase for the price which the proposed assignee or transferee agreed to pay.

(3) The city will be deemed to have waived its right to purchase the system in the following circumstances:

(a) The city does not notify the grantee in writing, within 60 days of notice, that it intends to exercise its right of purchase; or

(b) The city approves the transaction.
(Ord. 2005-1, passed 1-31-2005)

PROTECTION OF INDIVIDUAL RIGHTS**§ 111.170 DISCRIMINATORY PRACTICES PROHIBITED**

No grantee may deny cable service or otherwise discriminate against citizens or businesses on the basis of race, color, religion, national origin, sex, age, status as to public assistance, affectional preference or disability.

(Ord. 2005-1, passed 1-31-2005)

§ 111.171 SUBSCRIBER PRIVACY

(A) A grantee must comply with the subscriber privacy-related requirements of 47 U.S.C. § 551.

(B) No signals of a Class IV Channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written authorization of the subscriber.

(Ord. 2005-1, passed 1-31-2005)

UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

§ 111.185 UNAUTHORIZED CONNECTIONS OR MODIFICATIONS PROHIBITED

(A) It is unlawful for any person, without the express consent of the grantee, to make, possess or assist anybody in making or possessing, any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a grantee's system.

(B) It is unlawful for any person to willfully interfere, tamper, remove, obstruct or damage, or assist thereof, any part or segment of a system for any purpose.

(Ord. 2005-1, passed 1-31-2005)

ENFORCEMENT OF CABLE ORDINANCES OR FRANCHISE

§ 111.200 VIOLATIONS OR OTHER OCCURRENCES GIVING RISE TO ENFORCEMENT ACTION

(A) In order to take enforcement action pursuant to this chapter or a franchise, the city must provide the grantee with written notice of the violation or other occurrence giving rise to the city's action.

(B) The grantee shall have 30 days subsequent to receipt of the notice to cure the violation or occurrence giving rise to the city's action. Alternatively, the grantee may, within 14 days of receipt of notice from the city, notify city in writing that there is a dispute as to whether a violation or failure has in fact occurred. The written notice by the grantee to the city shall specify with particularity the matters disputed by the grantee.

(C) In the event a grantee does not timely cure to the city's satisfaction the violation or other occurrence giving rise to the city's action, or timely disputes whether a violation has occurred, the city will schedule a public hearing affording the grantee due process. The city will endeavor to schedule the hearing for a date within 90 days of the initial violation notice. Notice of the hearing must be provided to the grantee.

(D) At the completion of the hearing, the city will issue written findings of fact and its final determination.

(E) In the event the city determines that no violation has taken place, the city will rescind the notice of violation in writing.

(Ord. 2005-1, passed 1-31-2005)

§ 111.201 FRANCHISE REVOCATION

(A) In addition to all other rights and remedies that the city possesses pursuant to law, equity and the terms of the franchise agreement, the city may revoke or terminate the franchise, and all rights and privileges pertaining thereto, in accordance with § 111.200 if the city determines that:

- (1) The grantee has violated any material requirement or provision of this chapter or a franchise and has failed to timely cure;
- (2) The grantee has attempted to evade any of the material provisions of this chapter or a franchise;
- (3) The grantee has practiced fraud or deceit upon the city or a subscriber; or
- (4) The grantee has filed for bankruptcy.

(B) During any revocation proceeding and any appeal period, the franchise will remain in full force and effect unless the term thereof sooner expires.

(Ord. 2005-1, passed 1-31-2005)

§ 111.202 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

The city and grantee will conform to federal and state laws and rules regarding cable service or the system as they become effective.

(Ord. 2005-1, passed 1-31-2005)

§ 111.999 PENALTY

(A) Except as noted in division (B) below, any person violating any provision of this chapter shall be guilty of a misdemeanor.

(B) Any person found guilty of violating § 111.185 may be fined not less than \$20 and the costs of the action nor more than \$500 and the costs of the action for each and every subsequent offense.

(Ord. 2005-1, passed 1-31-2005)

**CHAPTER 112: PAWN SHOPS, PAWNBROKERS, SECONDHAND DEALERS
AND THE LIKE**

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GENERAL PROVISIONS**§ 112.01 DEFINITIONS**

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

AUCTION HOUSE DEALER. A person whose regular business includes auctioning used goods. The ***AUCTION HOUSE DEALER*** may receive used goods to auction, but may not purchase the items for auction.

CONSIGNMENT HOUSE DEALER. A person whose regular business includes receiving, but not purchasing, tangible property with the intention to sell the property and divide the proceeds with the owner.

PAWNBROKER. A person who loans money on deposit or pledge of personal property, or other valuable thing, or 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, but does not include a bank, savings association, credit union or industrial loan and thrift company defined as such by federal or state law.

PRECIOUS METALS DEALER. A person engaged in the business of buying secondhand items containing more than 1% by weight of silver, gold or platinum.

SECONDHAND GOODS DEALER. A person whose regular business includes purchasing and selling, tangible personal property (excluding motor vehicles) previously used, rented, owned or leased.

