

TITLE XI: BUSINESS REGULATIONS

Chapter

110.ALCOHOLIC BEVERAGES

111.SEXUALLY-ORIENTED BUSINESSES

112.PEDDLERS AND SOLICITORS

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GENERAL PROVISIONS

§ 110.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Chapter 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,

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 City Council that all future amendments to M.S. Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this subchapter is adopted.
(Ord. 07-2003, passed 4-7-03)

§ 110.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 340A.101, 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 alcoholic beverages within its limits beyond those contained in M.S. Chapter 340A, as it may be amended from time to time.
(Ord. 07-2003, passed 4-7-03)

§ 110.03 DEFINITIONS.

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

BEER or 3.2% MALT LIQUOR. Any malt beverage with an alcoholic content of more than .5% by volume and not more than 3.2% by weight.

BEER STORE. An establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

BONA FIDE CLUB. A club organized for social or business purposes or for intellectual improvement or for the promotion of sports, where the serving of beer is incidental to and not the major purpose of the club.

INTOXICATING LIQUOR. Any distilled, fermented or vinous beverage containing more than 3.2% alcohol by weight.

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

ORIGINAL PACKAGE. The bottle or sealed container in which the liquor is placed at the point of manufacture.

RESTAURANT. A place of which the major business is preparing and serving lunches or meals to the public to be consumed on the premises.
(Ord. 07-2003, passed 4-7-03)

§ 110.04 LICENSE REQUIRED.

No person may directly or indirectly on any pretense or by any device sell, barter, keep for sale any beer or 3.2% malt liquor within the city without first having obtained a license therefore as hereinafter provided. The City Council is authorized to issue the following licenses and permits:

(A) "On sale" 3.2% malt liquor licenses shall be granted only to bona fide clubs, beer stores, drug stores, restaurants and hotels where food is prepared and served for consumption on the premises. "On sale" licenses shall permit the sale of beer for consumption on the premises only.

(B) "Off sale" 3.2% malt liquor licenses permitting the sale of beer at retail or at wholesale in the original package for consumption off the premises only.

(C) Temporary "on sale" 3.2% malt liquor licenses granting bona fide clubs, charitable, religious or nonprofit organizations to sell beer for a time period specified by the City Council.

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

(Ord. 07-2003, passed 4-7-03)

§ 110.05 APPLICATIONS FOR LICENSE.

(A) *Form.* Every application for a license issued under this subchapter 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 applicants 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 a consumption and display permit 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 subchapter, 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, in the case of a consumption and display permit, shall be filed with 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 subchapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

(Ord. 07-2003, passed 4-7-03)

§ 110.06 LICENSE FEES AND TERMS.

(A) Each application for a license shall be accompanied by a receipt from the City Administrator-Clerk-Treasurer for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the city. Upon rejection of any application for a license, the Administrator-Clerk-Treasurer shall refund the amount paid.

(B) Each license shall be issued for a maximum period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

All licenses, except for display and consumption and temporary "on sale" 3.2% malt liquor licenses, shall expire on the last day of June in each year. Display and consumption permits shall expire on the last day of March in each year. Temporary "on sale" 3.2% malt liquor licenses expire according to their terms.

(C) The annual fees for an "on sale" 3.2% malt liquor license, an "off sale" 3.2% malt liquor license, a temporary "on sale" 3.2% malt liquor license, and a consumption and display permit shall be as set forth in the fee schedule, § 36.01. The city shall not increase the fee for liquor licenses except after notice of hearing on the proposed increase. Notice of the proposed increase must be mailed to all affected licensees at least 30 days before the date set for the hearing before the City Council.

(D) No part of the fee paid for any license issued under this subchapter shall be refunded except in the following instances upon application to the Council within ten days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

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

(2) The licensee's illness;

(3) The licensee's death;

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

(Ord. 07-2003, passed 4-7-03)

§ 110.07 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 as set forward in the fee schedule, § 36.01, 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.

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

(C) The Council may, in its sound discretion, waive the investigation requirement for an applicant applying for a temporary liquor license.
(Ord. 07-2003, passed 4-7-03)

§ 110.08 GRANTING A LICENSE.

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.
(Ord. 07-2003, passed 4-7-03)

§ 110.09 TRANSFER OF LICENSE.

No license issued under this subchapter 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 the provisions of this code applying to applications for a license shall apply.
(Ord. 07-2003, passed 4-7-03)

§ 110.10 RENEWING A LICENSE.

