



City of Mora
101 Lake Street South
Mora, MN 55051-1588

Tel: 320.364.1173
Fax: 320.679.3862
E-mail: n.segelstrom@cityofmora.com

BUSINESS LICENSE APPLICATION Instructions

- 1) Read and follow these instructions carefully.
- 2) If you have any questions contact Natasha Segelstrom, Administrative Service Director at city hall. Her telephone and e-mail address are shown above.
- 3) Fill in all forms completely and accurately. Attach additional information as directed.
- 4) Incomplete applications **will be returned**, do not submit incomplete applications, it will delay the approval process.
- 5) Renewal applications for alcoholic beverage licenses can take up to four weeks to process. New applications for alcoholic beverage licenses will take longer.
- 6) All annual licenses expire at midnight on August 31st each year.
- 7) Complete and sign this **Business License Application** form.
- 8) Complete and sign the attached **Supplemental Application** specific to your license type.
- 9) Complete and sign the attached **Workers' Compensation Certification of Compliance** form.
- 10) Submit a copy of the **Liability Insurance Certificate AND Liquor Liability Insurance Certificate** if applicable for a liquor license.
- 11) Complete and sign the attached **Alcohol Gambling & Enforcement application** form, if applicable for alcohol and/or tobacco licenses.
- 12) Calculate fees and attach payment made *payable to the City of Mora*.
- 13) Submit forms, supporting documentation, and payment to the City of Mora at the above address.
- 14) The license, if approved, will be mailed to you.



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BUSINESS LICENSE APPLICATION

Municipal Use Only

License Number:

Period Covered:

Approval Date:

Term:

☐ New License or ☐ Renew License

Name of Applicant (name of individual, partnership, corporation, or association):	
Applicant Address:	
Applicant City/State/Zip:	
Applicant Phone:	Applicant Email Address:
Applicant Cell Phone:	U.S. Citizen <input type="checkbox"/> Yes <input type="checkbox"/> No
Applicant Driver's License Number:	Applicant Date of Birth:
Business Name/dba:	
Business Address:	
Business Phone:	Business Website:
Minnesota Tax ID Number:	Federal Tax ID Number:
Kanabec County Parcel/Property ID Number: 22.	
IF BUSINESS IS TO BE CONDUCTED UNDER A DESIGNATION, NAME OR STYLE OTHER THAN THE NAME OF THE APPLICANT, ATTACH COPY OF THE CERTIFICATE OF ASSUMED NAME, AS REQUIRED BY CHAPTER 333, MINNESOTA STATUTES CERTIFIED BY THE OFFICE OF THE SECRETARY OF STATE.	

License Types

- | | | |
|--|---|---|
| <input type="checkbox"/> Liquor On-Sale \$2,200 | <input type="checkbox"/> Brew Pub On-Sale \$2,200 | <input type="checkbox"/> Club Liquor On-Sale <200 \$300 |
| <input type="checkbox"/> Liquor Sunday On-Sale \$200 | <input type="checkbox"/> Brew Pub Off-Sale \$225 | <input type="checkbox"/> Club LQ. On-Sale 201-500 \$500 |
| <input type="checkbox"/> Wine On-Sale \$375 | <input type="checkbox"/> Brewer Tap Room \$500 | <input type="checkbox"/> Club LQ. On-Sale 501-1000 \$650 |
| <input type="checkbox"/> 3.2 Beer On-Sale \$125 | <input type="checkbox"/> Small Brewer Off-Sale \$225 | <input type="checkbox"/> Club LQ. On-Sale >1000 \$800 |
| <input type="checkbox"/> 3.2 Beer Off-Sale \$125 | <input type="checkbox"/> Consumption & Display \$125 | <input type="checkbox"/> Tobacco \$125 |
| <input type="checkbox"/> Pawnbroker \$2,000 | <input type="checkbox"/> Taxicab \$35 | <input type="checkbox"/> Mixed Municipal Solid Waste \$500 |
| <input type="checkbox"/> Massage Therapist \$60 | <input type="checkbox"/> Sexually Oriented Business \$5,000 | <input type="checkbox"/> Roll-Off Service Solid Waste \$150 |
- ☐ Temporary: Liquor On-Sale / 3.2 Beer On-Sale / Liquor Consumption & Display (Circle ONE)
\$75 for one day license + \$15 per additional day

Total Fees: \$ _____

Term

The applicant requests the above licenses for a term from 12:01 am on the _____ day of _____ to 12:00 am midnight on the _____ day of _____.