TRADERS. A person(s) whose regular business primarily consists of receiving tangible property in trade for other tangible property in stock.

(Ord. passed 6-9-1997)

§ 112.02 EXEMPTIONS

This chapter does not apply to or include the following:

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

- (1) The sale is held on property principally occupied as a dwelling by the seller or owned, rented or leased by a charitable or political organization;
- (2) The items offered for sale are owned by the occupant;
- (3) The sale does not exceed a period of 72 consecutive hours;
- (4) Not more than four sales are held either by the same person or on the same property in any 12-month period; and
- (5) None of the items offered for sale has been purchased for resale or received on consignment for purpose of resale.

(B) Sales of motor vehicles;

(C) The sale of secondhand books, magazines, films, bona fide antiques or collectibles;

(D) The sale of goods at an auction held by a licensed auctioneer if occurring not more than twice in a 12-month period;

(E) The business of buying or selling secondhand goods where the business is incidental to and not the primary business of a person;

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

(G) Firearms, including antique firearms, sold by firearms dealers holding currently valid federal firearms dealer licenses permitting them to deal in the sales;

(H) Sales made by the sheriff or other public officials in discharge of their official duties; or

(I) Sales made by assignees or receivers appointed in this state to make sales for the benefit of creditors.

(Ord. passed 6-9-1997)

LICENSES**§ 112.15 LICENSE REQUIRED**

(A) *Pawnbroker.* No person may conduct, operate or engage in the business of a pawnbroker without first obtaining a pawnbroker's license.

(B) *Secondhand goods dealer.* No person may conduct, operate or engage in the business of secondhand goods dealer without having first obtained a secondhand goods dealer license.

(C) *Consignment house dealer.* No person may conduct, operate or engage in the business of a consignment house dealer without first obtaining a consignment house license.

(D) *Auction house dealer.* No person may conduct, operate or engage in the business of an auction house dealer without first obtaining an auction house license.

(E) *Trader's license.* No person may conduct, operate or engage in the business of trading without first obtaining a trading license.

(F) *Precious metals dealer's license.* No person may conduct, operate or engage in the business of a precious metals dealer without first obtaining a trading license.

(G) *Separate licenses required.* A person must obtain a separate license for each of the above activities for which he or she engages in.

(Ord. passed 6-9-1997)

§ 112.16 MULTIPLE DEALERS

(A) *Multiple sales locations.* The owner of a business, at which two or more secondhand goods dealers are engaged in business by maintaining separate sales space and identifying themselves to the public as individual dealers, may obtain a multiple secondhand goods dealer license for that location. A multiple license may not be issued unless the following requirements are met:

- (1) The businesses must have a single name and address;
- (2) The businesses must operate in a compact and contiguous space;
- (3) The businesses must be under the unified control and supervision of the one person who holds the license; and

(4) Sales must be consummated at a central point or register operated by the owner of the business, and the owner must maintain a comprehensive account of all sales.

(B) *Compliance.* The holder of a secondhand goods dealer license under this section for a business with more than one dealer at the same location must comply with all of the requirements of this section, including the responsibility for law enforcement reporting and record keeping in the same manner as any other dealer licensed under this section. A dealer licensed under this section is responsible to its customers for stolen or misrepresented goods sold at its place of business in the same manner as any other dealer licensed under this section.

(Ord. passed 6-9-1997)

§ 112.17 LICENSE FEE

The annual license fee for pawnbrokers, secondhand dealers and the like will be set by City Council by ordinance.

(Ord. passed 6-9-1997)

§ 112.18 APPLICATION

(A) *Contents.* A license applicant must complete an application form provided by the City Clerk Treasurer. The application must be in a form and request information of the applicant as determined by the City Council.

(B) *Execution.* If the applicant is a natural person, the application must be signed and sworn to by the person; if a corporation, by an agent authorized to sign; if a partnership, by a partner.

(C) *Fees.* The application must be accompanied by the required license fee. The fee will be returned to the applicant if the application is rejected.

(D) *False statements.* It is unlawful to knowingly make a false statement in the license application. In addition to all other penalties, the license may be subsequently revoked by the City Council for a violation of this section.

(Ord. passed 6-9-1997)

§ 112.19 BOND

(A) A pawnbroker license will not be issued unless the applicant files with the City Clerk Treasurer a bond with corporate surety, cash or a United States government bond in the amount of \$5,000.

(B) The bond must be conditioned on the licensee obeying the laws and ordinances governing the licensed business and paying all fees, taxes, penalties and other charges associated with the business.

(C) The bond must provide that it is forfeited to the city upon a violation of law or ordinance.
(Ord. passed 6-9-1997)

§ 112.20 SITE PLAN

The application for a pawnbroker, secondhand goods or an auction house dealer license must be accompanied by the following:

(A) A legal description of the property upon which the proposed licensed premises is situated;

(B) A plot plan including an “as built” survey showing existing and proposed buildings, if any, street curbs, parking areas and the like;

(C) The exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property and entrances into the premises;

(D) The location of and distance from the nearest religious institution, school, hospital and residence; and

(E) A current floor plan of the licensed premises.