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. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have a license renewed.
(Ord. 07-2003, passed 4-7-03)

§ 110.11 PERSONS INELIGIBLE FOR LICENSE.

(A) No license shall be issued to any person under 21 years of age.

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

(C) No license shall be granted to any person who is not of good moral character and repute.

(D) 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 section shall not apply to any existing license existing on the effective date of this subchapter or to the renewal of an existing license.

(E) No new license may be issued to and the city may refuse to renew the license of any person who, within five years of the license application, has been convicted of a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of any alcoholic beverage.

(F) 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.

(Ord. 07-2003, passed 4-7-03)

§ 110.12 CONDITIONS OF LICENSE.

(A) All licensed premises shall have the license/permit posted in a conspicuous place at all times.

(B) No beer shall be sold or served to any intoxicated person.

(C) No gambling or any gambling device shall be permitted on any licensed premises. Charitable gambling may be allowed in a licensed establishment after a permit is applied for and reviewed by the City Council on an individual basis. Any organization holding a charitable gambling license within the city shall contribute 10% of their annual net profits derived from lawful charitable gambling to the General Fund of the city.

(D) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

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

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

(G) Every licensee shall be 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 subchapter and the law equally with the employee.

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

(Ord. 07-2003, passed 4-7-03)

§ 110.13 HOURS AND DAYS OF SALE.

(A) No sale of 3.2% malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. on Sunday. No sale of 3.2% malt liquor may be made after 5:00 p.m. on Christmas Eve, Christmas Day, or Easter Sunday.

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

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

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

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

(Ord. 07-2003, passed 4-7-03)

§ 110.14 MINORS ON PREMISES.

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

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

(Ord. 07-2003, passed 4-7-03)

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§ 110.15 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption nor shall consume liquor in any public place of business unless it has a permit from the Commissioner of Public Safety under the provisions of M.S. § 3401.414, as it may be amended from time to time, which has been approved by the Council.

(Ord. 07-2003, passed 4-7-03)

§ 110.16 CLUBS.

No club shall sell beer except to members and to guests in the company of members.

(Ord. 07-2003, passed 4-7-03)

§ 110.17 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 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 the prohibition of nudity on the premises of any establishment licensed under this subchapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for a 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 license or the imposition of a civil penalty under the provisions of Chapter 35 of the Dassel Code of Ordinances.

(Ord. 07-2003, passed 4-7-03)

§ 110.18 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor

license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this subchapter relating to liquor, as provided in division (B). 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

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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 subchapter or M.S. Chapter 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. Revocations shall occur within 60 days following a violation for which the revocation is imposed.

(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) that the licensee has failed to comply with any applicable statute, rule, or provision of this subchapter for at least the minimum periods as follows:

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

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

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

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

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

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

(D) The provisions of Chapter 35, pertaining to administrative penalties, may be imposed in addition to or in lieu of any suspension or revocation under this subchapter.
(Ord. 07-2003, passed 4-7-03)

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ESTABLISHMENT OF AN OFF-SALE MUNICIPAL LIQUOR STORE**§ 110.50 DEFINITIONS.**

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

INTOXICATING LIQUOR. Any ethyl alcohol, distilled, spirituous, fermented, malt or vinous beverage containing more than 3.2% of alcohol by weight.

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

BONA FIDE CLUB. A club organized for social or business purposes or for intellectual improvement or for the promotion of sports, where the serving of beer is incidental to and not the major purpose of the club.

MINOR. Any person under 21 years of age.

ON SALE. Sale by the drink for consumption in the premises.

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

ORIGINAL PACKAGE. The bottle or sealed container in which the liquor is placed by the manufacturer.

SELL. All barbers and all manners or means of furnishing intoxicating liquor or beer including such furnishing in violation or evasion of law or this subchapter.
(Ord. 02-2003, passed 1-21-03)

§ 110.51 DISPENSARY ESTABLISHED.

There is hereby established a municipal liquor dispensary for the off sale of intoxicating liquor. No intoxicating liquor may be sold at retail in the city except in the dispensary. Beer or 3.2% malt liquor may be sold at retail in the city in duly licensed bona fide clubs and beer stores.
(Ord. 02-2003, passed 1-21-03)

§ 110.52 LOCATION AND OPERATION.