(All business license periods end 12:00 am midnight, August 31, except for temporary liquor licenses).

Submittal Checklist

- ☐ Completed Business License Application.
- ☐ Completed Supplemental Application
- ☐ Application Fees made payable to "City of Mora".
- ☐ Completed and signed Certificate of Compliance Minnesota Workers' Compensation Law form.
- ☐ Completed and signed Background Investigation Consent Release.
- ☐ Completed Alcohol and Gambling Enforcement, MN Dept. of Revenue, or other required external organization form(s).
- ☐ Copy of Certificate of Insurance.

** Incomplete applications **will be returned**, do not submit incomplete applications, it will delay the approval process.

Please note: License applications may take up four weeks to process, so please allow ample time between the application and your first event.

Applicant Signature

I certify that I have read the above questions and the answers are true and correct to the best of my knowledge.

_____ shall perform its activities in full conformance with applicable federal, state and local
(Licensee Name)
laws, and shall be responsible for, and shall indemnify, defend and hold harmless the City of Mora and all of the City's officers, employees and agents from and against all claims, suits, liability, damages and losses, specifically including, but not limited to those for loss of use of property, for damage to any property, real or personal, for injury to or death of any person, and for all other liabilities whatsoever including related expenses and actual attorney fees in any way sustained by reason of the activities authorized by this license, permit or agreement in connection with the actions of

_____, its employees, agents or officers within the City of Mora.
(Licensee Name)

The foregoing shall not be construed to be an agreement to indemnify the City of Mora, its officers, agents or employees against liability for claims, suits, damages and losses to the extent that such claims, suits, damages and losses were caused by or resulting from the gross negligence or willful misconduct of the City of Mora, its officers, employees or agents. This permit, license or agreement shall be construed in accordance with the laws of the State of Minnesota.

Signature

Date

(FOR CITY USE ONLY)

Application Reviewed by City Clerk: ☐ With Conditions ☐ Without Conditions ☐ Not Applicable

Comments/Conditions:

Signature:

Date:

Application Reviewed by Planning/Zoning Department: <input type="checkbox"/> With Conditions <input type="checkbox"/> Without Conditions <input type="checkbox"/> Not Applicable	
Comments/Conditions:	
Signature:	Date:

Application Reviewed by Building Department: <input type="checkbox"/> With Conditions <input type="checkbox"/> Without Conditions <input type="checkbox"/> Not Applicable	
Comments/Conditions:	
Signature:	Date:

Application Processed and Reviewed by Licensing Clerk:		
Date Filed:	Fee(s) Paid: \$	Receipt Number:
Background Check Submitted:	<input type="checkbox"/> Approve <input type="checkbox"/> Deny	Property Taxes:
Council Disposition: <input type="checkbox"/> Approve <input type="checkbox"/> Deny	Date:	License Number(s):
Licensing Agent Signature: _____		Date: _____
Comments:		



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ALCOHOL & TOBACCO LICENSE Supplemental Application

Business Legal Name _____ Date _____

Provide information on separate sheet of paper.

For All Licenses

1. On a separate piece of paper:
 - a. Supply the name, title, address, social security number, and date of birth for owner if a sole proprietorship, each partner if a partnership or each officer if a corporation.
 - b. Supply the owners', partners', officers', and managers' present occupation and place of business.
 - c. Supply the owners', partners', officers', and managers' place of residence for the last five (5) years.
 2. Address to be licensed.
 3. Number of years at this location.
 4. Name and address of owner of the premises to be licensed.
 5. Date business established under present ownership.
- ☐ YES ☐ NO Has any of the owner/managers ever applied for or held a license for alcoholic beverages/tobacco in any other jurisdiction? If so, describe on a separate sheet of paper (give business name & address, jurisdiction name & address, and dates).
 - ☐ YES ☐ NO Has any of the owner/managers ever been convicted of a felony or of a violation of any federal or state laws or local ordinances relating to the manufacture, possession, transportation, or sale of alcoholic beverages/tobacco? If so, describe on a separate sheet of paper (give owners/managers' names, description of violations, court name & address, and dates of conviction).
 - ☐ YES ☐ NO Does any manufacturer or wholesaler of alcoholic beverages have any ownership or other financial interest in the business? If so, describe it on a separate sheet of paper.
 - ☐ YES ☐ NO Are there any delinquent property taxes, special assessments, or other charges due to the city on the property to be licensed?
 - ☐ YES ☐ NO Does the business carry liquor liability (Dram Shop) insurance? If so, attach a certificate of insurance.