(Ord. passed 6-9-1997)

§ 112.21 INVESTIGATIONS

(A) *Conduct.* The city, prior to the granting of an initial or renewed pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, trader or precious metals dealer license, will conduct a preliminary background and financial investigation of the applicant. Any person having a beneficial interest in the license may be investigated. The investigation shall be conducted by the Sheriff’s Department or other law enforcement agency and the results reported to the City Council. The investigation must verify that facts stated in the application, and must report all convicted violations of state law, federal law or municipal ordinances involving the applicant, interested persons or the license premises while under that applicant’s proprietorship. A full background investigation is required for pawn brokers, secondhand goods dealers and precious metals dealers.

(B) *Fee.* The fee charged by the city to an applicant for a pawnbroker, secondhand goods dealers, precious metals dealers, consignment shop, auction house or traders license for the costs of an investigation is set by City Council by ordinance. The applicant will be notified of the investigation fee prior to the City Council’s final action on the license application. The investigation fee is payable upon terms established by the city.

(Ord. passed 6-9-1997)

§ 112.22 PUBLIC HEARING

A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, trader or precious metals dealer license will not be issued or renewed without a public hearing. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. The public hearing must be preceded by at least ten days' published notice specifying the location of the proposed licensed business premises.

(Ord. passed 6-9-1997)

§ 112.23 GRANTING OF LICENSE

After review of the license application and investigation report and following the public hearing, if required, the City Council may grant or refuse the application for a new or renewed pawnbroker, or secondhand goods dealer, consignment house dealer, auction house dealer, trader or precious metals dealer licenses. A license will not be effective unless the application fee and bond, if applicable, have been filed with the City Clerk Treasurer.

(Ord. passed 6-9-1997)

§ 112.24 PERSONS INELIGIBLE FOR LICENSE

A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, trader or precious metals dealer license will not be issued to:

(A) A person not a citizen of the United States or a resident alien;

(B) A person under 18 years of age;

(C) Subject to the provisions of law, a person who within five years of the license application date has been convicted of receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, theft, damage or trespass to property, or any law or ordinance regulating the business of pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, trader or precious metals dealer;

(D) A person who within five years of the license application date had a pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer or trader or precious metals dealer license revoked;

(E) A person whom the City Council determines not to be of sufficient good moral character and repute; or

(F) When the City Council determines, after investigation and public hearing, that issuance or renewal of the license would adversely affect the public health, safety or welfare.

(Ord. passed 6-9-1997)

§ 112.25 COUNTY LICENSE

Pawnbrokers, secondhand goods dealers and precious metals dealers must be licensed by Wright County if required by law.

(Ord. passed 6-9-1997)

§ 112.26 PLACES INELIGIBLE FOR LICENSE

A license will not be issued or renewed under this section for any of the following reasons:

(A) If taxes, assessments or other financial claims of the city or the State of Minnesota on the licensee's business premises are delinquent and unpaid;

(B) If the premises for which a license has been applied is within 300 feet of a school or religious institution;

(C) Where operation of a licensed premises would violate zoning ordinances; and

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

(Ord. passed 6-9-1997)

§ 112.27 PHYSICAL FEATURES OF THE SITE

Licensed pawnbrokers, secondhand goods dealers, precious metals dealers and auction house dealers shall:

(A) Have no exterior loudspeaker, nor any public address system that is audible from any residential parcel;

(B) Store all merchandise and conduct all business transactions within an enclosed building. Merchandise may be temporarily displayed immediately outside the business establishment provided that it is maintained in a neat and orderly fashion, does not pose a threat to the public health, safety or welfare, and does not interfere with the use of any sidewalk, street or other public way; and

(C) Install and maintain burglar alarms for the business establishment and for all locations where goods are stored.

(Ord. passed 6-9-1997)

§ 112.28 CONDITIONAL LICENSES

The Council may grant an application for a new or renewed pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, trader or precious metals dealer license conditioned upon the applicant making reasonable improvements to the proposed business premises or the property upon which the business premises is situated. The Council, in granting a conditional license, will specify when the modifications must be completed. Failure to comply with the conditions of the license is grounds for the City Council to refuse to renew the license.
(Ord. passed 6-9-1997)

§ 112.29 HOURS OF OPERATION

Pawnbrokers, secondhand goods dealers, consignment dealers, auction house dealers, traders and precious metals dealers shall not be open for business between 8:00 p.m. and 7:00 a.m. the following day.
(Ord. passed 6-9-1997)

§ 112.30 LICENSE LIMITATIONS

- (A) A license will be issued to the applicant only and only for the business premises as described in the application.
- (B) The license is effective only for the premises and person specified in the approved license application.
- (C) Amendments to this section occurring during any license year shall be applicable to all licenses then in force and the licensee shall comply with the amendments within 30 days of the effective dates or as otherwise provided by the Council.
(Ord. passed 6-9-1997)

§ 112.31 TERM; EXPIRATION; PRO-RATA FEE

- (A) The license is issued for a period of one year beginning on January 1 except that if the application is made during the license year, a license may be issued for the remainder of the licensed year for a monthly pro-rated fee.
- (B) An unexpired fraction of a month will be counted as a complete month.
- (C) The license expires on December 31 at midnight. The investigation fee may not be pro-rated.
(Ord. passed 6-9-1997)