(A) The dispensary shall be located at such suitable place within the corporate limits of this municipality as the Council determines by resolution. However, no premises upon which taxes or other public levies are delinquent shall be leased for dispensary purposes.

(B) The dispensary shall be in the immediate charge of a liquor store manager selected by the City Council and paid such compensation as is fixed by the City Council. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of his/her duties, in such sum as the City Council specifies. The bond premium shall be paid by the city. The Manager shall operate the dispensary and shall perform such duties in connection with the dispensary as may be directed by the City Council and in full compliance with this subchapter and with the laws relating to the sale of liquor or beer.

(C) The City Administrator, with consent of the Council, shall appoint such additional employees as may be required for the dispensary, based on an approved organizational chart allowing a certain number of full time employees and part time employees measured in full time equivalence. The City Council shall set forth a compensation schedule for such employees. No person under the age of 18 shall be hired in the municipal liquor store.
(Ord. 02-2003, passed 1-21-03)

§ 110.53 DISPENSARY FUND.

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

(B) The handling of municipal liquor dispensary receipts and disbursements shall comply with the procedure prescribed by Chapter 33 of the Dassel Code of Ordinances and other applicable laws and regulations.
(Ord. 02-2003, passed 1-21-03)

§ 110.54 RESTRICTIONS OF OPERATION.

No off-sale of intoxicating liquor shall be made before 8:00 a.m. or after 10:00 p.m. of any day. No off-sale of intoxicating liquor shall be made on Sundays. No off-sale shall be made on New Year's Day, January 1; Thanksgiving Day; or Christmas Day, December 25; and no off-sale shall be made after 8:00 p.m. on December 24.
(Ord. 02-2003, passed 1-21-03)

§ 110.55 REGULATIONS.

(A) No business other than the retail off-sale of liquor shall be carried on in the dispensary except the retail sale of cigars, cigarettes, all forms of tobacco, food and soft drinks, ice, specialized clothing, and liquor related equipment.

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(B) No gambling shall be allowed on the premises unless authorized by the City Council.

(C) No liquor or beer or other merchandise shall be sold on credit.

(D) No person shall be permitted to loiter on the dispensary premises.

(E) No liquor or 3.2% malt liquor shall be sold or served to any person, directly or indirectly, under the age of 21.

(F) No minor shall misrepresent his/her age for the purpose of obtaining liquor or 3.2% malt liquor.

(G) No disorderly person shall be permitted in the dispensary.
(Ord. 02-2003, passed 1-21-03)

§ 110.56 ENFORCEMENT AND PENALTY.

(A) It shall be the duty of all police officers of this municipality to enforce the provisions of this subchapter and to search the premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this subchapter and to prepare the necessary processes and papers therefore.

(B) Any employee of the dispensary willfully violating any provision hereof, or any provision of the laws of Minnesota relating to gambling or the sale of intoxicating liquor or 3.2% beer or malt liquor shall be subject to discharge as provided by law.

(C) Any person who violates any provision of this subchapter shall be subject to penalty stated in § 10.99 of the Dassel City Code.
(Ord. 02-2003, passed 1-21-03)

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- 111.01 Purpose **CHAPTER 111: SEXUALLY-ORIENTED BUSINESSES**
- 111.02 Findings of the City Council
- 111.03 Conclusions of the City Council
- 111.04 Definitions
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- 111.15 Restrictions regarding minors
- 111.16 Restrictions regarding sanitation and health
- 111.17 Civil sanctions for license violations

- 111.99 Penalty

§ 111.01 PURPOSE.

The purpose of this provision of the Dassel City Code is to prescribe licensing requirements for sexually-oriented businesses in order to protect the general health, safety, and welfare.
(Ord. 9.02, passed 6-3-02)

§ 111.02 FINDINGS OF THE CITY COUNCIL.

The City Council makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as previously studied by the City Council in adopting its zoning provisions regulating the location of adult entertainment facilities.

(A) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services, as well as causing increased costs for prosecution services.

(B) Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

(C) Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

(D) Sexually-oriented businesses can cause or contribute the public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(E) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

(Ord. 9.02, passed 6-3-02)

§ 111.03 CONCLUSIONS OF THE CITY COUNCIL.