On-Sale Alcohol Applications Only.

- ☐ YES ☐ NO Is food served at this location? If so, indicate the seating capacity for food service. _____
- ☐ YES ☐ NO Will alcoholic beverages be sold or consumed outside of the enclosed building on the licensed premises? If so, attach a scale drawing showing the licensed premises, and areas where sales and consumption will take place.

3.2 Beer & Wine Applications Only.

- Sales of 3.2 Beer/Wine in the 12-month period ending _____
On-Sale _____ Off-Sale _____

Acknowledgements

The applicant agrees to abide by all pertinent regulations governing the licenses applied for, including city ordinances, as well as county, state, or federal laws. The applicant further agrees to indemnify and hold harmless the city, its agents, officers, and employees from any and all claims, causes of action, liabilities, losses, damages, costs, and expenses, and agrees to defend any action brought against the city on any related matter, and to pay all costs and expenses incurred in connection therewith. The city shall in no way be liable for any claims or charges incurred by the licensee.

Name of Applicant _____ Title _____

Signature of Applicant _____ Date _____



CITY OF MORA
Human Resources Office
Data Practices Rights Advisory

To: Applicant

As an applicant for employment with the City of Mora, you are being asked to provide information about yourself which will be used in evaluating your suitability for employment with the city. The purpose of this request for information is to obtain information about you to permit the city to thoroughly analyze your qualifications and suitability for employment with us.

Attached are several documents which require your signature and/or personal information about you. You are being requested to sign these documents and complete the information in order to permit the city to fully consider your suitability for employment with us. **You are not legally required to supply any of the data requested or to sign any of the release and authorization forms.** However, should you not provide that information, the city may be unable to fully and adequately determine your suitability for employment with the city, which may in turn reduce the chance you may have for employment with the city.

The data which you are being asked to provide is defined to be personnel data under the Minnesota Data Practices Act. Some personnel data is classified as public data and the remaining information is classified as private data. Under the Government Data Practices Act, the following information of job applicants is defined to be public: veteran status, relevant test scores, rank on eligibility list, job history, education and training, and work availability.

If hired, the following personnel data is defined as public data: your name, actual gross salary, salary range, contract fees, actual gross pension, value and nature of employer paid fringe benefits, the basis for and the amount of any compensation, including expense reimbursements, in addition to salary, job title, job description, education and training background, previous work experience, date of first and last employment, status of any complaints or charges against the employee, whether the complaint or charge resulted in any disciplinary action and the final disposition of any disciplinary action and supporting documentation, work location, work telephone number, badge number, honors, awards received, payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that the release of time sheet data would reveal the employee's reasons for use of sick or other medical leave or other non-public data, and city and county of residence. Public data is data which is available to any person upon request.

The remaining data you provide would generally be considered to be private data which you would be entitled to have access to. A third party is entitled to such data only with your consent, pursuant to court order or statutory provision. The authorizations for information which you sign and the data you provide may be conveyed to third parties. To the extent they reveal private information, they will be disclosed only to the extent that is necessary to do so to complete this employment investigation.

I HAVE READ AND UNDERSTAND THE ABOVE (must be signed before a Notary Public)	
SIGNATURE	DATE

STATE OF MINNESOTA)
) ss.
COUNTY OF KANABEC)

Before me this _____ day of _____, 20_____, personally appeared
_____ known to me, who being duly sworn did depose and say that all of the
statements contained herein are true, correct and complete.