§ 112.32 RECORDS

In addition to any other records required in this section, a licensed secondhand goods dealer, pawnbroker, consignment house dealer, auction house dealer, trader or precious metals dealer at the time of receipt of an item, must immediately record, in ink or other indelible medium in a book or word processing unit, the following information:

- (A) An accurate description of the item including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on the item;
- (B) The purchase price;
- (C) Date, time and place of receipt;
- (D) Full name, address, telephone number and date of birth of the person from whom the item was received;
- (E) No forms of identification shall be accepted other than the identification number from any of the following forms of identification of the person from whom the item was received:
 - (1) Valid photo Minnesota driver's license;
 - (2) Valid photo Minnesota identification card;
 - (3) Valid photo identification issued by the state of residency of the person from whom the item was received;
 - (4) Photo military identification; or
 - (5) Current passport.
- (F) The books as well as the goods received must be open for inspection by the Sheriff's Department or other law enforcement agency at reasonable times. Records required by this section must be stored and maintained by the licensee for a period of at least three years.
(Ord. passed 6-9-1997)

ITEMS AND GOODS**§ 112.45 PROHIBITED ITEMS**

- (A) Unless a serial number is recorded for an item to be pawned or sold, or the amount of the pawn is less than \$25, a pawnbroker, secondhand goods dealer, consignment house, auction house dealer,

trader or precious metals dealer is prohibited from pawning, receiving or taking any of the items listed below without acceptable proof of ownership. A photocopy of any document(s) presented to the licensee shall be retained by the licensee until the item is redeemed or following the expiration of the redemption period. The proof must be provided to the Sheriff's Department or other law enforcement agency upon request and must be disclosed on the daily report:

- (1) Sound or video equipment;
- (2) Automotive electronic equipment; and
- (3) Cameras.

(B) A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, trader or precious metals dealer is prohibited from pawning, receiving or taking any items with a serial number identification or operation identification symbol which have been obliterated or defaced.

(C) A consignment house dealer, auction house dealer or trader may not deal with precious jewelry, gems or precious metals.

(D) A pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, trader or precious metals dealer may not receive as a pledge or otherwise accept for consignment, sale or trade any firearms or weapons, including but not limited to revolvers, pistols, sawed-off shotguns, automatic rifles, blackjacks, switchblade knives or other similar weapons or firearms. Ordinary kitchen utensils or cutlery are not prohibited.

(Ord. passed 6-9-1997)

§ 112.46 STOLEN GOODS

A pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, trader or precious metals dealer must report to the Sheriff's Department or other appropriate law enforcement agency any article pledged or received, or sought to be pledged or received, if the licensee has reason to believe that the article was stolen or lost.

(Ord. passed 6-9-1997)

§ 112.47 VIDEOTAPING AND SIGNAGE

(A) *Videotaping.* A pawnbroker, secondhand goods dealer or precious metals dealer must videotape all transactions and have the ability to make a still photo of each customer. The camera must be situated in such a manner as to record a clear view of the customer and items being transacted. The video tape must be in color and electronically record the date and time. The video tape records and still photos must be retained for a minimum of 120 days. Specific video tape records or video tapes shall be provided to the Sheriff's Department or other law enforcement agency upon request.

(B) *Signage*. The licensee must display a sign, in a conspicuous place in the premises and of sufficient size, which informs all patrons that all transactions are reported to a law enforcement agency.

(Ord. passed 6-9-1997)

§ 112.48 PURCHASED GOODS HOLDING PERIOD

(A) Any secondhand goods items purchased (other than reconditioned items or items purchased at wholesale) by a pawnbroker, secondhand goods dealer or precious metals dealer may not be sold or otherwise transferred for a period of 30 days after the date of purchase.

(B) The holding period may not be waived by any person.

(C) This section does not prohibit the immediate sale by licensed secondhand goods dealers of items acquired from pawnbrokers following the expiration of the redemption period.

(Ord. passed 6-9-1997)

§ 112.49 RECEIPT FOR GOODS RECEIVED

A licensed pawnbroker, secondhand goods dealer, pawnbroker consignment dealer, auction house dealer, trader or precious metals dealer must provide a receipt to the seller, pawner or consignor of any items which includes:

(A) The address and phone number of the business;

(B) The date on which the item was received by the business;

(C) A description of the item received, consigned or taken in pawn and the amount paid to the pledger or the seller in exchange for the item pawned or sold;

(D) The seller's, pawner's or co-signer's signature. The pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, trader or precious metals dealer must retain a copy of this receipt;

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

(F) If applicable, the annual rate of interest charged on pawned items received; and

(G) The name and address of the seller, pawner or pledger.