In direct furtherance of the substantial goals of public health, safety, and welfare, the Dassel City Council adopts the following licensing regulations, recognizing that it has a great interest in the promotion of health and the prevention of criminal activity. It is not the intent of this chapter to inhibit the freedom of speech component of sexually oriented businesses; instead, this chapter represents a balancing of competing interests: reduced criminal activity through the regulation of sexually-oriented businesses versus the protected rights of participants in sexually-oriented businesses and their patrons. Thus, this chapter is designed to alleviate undesirable social problems that accompany sexually-oriented businesses without curtailing the constitutionally protected expression.

(Ord. 9.02, passed 6-3-02)

§ 111.04 DEFINITIONS.

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

ADULT BODY PAINTING STUDIO, ADULT BOOK STORE, ADULT COMPANIONSHIP ESTABLISHMENT, ADULT ENTERTAINMENT FACILITY, ADULT MINI MOTION PICTURE

THEATER, ADULT MODELING STUDIO, ADULT MOTION PICTURE THEATER, ADULT SAUNA, SEXUALLY-ORIENTED BUSINESS, SPECIFIED ANATOMICAL AREAS and SPECIFIED SEXUAL ACTIVITIES are defined in Chapter 153 as amended.

BOOTHS, STALLS, or PARTITIONED PORTIONS OF A ROOM or INDIVIDUAL ROOM.

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

(2) Enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee.

(3) The phrase “***BOOTHS, STALLS, or PARTITIONED PORTIONS OF A ROOM or INDIVIDUAL ROOMS***” does not mean, enclosures which are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

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

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

FONDLE or CARESS. An affectionate touching, rubbing or stroking with the intent to sexually arouse or excite.

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

HEALTH INSPECTORS. Inspectors employed by the County of Meeker or their agents.

LICENSED FACILITY. Any premises requiring a license under this chapter.

MINOR. Any natural person under the age of 18 years.

NUDITY. The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

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

PATRON. A customer of a licensed facility.

PERSON. One or more natural persons; a partnerships, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.
(Ord. 9.02, passed 6-3-02)

§ 111.05 LICENSE REQUIRED.

No person shall own or operate a sexually-oriented business within the city unless such person is currently licensed under this chapter.
(Ord. 9.02, passed 6-3-02)

§ 111.06 LICENSE APPLICATION. The application for a license under this chapter shall be made on a form supplied by the City Administrator-Clerk-Treasurer and shall request the following information:

(A) For all applicants:

(1) Whether the applicant is a natural person, corporation, partnership, or other form of organization.

(2) The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(B) If the applicant is a natural person:

(1) The name, place and date of birth, street and city address, and phone number of the applicant.

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

(3) The street and city addresses at which the applicant has lived during the preceding two years.

(4) The type, name and location of every business or occupation in which the applicant has been engaged during the proceeding two years and the name(s) and address(es) of the applicant's employers) and partner(s), if any, for the preceding two years.

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

(C) If the applicant is a partnership:

(1) The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in division (B) of this section.

(2) The name(s) of the managing partner(s) and interest of each partner in the business.

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

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

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

(2) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-Laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by M.S. § 303.06, as it may be amended from time to time, shall be attached.

(3) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in division (B) of this section.

(Ord. 9.02, passed 6-3-02)

§ 111.07 APPLICATION EXECUTION AND VERIFICATION.

(A) If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

(B) Applications for licenses under this chapter shall be submitted to the City Administrator-Clerk-Treasurer. Within 20 calendar days of receipt of a completed application and payment of all licensing application fees, the City Administrator-Clerk-Treasurer or designee shall verify any and all of the information requested of the applicant in the application including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this chapter. (Ord. 9.02, passed 6-3-02)

§ 111.08 APPLICATION CONSIDERATION.

No later than 15 calendar days after the completion of the license application verification and investigation by the City Administrator-Clerk-Treasurer, as prescribed in § 111.07, the City Administrator-Clerk-Treasurer shall accept or deny the license application in accordance with this chapter. If the application is denied, the City Administrator-Clerk-Treasurer shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right, within 20 calendar days of receipt of the notice by the applicant, to request an appeal of the City Administrator-Clerk-Treasurer's determination to the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received by the City Administrator-Clerk-Treasurer, the hearing before the City Council shall take place within 20 calendar days of the City Administrator-Clerk-Treasurer's receipt of the request for appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be issued to the licensee until a certificate of occupancy has been issued for the license premises. During the application consideration process prescribed herein, an applicant operating a business not previously subject to the license requirement of this chapter may remain operating pending the outcome of the application consideration, including appeals to the City Council or final outcome of an appeal to a court of law. (Ord. 9.02, passed 6-3-02)

§ 111.09 FEES.