(Notary Public)



CITY OF MORA

Human Resources Office

General Authorization and Release Pursuant to Minnesota Statute 13.05, Subdivision 4 the Minnesota Data Practices Act

I, _____, hereby authorize and grant my informed consent to permit the Kanabec County Sheriff's Office and the Minnesota Bureau of Criminal Apprehension to release to and make available to the **City of Mora and/or its agents and/or representatives** data classified as private which concerns me, and which may be in your possession. The data that I authorize to be released consists of private data, as defined by Minnesota Statute 13.02, Subdivision 12, and has been collected by you as a result of my contacts and associations with you and/or your agents and representatives. The information for which release is authorized includes **ALL DATA** which has been collected, created, received, retained, or disseminated in whatever form which in any way relates to my dealings with you or your agency. I understand that the purpose of permitting the City of Mora to have access to this information is to determine suitability for ☐ employment ☐ a business license, with the city. I further understand that this information may subsequently be utilized for other purposes relating to my possible employment/licensing with the city, including verification of my records and analysis by consultants to the city who may review my suitability for employment/licensing.

I hereby authorize and grant my informed consent to permit you to make photocopies for the City of Mora of data which concerns me and is in your possession.

This authorization shall be valid for a period of one year, but I reserve the right to, at any time prior to that expiration, cancel the written authorization by providing written notice to the city or to you of that fact. A photocopy of this authorization will be treated in the same manner as the original.

Please provide the following information required to perform background/reference checks. Failure to provide this information may prevent the city from determining your suitability for employment/licensing.

FULL NAME		DATE OF BIRTH	
FORMER/MAIDEN NAME OR ALIASES			
STREET ADDRESS	CITY	STATE	ZIP
SOCIAL SECURITY NUMBER	DRIVERS LICENSE NUMBER		
I HAVE READ AND UNDERSTAND THE ABOVE (must be signed before a Notary Public)			
SIGNATURE		DATE	

STATE OF MINNESOTA,)
) ss.
COUNTY OF _____)

Before me this _____ day of _____, 20_____, personally appeared

_____ known to me, who being duly sworn did depose and say that all of the statements contained herein are true, correct and complete.

(Notary Public)



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CERTIFICATION OF COMPLIANCE- MINNESOTA WORKERS' COMPENSATION LAW

Business Legal Name _____

Date _____

Minnesota Statutes, § 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in any activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Chapter 176. The required workers' compensation insurance information is the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure. This information is required by law. Licenses and permits to operate a business may not be issued or renewed if this information is not provided and/or is falsely reported. If the required information is not provided or is falsely stated, it shall result in a \$2,000 penalty assessed against the applicant by the commissioner of the Department of Labor and Industry. This information will be collected by the licensing agency and retained in their files.

Insurance Company Name: _____

Policy Number: _____

Dates of Coverage: _____

OR

☐ I am not required to have workers' compensation liability coverage because:

☐ I have no employees who are covered by the workers' compensation law (see Minnesota Statutes § 176.041 for a list of excluded employees these include spouse, parents, children, and certain farm employees). Explain why your employees are not covered:

☐ I am self-insured (include copy of permit to self insure)

I certify that the information provided above is accurate and complete and that a valid workers compensation policy or exception will be kept in effect at all times as required by law.

Name of Applicant _____

Title _____

Signature of Applicant _____

Date _____

NOTE: If your Workers' Compensation policy is cancelled within the license period, you must notify the city
by
resubmitting this form.

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

General Provisions

- 112.01 Adoption of state law by reference
- 112.02 City may be more restrictive than state law
- 112.03 Definitions
- 112.04 Nudity on the premises of licensed establishments prohibited
- 112.05 Consumption in public places
- 112.06 Delivery of liquor
- 112.07 Growler sales

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- 112.20 License required
- 112.21 Term and expiration of licenses
- 112.22 Kinds of liquor licenses
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- 112.35 Restrictions on purchase and consumption
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- 112.37 Suspension and revocation

Municipal Liquor Stores

- 112.50 Application of this subchapter
- 112.51 Existing municipal stores continued

- 112.52 Location
- 112.53 Operation
- 112.54 Proof of financial responsibility
- 112.55 Issuance of other licenses

- 112.99 Penalties

Cross-reference:

Regulation of social hosts, see § 130.06

GENERAL PROVISIONS

§ 112.01 ADOPTION OF STATE LAW BY REFERENCE.

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

§ 112.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

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

§ 112.03 DEFINITIONS.

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

BEER. Synonymous with the term "non-intoxicating malt liquor," meaning any malt liquor containing not less than 0.5% alcohol by volume nor more than 3.2% alcohol by weight.

BREWER. A person who manufactures 3.2% malt liquor or intoxicating malt liquor for sale.