(Ord. passed 6-9-1997)

§ 112.50 RECORD OF GOODS SOLD OR REDEEMED

A licensed pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer or precious metals dealer must keep a record showing date of sale and sale price for all items.
(Ord. passed 6-9-1997)

MISCELLANEOUS PROVISIONS

§ 112.65 LAW ENFORCEMENT ORDERS

The licensee shall retain possession of any item when ordered to do so by a law enforcement officer. If the order is oral, it shall terminate within 72 hours after having been given, unless during the period a written order is delivered to the licensee directing that the item continue to be held and stating the reason therefore. The requirement of this section shall terminate if the item ordered to be held has not been seized or released by a law enforcement agency within 120 days following the date of the written order.
(Ord. passed 6-9-1997)

§ 112.66 PROHIBITED ACTS

(A) *Minors.* A minor may not sell or consign, or attempt to sell or consign goods with a pawnbroker, secondhand goods dealer, consignment dealer, auction house dealer, trader or precious metals dealer.

(B) *Identification.* A pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer, trader or precious metals dealer may not receive any goods, unless the person from whom the item is received presents identification as required by § 112.32(E).
(Ord. passed 6-9-1997)

§ 112.67 LICENSE DENIAL, SUSPENSION OR REVOCATION

A license under this section may be denied, suspended or revoked by the Council after a public hearing where the licensee is granted the opportunity to be heard, for one or more of the following reasons:

(A) The operating of the business is in conflict with any provision of this code;

(B) The operation of the business is in conflict with any health, building, building maintenance, zoning or any other provision of this code or law;

- (C) The licensee or the business premises fails to conform with the standards for license application contained in this section;
- (D) The licensee has failed to comply with one or more provisions of this section or any statute, rule or ordinance pertaining to the businesses of pawnbroker, secondhand goods dealer or precious metals dealer;
- (E) Fraud, misrepresentation or bribery in securing a license;
- (F) Fraud, misrepresentation or false statements made in the course of the applicant's business; and
- (G) Subject to the provisions of law, violation within the proceeding five years of any state or federal law relating to receiving stolen property, burglary, robbery, theft, damage or trespass to property, sale of a controlled substance or stolen good or operation of a business.
(Ord. passed 6-9-1997)

§ 112.68 PAWN REDEMPTION PERIOD

- (A) A person who pawns an item shall have at least 30 days to redeem the item before it may be sold.
- (B) An individual may redeem an item pawned 72 hours after the item was received on deposit, excluding Sundays and legal holidays.
- (C) The redemption period may not be waived by the person. The final redemption date must appear on the pawn ticket. This section does not prohibit the immediate sale by licensed secondhand goods dealers of items acquired from pawnbrokers following the expiration of the redemption period.
(Ord. passed 6-9-1997)

§ 112.69 PAYMENTS BY CHECK

When a pawnbroker, secondhand goods dealer, consignment house dealer, auction house dealer or precious metals dealer buys or otherwise receives an item at the licensed place of business, payment must be made by check made payable to a named payee who is the actual intended seller.
(Ord. passed 6-9-1997)

§ 112.70 INSPECTIONS

A peace officer or any properly designated employee or agent of the city or the State of Minnesota may enter, inspect and search business premises licensed under this section, during business hours, without a warrant.
(Ord. passed 6-9-1997)

§ 112.71 APPLICABILITY

The licenses required by this part shall be applied for within 30 days of the effective date of this part. If the licenses are not obtained within the 60-day period, the designated business shall cease operating within the city, unless the Council extends the time for issuance of the license. All other provisions of this chapter shall be effective and complied with within 60 days after the effective date of this part.

(Ord. passed 6-9-1997)

§ 112.99 PENALTY

Any person found guilty of violating any provision of this chapter shall be guilty of a misdemeanor.

(Ord. passed 6-9-1997)

CHAPTER 113: GENERAL LICENSING PROCEDURES

Section

Cigarette Sales

- 113.25 License required
- 113.26 License fee
- 113.27 Restrictions

- 113.99 Penalty

CIGARETTE SALES

§ 113.25 LICENSE REQUIRED

No person shall directly, indirectly or by means of any device keep for retail sale, sell at retail or otherwise dispose of any cigarette, cigarette paper or cigarette wrapper at any place in the City of Cokato unless a license therefore has been obtained from the Council on application to the City Clerk Treasurer.

(Prior Code, § 505.01)

§ 113.26 LICENSE FEE

The annual fee for every license shall be in an amount set by City Council by ordinance. Every license shall expire on December 31 of the year for which it is issued.

(Prior Code, § 505.02)

§ 113.27 RESTRICTIONS

(A) No license shall be issued except to a person of good moral character.

(B) No license shall be issued for the sale of cigarettes at a movable place of business, nor shall any one license be issued for the sale of cigarettes at more than one place of business.

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(C) No person shall sell or give away, or permit any vending machine to be used to sell any cigarette, cigarette paper or cigarette wrapper to any person below the age of 18 years.

(D) No person shall keep for sale, sell or dispose of any cigarette containing opium, morphine, jimson weed, weed, belladonna, strychnia, cocaine, marijuana or any other deleterious or poisonous drug except nicotine.