(A) *Application fee.*

(1) The license application fee shall be as set forth the fee schedule, § 36.01, as amended from time to time by the City Council.

(2) The license application fee shall be paid in full before the application for a license is accepted. All fees shall be paid to the City Administrator-Clerk-Treasurer for deposit into the general fund of the city. Upon rejection of any application for a license or upon withdrawal of application before approval by the City Administrator-Clerk-Treasurer the license fee shall be refunded to the applicant.

(3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license by the issuing authority or upon the date an occupancy permit is issued for the building.

(B) *Investigation fee.* An applicant for any license under this chapter shall deposit with the issuing authority, at the time an application is submitted, an investigation fee as set forth in the fee schedule, § 36.01, to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this division. The investigation fee shall be nonrefundable.

(Ord. 9.02, passed 6-3-02)

§ 111.10 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

The City Administrator-Clerk-Treasurer shall issue a license under this chapter to an applicant unless one or more of the following conditions exist:

(A) The applicant is a minor at the time the application is submitted;

(B) The applicant failed to supply all of the information requested on the license application;

(C) The applicant gave false, fraudulent, or untruthful information on the license application;

(D) The applicant has had a sexually-oriented license revoked within a one-year period immediately preceding the date the application was submitted;

(E) The applicant has had a conviction of a felony or a gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five years;

(F) The sexually-oriented business does not meet all of the zoning requirements prescribed in Chapter 153. This provision shall not apply to a business existing at the time this chapter is enacted which is not yet required to comply with Chapter 153;

(G) The premises to be licensed as a sexually-oriented business is currently licensed by the city as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;

(H) The applicant has not paid the license and investigation fees required.

(Ord. 9.02, passed 6-3-02)

§ 111.11 RENEWAL APPLICATION.

(A) All licenses issued under this chapter shall be effective for only one year commencing with the date of approval by the City Administrator-Clerk-Treasurer or City Council. An application for the renewal of an existing license shall be submitted to the City Administrator-Clerk-Treasurer at least 30 calendar days prior to the expiration date of the existing license.

(B) Within 20 calendar days of receipt by the City Administrator-Clerk-Treasurer of a fully completed renewal application, the City Administrator-Clerk-Treasurer or designee shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this chapter. No later than 15 calendar days after the completion of the renewal application verification and investigation by the City Administrator-Clerk-Treasurer or designee, as prescribed herein, the City Administrator-Clerk-Treasurer shall issue a renewal license unless one or more of the following conditions exist:

- (1) The applicant is a minor at the time the application is submitted;
- (2) The applicant failed to supply all of the information requested on the renewal application;
- (3) The applicant gave false, fraudulent, or untruthful information on the renewal application;
- (4) The sexually-oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this chapter;
- (5) The sexually-oriented business does not meet the zoning requirements prescribed Chapter 153;
- (6) The premises licensed as a sexually oriented business is currently licensed by the city as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- (7) The applicant has had a conviction of any crime listed in § 110.10(E); or
- (8) The applicant has had a sexually-oriented license revoked within a one-year period immediately preceding the date of the application was submitted.

(C) If the City Administrator-Clerk-Treasurer denies a renewal application, the City Administrator-Clerk-Treasurer shall notify the applicant in accordance with this chapter and the notice shall, in addition, state the grounds for the denial.

(D) After the denial of a renewal application by the City Administrator-Clerk-Treasurer, the application may appeal the City Administrator-Clerk-Treasurer's determination to the City Council in

accordance with § 111.08 or by immediately challenging the determination in a court of law. If the city denies renewal of a license under this chapter, the applicant shall not be issued a license under this chapter for one year from the date of denial. If, subsequent to the denial, the city finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the denial became final.

(Ord. 9.02, passed 6-3-02)

§ 111.12 GENERAL LICENSE RESTRICTIONS.

(A) *Posting of license.* A license issued under this chapter must be posted in a conspicuous place in the premises for which it is used.

(B) *Effect of license.* A license issued under this chapter is only effective for the compact and contiguous space specified in the approved license application.