BREW PUB. A brewer who also holds one (1) or more retail on-sale licenses with a facility that includes a restaurant that seats fifty (50) guests at one (1) time and sells at retail fewer than three thousand five hundred (3,500) barrels malt liquor in a year for consumption on or off the premises.

GROWLER. A reusable sixty-four (64) ounce container or seven hundred and fifty (750) milliliter bottle for the purchase of malt liquor, at off-sale, from a brew pub or brewer taproom.

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

RESTAURANT. The statutory definition is here amplified to include a requirement for seating of not less than fifty (50) guests at one (1) time, and the establishment shall be licensed for food service by the Minnesota Department of Health.

(Am. Ord. 438, passed 8-4-2015)

§ 112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

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

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

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or the imposition of a civil penalty under the provisions of § 112.99(B).

Penalty, see § 112.99

§ 112.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2% malt liquor on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, or where the consumption and display of liquor is lawfully permitted, unless expressly permitted by ordinance or action of the City Council.

(Ord. 404, passed 4-5-2011) Penalty, see § 112.99

§ 112.06 DELIVERY OF LIQUOR.

(A) *Definition.* As used in this section the term **INTOXICATING LIQUOR** means and includes ethyl alcohol and includes distilled, fermented, spirituous, vinuous, and malt beverages containing in excess of 3.2% alcohol by weight.

(B) *Prohibition on transportation.* Intoxicating liquor shall not be transported or be delivered by any means whatsoever by any person, firm, or corporation into or within the city except as may be permitted by this section.

(C) *Exceptions.* The following circumstances are exempt from the prohibition:

(1) Delivery or transportation of intoxicating liquor by persons, firms, or corporations licensed to engage in the sale and delivery of intoxicating liquor at wholesale is hereby allowed and permitted within the city, provided that the deliveries are made only to those persons, firms, or corporations which are licensed to engage in the sale of intoxicating liquors and meet all federal, state, and local laws, ordinances, and regulations concerning the sale of alcoholic beverages;

(2) Nothing in this section shall prohibit the delivery of sacramental wines to churches within the city;

(3) Nothing in this section shall prohibit the delivery of those products defined as intoxicating liquors in this section to drug stores for the use of the products in the preparation of drugs and medicines; and

(4) This section shall not be construed to prohibit or prevent an individual from transporting liquor for his or her own use, provided that the individual has obtained and is transporting the liquor as is otherwise permitted by law.

(Ord. 390, passed 2-2-2010)

§ 112.07 GROWLER SALES.

(A) Holders of a brew pub off-sale license or small brewer off-sale license shall sell malt liquor only in growlers.

(B) The growlers shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band,

strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, Part 7515.1100.

(C) Off-sale hours shall be limited to the legal hours for off-sale at exclusive liquor stores except Sunday sales shall be allowable from 8:00 a.m. to 10:00 p.m.

(Ord. 438, passed 8-4-2015)

LICENSING

§ 112.20 LICENSE REQUIRED.

No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale in the city any liquor without a license to do so as provided in this subchapter.

§ 112.21 TERM AND EXPIRATION OF LICENSES.

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

§ 112.22 KINDS OF LIQUOR LICENSES.

The Council is authorized to issue the following licenses and permits. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 112.55.

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

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

(C) Temporary on-sale 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or non-profit organization.

(D) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 112.23 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(E) Sunday on-sale intoxicating liquor licenses are approved under the authority granted to the City Council by the voters of the city pursuant to M.S. § 340A.504(d), as it may be amended from time to time, through a special election held on November 7, 1995. This authorization permits the Council to issue licenses for the consumption of intoxicating liquor, beer, and wine on Sundays between the hours of 8:00 a.m. and 1:00 a.m. Mondays. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 112.03, club, bowling center, or hotel which has a seating capacity of at least fifty (50) persons, which holds an on-sale intoxicating

liquor license, and which serves liquor only in conjunction with the service of food.

(F) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three (3) years. No license shall be for longer than four (4) consecutive days, and the city shall issue no more than twelve (12) days worth of temporary licenses to any one (1) organization in one (1) calendar year.

(G) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least twenty-five (25) guests at one (1) time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in § 112.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 112.23 shall not exceed one-half (1/2) of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.

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

(I) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety.