(Prior Code, § 505.03)

§ 113.99 PENALTY

Cigarette sales. Any person who violates any provision of §§ 113.25 through 113.27 is guilty of a petty misdemeanor. Additionally, if the Council finds that any licensed dealer has failed to exercise adequate supervision over the sale of cigarettes to persons under the age of 18 years, after the statutorily required notice and hearing, the Council shall revoke the license. After revocation, the licensee may not reapply until the date that the license would have expired without revocation. Before granting the new license, the Council must be assured, in writing, that adequate supervision will be maintained. After receiving the written assurance, the Council may grant or reject the application at its discretion.

(Prior Code, § 505.04)

CHAPTER 114: TRANSIENT MERCHANTS, PEDDLERS AND SOLICITORS

Section

- 114.01 Purpose
- 114.02 Definitions
- 114.03 License required
- 114.04 Application
- 114.05 Application fee
- 114.06 Review of license
- 114.07 Grounds for denial of license
- 114.08 Exemptions
- 114.09 Door-to-door advocates exemption
- 114.10 Prohibited activities
- 114.11 Licenses not transferable
- 114.12 Use of property
- 114.13 Exclusion of peddlers, solicitors and door-to-door advocates
- 114.14 Suspension or revocation
- 114.15 Hours of solicitations

- 114.99 Penalty

§ 114.01 PURPOSE

The purpose of this chapter is to promote the public health, safety and welfare by protecting the privacy of residents of the city and by discouraging fraudulent sale of or solicitation for goods or services or fraudulent solicitation on behalf of organizations or causes and by protecting against persons of criminal intent who travel from place to place in the city under a guise of legitimacy. (Ord. 06-2010, passed 9-13-2010)

§ 114.02 DEFINITIONS

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

DOOR-TO-DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social or other ideological materials or advocating such beliefs. For purposes of this chapter, door-to-door advocacy includes door-to-door canvassing and pamphleting for non-commercial purposes.

PEDDLER. Any person who goes from house to house, place to place or street to street conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers.

PERSON. Any individual, partnership, corporation, organization, society or association acting as a peddler, solicitor, transient merchant or door-to-door advocate.

PROFESSIONAL FUNDRAISER. Any person who, for compensation, performs any solicitation for a religious, political, social or charitable organization.

SOLICITOR. Any person who goes from house to house, place to place, or street to street soliciting or taking orders for the sale of goods, wares or merchandise of any nature for future delivery, or for services to be performed in the future, regardless of whether such individual has, carries or exposes for sale a sample of the subject of such order or whether advance payment on such orders is collected. Solicitation shall include any effort to obtain orders even though such may not initially purport to be the case.

TRANSIENT MERCHANT. Any person who engages in, does or transacts any temporary and transient business in the city, either in one locality or in traveling from place to place in the city selling goods, wares or merchandise, and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, tent, vacant lot, vehicle or railroad car for the exhibition and sale of such goods, wares or merchandise.

(Ord. 06-2010, passed 9-13-2010)

§ 114.03 LICENSE REQUIRED

Except as provided in § 114.08, no person shall engage in or follow the business of a peddler, solicitor or transient merchant without first having obtained a license therefor from the city.

(Ord. 06-2010, passed 9-13-2010)

§ 114.04 APPLICATION

Application for a peddler, solicitor or transient merchant license shall be made to the City Clerk-Treasurer on forms provided by the city. The application shall contain at least the following information and shall be signed by the applicant:

- (A) Name and physical description of the applicant, along with valid photo identification;
- (B) Any other names under which the applicant does conduct or has conducted business;
- (C) Complete permanent home and local address of the applicant and, for transient merchants, the local address from which proposed sales will be made;
- (D) Permanent and local telephone numbers of the applicant and the cellular phone number at which the applicant may be reached while working;
- (E) A brief description of the nature of the business and the goods to be sold;
- (F) The name and address of the employer, principal or supplier of the applicant, together with credentials therefrom establishing their relationship;
- (G) A Minnesota Tax Identification Number or Federal Tax Identification Number or a sufficient explanation to why one is not required;
- (H) The dates and hours of the day during which the business will be carried on;
- (I) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereon, the location of such goods or products at the time of the application, and the proposed method of delivery;
- (J) If a transient merchant, written permission of the owner of the property from which sales will be conducted;
- (K) A photograph of the applicant taken within the previous six months, which shall be approximately two inches by two inches and show the head and shoulders of the applicant in a clear and distinguishable manner;
- (L) A statement as to whether the applicant has been convicted of any misdemeanor, gross misdemeanor or felony for violation of any statute, law, or ordinance, other than traffic violations, the date and nature of the offense and the punishment or penalty assessed therefor;
- (M) The names of other municipalities, not to exceed five in number, where the applicant carried on similar business immediately preceding the date of application and the address from which such business was conducted in those municipalities;
- (N) If a transient merchant, a copy of the license issued by Wright County;

(O) If a vehicle is to be used, a description of the vehicle, together with state of registration and license number or other means of identification;

(P) The required fee; and

(Q) Any other information reasonably required by the city in order to conduct an investigation of the applicant.