(J) Brew Pub (On-Sale) licenses, are the same as on-sale intoxicating liquor licenses that additionally authorizes the on-sale of malt liquor produced by the brewer for consumption on the premises. All licenses are issued as provided by M.S. § 340A.24, as may be amended from time to time, and M.S. § 340A.101, Subd. 3a, as may be amended from time to time.

(K) Brew Pub (Off-Sale) licenses, authorizes the off-sale of malt liquor produced by the brewer for consumption off the premises with the approval of the Commissioner of Public Safety. All licenses are issued as provided by M.S. § 340A.24, Subd. 2, as may be amended from time to time.

(L) Brewer Taproom licenses, authorizes the on-sale of malt liquor produced by the brewer for consumption on the premises. All licenses are issued as provided by M.S. § 340A.26, as may be amended from time to time.

(M) Small Brewer Off-Sale licenses, authorizes the off-sale of malt liquor produced by the brewer for consumption off the premises with the approval of the Commissioner of Public Safety. All licenses are issued as provided by M.S. § 340A.28, as may be amended from time to time.

(Am. Ord. 376, passed 1-20-2009; Am. Ord. 437, passed 8-4-2015; Am. Ord. 438, passed 8-4-2015)

§ 112.23 FEES.

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

(B) Fees for licenses under this chapter shall be in amounts set by the City Council from time to time. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws of this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least thirty (30) days before the hearing.

§ 112.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

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

§ 112.25 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that

business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

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

Penalty, see § 112.99

§ 112.26 DESCRIPTION OF PREMISES.

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

§ 112.27 APPLICATIONS FOR RENEWAL.

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

§ 112.28 TRANSFER OF LICENSE.

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

Penalty, see § 112.99

§ 112.29 INVESTIGATION.

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

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

§ 112.30 HEARING AND ISSUANCE.

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

§ 112.31 RESTRICTIONS ON ISSUANCE.

- (A) Each license shall be issued only to the applicant for the premises described in the application.
- (B) Not more than one (1) license shall be directly or indirectly issued within the city to any one (1) person.
- (C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.
- (D) No license shall be issued for any place or any business ineligible for a license under state law.
- (E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(Am. Ord. 430, passed 3-17-2015) Penalty, see § 112.99

§ 112.32 CONDITIONS OF LICENSE.

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

- (A) A licensee shall require all of its employees or agents who serve alcoholic beverages at a licensed premises to successfully complete an annual program of responsible beverage server training, except as indicated below:
 - (1) This provision applies to licensees holding any alcoholic beverage license.
 - (2) The city shall provide a list of responsible beverage server training programs approved by the City Council to licensees.
 - (3) Within ninety (90) days after employment, every person selling or serving alcoholic beverages in a licensed premises shall successfully complete said training.
 - (4) Certificates of attendance indicating proof of such training shall be maintained on the licensed premises. A copy of said certificates shall be provided to the city at the time of application for renewal of license. Any renewal application not containing the certificates of training attendance shall be deemed incomplete.
 - (5) Organizations applying for temporary on-sale 3.2% malt liquor licenses or temporary on-sale intoxicating liquor licenses shall provide a certificate of attendance indicating proof of training for the member of the organization responsible for alcohol beverage service at the organization's event. This person shall be responsible for training all servers of alcoholic beverages. A list of the names of those trained and serving at the event shall be prepared by the responsible person and submitted to the city within ten (10) business days of the end of the event. Failure to do so shall disqualify the organization from obtaining licenses from the city in the future.
 - (6) Attendance at the training session does not alleviate applicants from civil and/or criminal penalties for a violation of this chapter.
- (B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- (C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

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

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

(Am. Ord. 447, passed 12-6-2016) Penalty, see § 112.99

§ 112.33 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time.

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

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

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

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

Penalty, see § 112.99

§ 112.34 MINORS ON PREMISES.

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

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

Penalty, see § 112.99

§ 112.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

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

Penalty, see § 112.99

§ 112.36 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by police officers or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years to enter the licensed premise to attempt to purchase alcoholic beverages. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of alcoholic beverages when those items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

§ 112.37 SUSPENSION AND REVOCATION.

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

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

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of § 112.04, the license shall be revoked.

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

(a) For the first violation within any three (3) year period, one (1) day suspension in addition to any criminal or civil penalties which may be imposed;

(b) For a second violation within any three (3) year period, three (3) consecutive days suspension in addition to any criminal or civil penalties which may be imposed;

(c) For the third violation within any three (3) year period, seven (7) consecutive days suspension in addition to any criminal or civil penalties which may be imposed; and

(d) For a fourth violation within any three (3) year period, the license shall be revoked.

(3) The suspension or revocation of the license shall begin at 12:01 a.m. on the Thursday following the Council meeting at which the licensee had the opportunity for a hearing under division (A) above.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten (10) days. Any suspension under this division shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 112.99 pertaining to administrative penalty shall be imposed in addition to any suspension or revocation under this chapter.

(E) The provisions of this section shall not be imposed upon any licensee who has failed a city initiated compliance check where minors are utilized to attempt to purchase liquor or beer under § 112.36.

(Ord. 370, passed 5-20-2008) Penalty, see § 112.99

MUNICIPAL LIQUOR STORES

§ 112.50 APPLICATION OF THIS SUBCHAPTER.

This subchapter, consisting of §§ 112.50 through 112.55, applies only to the municipal liquor store.

§ 112.51 EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in § 112.55, no intoxicating liquor may be sold at retail elsewhere in the city.

Penalty, see § 112.99

§ 112.52 LOCATION.

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

§ 112.53 OPERATION.

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

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of eighteen (18) shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

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

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

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in § 112.33. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than one-half (½) hour after the time when the sale of intoxicating liquor must cease.

Penalty, see § 112.99

§ 112.54 PROOF OF FINANCIAL RESPONSIBILITY.

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

§ 112.55 ISSUANCE OF OTHER LICENSES.

State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal

liquor dispensary.

§ 112.99 PENALTIES.

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

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

- (1) For the first violation within any three (3) year period, five hundred dollars (\$500);
- (2) For the second violation within any three (3) year period, one thousand dollars (\$1,000); and
- (3) For the third and subsequent violations within any three (3) year period, two thousand dollars (\$2,000).

(C) The term ***VIOLATION***, as used in this section, includes any and all violations of the provisions of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three (3) year period.

(Ord. 370, passed 5-20-2008)

License Application to Make Retail Sales of Cigarette and Other Tobacco Products

To be completed by applicant when applying for a license with a city or county.

FOR MUNICIPAL USE ONLY

Applicant's Minnesota Tax ID Number

The Minnesota Tax ID must be issued in the same legal name of the licensee below.

License Authority
License Number
Period Covered
Date of Issuance

Cigarettes/tobacco products will be sold *(a separate license is required for each location or vending machine):*

☐ Over Counter
 ☐ Through Vending Machine
 ☐ Both

Licensee's Legal Name	Federal Employer ID Number (FEIN)
Business Trade Name (doing business as)	Daytime Phone
Complete Address of Business Location <i>(permit location)</i>	County
City	State
Mailing Address <i>(if different than business address)</i>	City

Type of legal organization *(check one):*

☐ Sole proprietor
 ☐ Minnesota corporation: Enter date of incorporation _____
 ☐ Partnership
 ☐ Out-of-state corporation: State of incorporation _____
 ☐ Other *(describe)* _____

Are you registered to do business in Minnesota? ☐ Yes ☐ No

Corporate officers or partners *(attach a list if necessary)*

Name	Title
Address	City
Name	Title
Address	City

As a licensed tobacco products or cigarette retailer, I understand that:

- I can purchase cigarettes and tobacco from a Minnesota distributor or subjobber who holds a license with the Minnesota Department of Revenue. The Cigarette and Tobacco Distributor List is on our website. Go to www.revenue.state.mn.us and type Distributor List in the Search box.
- I must obtain a tobacco products distributor license if I purchase untaxed tobacco products from an out-of-state company.
- I may not sell cigarettes affixed with Minnesota Native American stamps unless my retail business is located on a reservation that has a tax agreement with the State of Minnesota.
- I may not purchase from or exchange cigarettes or tobacco products with another retailer.
- I must keep complete and legible cigarette and tobacco products invoices on the licensed premises, or make invoices available within one hour of request, for at least one year after the date of the purchase.
- I know that the Minnesota Department of Revenue and/or law enforcement may conduct cigarette and tobacco inspections of the premises, including inspections of inventory, invoices and licenses, and I understand that a refusal to allow an inspection is grounds for revocation of my license.
- I know that failure to comply with all requirements can result in criminal penalties, including the loss of cigarettes and tobacco products.