(Ord. 06-2010, passed 9-13-2010)

§ 114.05 APPLICATION FEE

The application fee for a peddler, solicitor or transient merchant license shall be set by ordinance in the city fee schedule. The fee shall be nonrefundable regardless of whether the license is issued or denied.

(Ord. 06-2010, passed 9-13-2010)

§ 114.06 REVIEW OF LICENSE

(A) Upon receipt of a completed application for a peddler, solicitor or transient merchant license, including the required fee, the City Clerk-Treasurer shall transmit a copy of the application to the Wright County Sheriff or such other officer providing police services to the city (the "Chief of Police") and such other public officials as the City Clerk-Treasurer may deem appropriate, who shall conduct an investigation. The Chief of Police or designee has authority to conduct a criminal history and driver's license check on the applicant through the State of Minnesota Bureau of Criminal Apprehension.

(B) Within five days of receipt of a report from the Chief of Police and other public officials recommending approval of the license application, the City Clerk-Treasurer shall issue the license. The license shall have one copy of the applicant's photograph attached to it, which shall be exhibited by the applicant upon request by a police officer or any person in the city contacted by the applicant in connection with the licensed activity. Licenses shall be valid for 30 days. The City Clerk-Treasurer shall maintain a record of all licenses issued hereunder.

(C) Within five days of receipt of a report from the Chief of Police or other public official recommending denial of the license application, the City Clerk-Treasurer shall deny the application and notify the applicant in writing of the denial. Any person aggrieved by a decision of the City Clerk-Treasurer to deny a license may appeal such denial to the City Council by submitting a written request to the City Clerk-Treasurer within 15 business days of receipt of notification of the denial. The City Council shall hear the applicant's appeal at its next regular meeting occurring not sooner than ten days after receipt of the appeal by the city.

(Ord. 06-2010, passed 9-13-2010)

§ 114.07 GROUND FOR DENIAL OF LICENSE

The following shall be grounds for denial of an application for a peddler, solicitor or transient merchant license:

- (A) Omission or misrepresentation of any material fact or information on the application;
 - (B) Revocation or suspension within the previous five years of any peddler, solicitor or transient merchant license in any jurisdiction;
 - (C) Failure or refusal to consent to a background check;
 - (D) Conviction within the previous ten years of any crime involving fraud, deceit or misrepresentation in any trade or business or of any crime which reflects adversely on the applicant's suitability to conduct business or of any crime involving any form of actual or threatened physical harm to another;
 - (E) Intent to sell or take orders for the sale of any goods, wares, merchandise or services which are illegal or injurious to the public health, safety or welfare; or
 - (F) Revocation or suspension by any jurisdiction of any other license or permit required to conduct business.
- (Ord. 06-2010, passed 9-13-2010)

§ 114.08 EXEMPTIONS

- (A) This chapter shall not apply to the following:
 - (1) Sale of personal property at wholesale to dealers in such articles;
 - (2) Sale or delivery of newspapers or making contact for the purpose of establishing a delivery route for newspapers;
 - (3) Delivery by merchants of goods purchased in the regular course of business;
 - (4) Sale of the products of the farm or garden occupied or cultivated by the seller;
 - (5) Sale to dealers by commercial travelers or selling agents in the usual course of business;
 - (6) Sale or delivery of items of food or drink to householders on a regular route;

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- (7) A sale required by statute or by order of any court, or a bona fide auction sale pursuant to law;
- (8) A garage, rummage or similar sale involving household or other items owned and used by the seller;
- (9) Solicitation by an organization, society, association or corporation solely of its own members;
- (10) Non-commercial door-to-door advocates not engaged in the sale of any goods or service; or
- (11) Distribution of materials door to door free of charge.

(B) Exemption from the requirements of this chapter does not include exemption from any other applicable provision of the Code of Ordinances unless an exemption under such other provision also applies.

(Ord. 06-2010, passed 9-13-2010)

§ 114.09 DOOR-TO-DOOR ADVOCATES EXEMPTION

(A) No license shall be required under this chapter for any person going door-to-door for the purpose of advocating any religious, political, social or other position or belief protected by the federal or state constitution. This exemption does not apply and such person is required to obtain a license if the exercise of the person's constitutional rights are merely incidental to a commercial activity.

(B) A professional fundraiser working on behalf of an otherwise exempt door-to-door advocate is not exempt from the licensing requirements of this chapter.

(Ord. 06-2010, passed 9-13-2010)

§ 114.10 PROHIBITED ACTIVITIES

No peddler, solicitor, transient merchant or door-to-door advocate shall conduct business or activities in any of the following manners:

- (A) Calling attention to any goods or services by means of blowing a horn or whistle, ringing a bell, crying out, using amplified sound or any other noise in an unreasonably audible manner;
- (B) Obstructing vehicular or pedestrian traffic on any street or other right-of-way;

- (C) Stating, implying or doing anything to suggest that the license issued by the city is or constitutes an endorsement by the city or any of its officers or employees of the goods, services or activities being offered;
- (D) Conducting business or activities other than during permitted hours;
- (E) Failing to produce a license and identification when requested by a police officer or any person in the city contacted by the license or certificate holder in connection with the business or activity;
- (F) Using the license of another person or a false license;
- (G) Making false or misleading statements or claims about the goods or services being offered;
- (H) Remaining on the property of another after being requested to leave;
- (I) Failing to heed any no solicitation or similar notice posted on the property;
- (J) Selling or taking orders for the sale of any goods or services which are illegal or injurious to the public health, safety or welfare; or
- (K) Conducting business or activities in any manner which a reasonable person would find threatening, intimidating or abusive.
(Ord. 06-2010, passed 9-13-2010)

§ 114.11 LICENSES NOT TRANSFERABLE

No license or certificate issued pursuant to this chapter shall be transferable. Each individual shall be separately licensed or certified when more than one individual is involved in a sales or advocacy activity.
(Ord. 06-2010, passed 9-13-2010)

§ 114.12 USE OF PROPERTY

No person licensed or certified under this chapter has an exclusive right to any specific location on public property, nor shall a stationary location thereon be permitted. No person licensed or certified under this chapter shall operate in a congested area or where he or she may impede or interfere with traffic. Nothing in this chapter shall be deemed to permit persons licensed or certified hereunder to use private property without the consent of the owner thereof.
(Ord. 06-2010, passed 9-13-2010)

§ 114.13 EXCLUSION OF PEDDLERS, SOLICITORS AND DOOR-TO-DOOR ADVOCATES

Any person who wishes to exclude peddlers, solicitors and door-to-door advocates from premises he or she occupies may place upon or near the usual entrance to such premises a conspicuous printed placard or sign bearing a notice that peddlers, solicitors and door-to-door advocates are prohibited. No peddler, solicitor or door-to-door advocate shall enter in or upon any premises or attempt to enter in or upon any premises where such a placard or sign is placed and maintained notwithstanding the fact that he or she may have obtained a license or certificate under the provisions of this chapter. No person other than the occupant shall remove, damage or deface such placard or sign.

(Ord. 06-2010, passed 9-13-2010)

§ 114.14 SUSPENSION OR REVOCATION

Any license may be suspended or revoked by the Chief of Police upon reasonable evidence the person is or has become ineligible for a license under § 114.07 or for any violation of § 114.10. The Chief of Police shall notify the person of the suspension or revocation in writing at the person's permanent address or place of business and by attempting to contact the person by telephone at the addresses and telephone numbers provided under § 114.04. Any person aggrieved by the suspension or revocation of a license under this section may appeal the suspension or revocation to the City Council in the manner specified in § 114.06.

(Ord. 06-2010, passed 9-13-2010)

§ 114.15 HOURS OF SOLICITATIONS

Peddlers, solicitors and door-to-door advocates may engage in sales or activities daily between the hours of 9:00 a.m. to 7:00 p.m., or until sundown, whichever occurs first.

(Ord. 06-2010, passed 9-13-2010)

§ 114.99 PENALTY

Any person violating any provision of this chapter shall be guilty of a misdemeanor.

(Ord. 06-2010, passed 9-13-2010)

CHAPTER 115: TATTOOING AND BODY PIERCING

Section

- 115.01 Findings and purpose
- 115.02 Places ineligible for use for tattooing, body piercing or body art
- 115.03 Conflicting provisions

- 115.99 Penalty

§ 115.01 FINDINGS AND PURPOSE

The city finds that the location of establishments in which tattooing, body piercing and other forms of body art are conducted must be regulated to prevent them having a deleterious effect on surrounding uses and the community as a whole. The purpose of this chapter is to regulate the location of businesses which engage in tattooing, body piercing or other forms of body art to prevent their location near other specified uses or the concentration of such uses in a single area. Other aspects of licensing related to tattooing, body piercing and body art shall be regulated by state law. (Ord. 05-2010, passed 8-17-2010)

§ 115.02 PLACES INELIGIBLE FOR USE FOR TATTOOING, BODY PIERCING OR BODY ART

No property, building, site or other location may be used to conduct tattooing, body piercing or body art if any of the following apply:

- (A) Any tax, special assessment or any other financial claim or charge of the state, county, city, school district, or other governmental entity or subdivision is delinquent or unpaid;
- (B) The property is not properly zoned for the use;
- (C) The premises is licensed for the furnishing of alcoholic beverages or is an adult establishment or is located in the same building as a premises licensed for the furnishing of alcoholic beverages or an adult establishment; or

(D) The premises is located within 300 feet of, in the same building as, or on the same legally subdivided lot, tract or parcel of land as any of the following uses: place of religious worship or observance, school, daycare, hospital, half-way house, currency exchange, theater, residence, pawnshop, secondhand goods dealer, massage parlor or another tattoo, body piercing or body art establishment.

(Ord. 05-2010, passed 8-17-2010)

§ 115.03 CONFLICTING PROVISIONS

In any case in which a provision of this chapter is found to conflict with any other city ordinance or code, regulation or requirement, the provision which establishes the higher or more restrictive standard shall prevail.

(Ord. 05-2010, passed 8-17-2010)

§ 115.99 PENALTY

Any person violating any provision of this chapter is guilty of a misdemeanor.

(Ord. 05-2010, passed 8-17-2010)