Licensee Signature	Title	Print Name	Date	Daytime Phone
Licensing Agent's Signature	Title	Print Name	Date	Daytime Phone

License applicant: Submit this form to the licensing authority along with the license application.

Licensing authority: Mail, email or fax to:

Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331.

Fax: 651-556-5236. Email: cigarette.tobacco@state.mn.us

CHAPTER 115: TOBACCO REGULATIONS

Section

- 115.01 Purpose and intent
- 115.02 Definitions
- 115.03 License
- 115.04 Fees
- 115.05 Basis for denial of license
- 115.06 Prohibited sales
- 115.07 Vending machines
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- 115.09 Responsibility
- 115.10 Compliance checks and inspections
- 115.11 Other illegal acts
- 115.12 Exceptions and defenses
- 115.99 Violations and penalty

§ 115.01 PURPOSE AND INTENT.

Because the city recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess and use tobacco, tobacco products, and tobacco related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of eighteen (18) years and that those persons who reach the age of eighteen (18) years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

§ 115.02 DEFINITIONS.

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

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

INDIVIDUALLY PACKAGED. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually

wrapped tobacco and tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

MINOR. Any natural person who has not yet reached the age of eighteen (18) years.

MOVEABLE PLACE OF BUSINESS. Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores and restaurants.

SALE. Any transfer of goods for money, trade, barter or other consideration.

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, fine cut or other chewing tobacco, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco, snuff flowers, cavendish, shorts, plug and twist tobaccos, dipping tobaccos, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing or smoking.

TOBACCO RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

§ 115.03 LICENSE.

(A) *License required.* No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the city.

(B) *Application.* An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *Action.* The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(D) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in § 110.07.

(E) *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

(F) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(G) *Display*. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(H) *Renewals*. The renewal of a license issued under this section shall be handled in the same manner as the original application.

(I) *Issuance as privilege and not a right*. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Penalty, see § 115.99

§ 115.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be in an amount set by the City Council from time to time.

Penalty, see § 115.99

§ 115.05 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this chapter includes but is not limited to the following:

(1) The applicant is under the age of eighteen (18) years.

(2) The applicant has been convicted within the past five (5) years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.

(3) The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve (12) months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.

(B) However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

(C) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter.

Penalty, see § 115.99

§ 115.06 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

(A) To any person under the age of eighteen (18) years.

(B) By means of any type of vending machine, except as may otherwise be provided in § 115.07.

(C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.

(D) By means of loosies as defined in § 115.02.

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

(F) By any other means, to any other person, on in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

Penalty, see § 115.99

§ 115.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.

Penalty, see § 115.99

§ 115.08 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this section within ninety (90) days following the effective date of this chapter.

Penalty, see § 115.99

§ 115.09 RESPONSIBILITY.

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

Penalty, see § 115.99

§ 115.10 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by police officers or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when those items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

Penalty, see § 115.99

§ 115.11 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this chapter:

(A) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or

tobacco related device to any minor.

(B) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, or tobacco related device.

(D) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This division (D) shall not apply to minors lawfully involved in a compliance check.

(E) *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Penalty, see § 115.99

§ 115.12 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

§ 115.99 VIOLATIONS AND PENALTY.

(A) Violations.

(1) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(2) *Hearings.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) *Hearing Officer.* The city official designated by the City Council shall serve as the hearing officer.

(4) *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under division (B) of this section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.

(5) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(6) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.

(7) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(B) Administrative penalties.

(1) *Licensees.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of seventy-five dollars (\$75) for a first violation of this chapter; two hundred dollars (\$200) for a second offense at the same licensed premises within a twenty-four (24) month period; and two hundred fifty dollars (\$250) for a third or subsequent offense at the same location within a twenty-four (24) month period. In addition, after the third offense, the license shall be suspended for not less than seven (7) days.

(2) *Other individuals.* Other individuals, other than minors regulated by division (B)(3) of this section, found to be in violation of this chapter shall be charged an administrative fine of fifty dollars (\$50).

(3) *Minors.* Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by City Council ordinance upon the City Council's consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. This administrative fine or other penalty may also be established by the City Council from time to time.

(4) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(5) *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

(Am. Ord. 364, passed 1-2-2008)