(C) *Maintenance of order.* A licensee under this chapter shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises, including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this chapter shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

(D) *Special requirements for live adult entertainment.*

(1) All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where entertainment can be seen by patrons, customers or spectators shall:

(a) Provide social entertainment on a platform intended for that purpose which is raised at least two feet from the level of the floor;

(b) Provide the entertainment at a distance no closer than six feet to any patron;

(c) Not fondle or caress any patron;

(d) Not solicit any pay or gratuity from any patron.

(2) No patron, customer or spectator of a licensed facility providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas shall:

(a) Fondle or caress any performer, dancer or other person, providing live entertainment;

(b) Directly pay or give any gratuity to any performer, dancer or other person providing live entertainment.

(Ord. 9.02, passed 6-3-02)

§ 111.13 RESTRICTIONS REGARDING LICENSE TRANSFER.

(A) A license granted under this chapter is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(B) When a sexually-oriented business licensed under this chapter is sold or transferred, the existing licensee shall immediately notify the City Administrator-Clerk-Treasurer of the sale or transfer. If the new owner or operator is to continue operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this chapter.

(Ord. 9.02, passed 6-3-02)

§ 111.14 RESTRICTIONS REGARDING HOURS OF OPERATION.

A licensee shall not be open for business to the public during the following hours: Not open before 5:30 a.m. nor after 1 a.m.

(Ord. 9.02, passed 6-3-02)

§ 111.15 RESTRICTIONS REGARDING MINORS.

No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of 18 years. Proof of age may be established only by: a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

(Ord. 9.02, passed 6-3-02)

§ 111.16 RESTRICTIONS REGARDING SANITATION AND HEALTH.

(A) *Partitions facilitating sexual activity.* A licensee under this chapter shall not allow any partition between a subdivision, portion, or part of the licensed premises having any aperture which is designed or constructed to facilitate sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks, or female breast between persons on either side of the partition.

(B) *Restrictions on booths, stalls, and partitions.* A licensee under this chapter shall not allow or have on the licensed premises or adjoining areas any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment that have doors, curtains, or portal partitions, unless such booths, stalls, or partitions have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms. Seating or reclining surfaces inside any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall be prohibited.

(C) *Authority of health inspectors.* The Meeker County Health Inspectors shall have the authority to inspect or cause to be inspected the licensed premises and adjoining areas in order to ascertain the source of infection or reduce the spread of communicable diseases. Such officials shall have the authority to issue appropriate orders to the licensee regarding health and sanitation.

(D) *Limitation on number of persons in partitioned areas.* Any booths, stalls, or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall not be occupied by more than one person at a time.

(E) *General sanitation requirements.* All sexually-oriented business shall at all times be kept clean as defined herein and in a state of good repair as defined herein.

(F) *Duty to supervise.* The licensee shall not permit specified sexual activities as defined herein to take place on the premises and shall have an affirmative duty to supervise the licensed premises and prevent such activities.

(Ord. 9.02, passed 6-3-02)

§ 111.17 CIVIL SANCTIONS FOR LICENSE VIOLATIONS.

(A) *Suspension.* The City Council may suspend a license issued pursuant to this chapter for up to 60 days if the City Council determines that a licensee has violated the following:

(1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application.

(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

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

(4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by M.S. § 364.03, subd.2, as it may be amended from time to time, provided that

the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by M.S. § 364.03, subd.3, as it may be amended from time to time.

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

(B) *Revocation.* The City Council may revoke a license if the City Council determines that:

(1) The licensee's license was suspended in the preceding 14 months and an additional cause for suspension as detailed in (A) above is found by the City Council to have occurred within the 14-month period;

(2) The licensee gave false or misleading information in the material submitted to the city during the application process;

(3) A licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;

(5) A licensee violated any of the provisions of M.S. §§ 617.241 to 617.299, as they may be amended from time to time, relating to the illegal distribution, possession, or sale of obscene materials;

(6) A licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;

(7) A licensee has been convicted of an offense listed in § 110.10(E) of this chapter for which the time period required has not elapsed;

(8) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in § 110.10(E) of this chapter for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed.

(9) A licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or

(10) A licensee is delinquent in payment to the City, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, or other government imposed financial obligation.

(C) *Hearing procedures.* A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the application.
(Ord. 9.02, passed 6-3-02)

§ 111.99 PENALTY.

A violation of this chapter shall be a misdemeanor under Minnesota law, punishable by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.
(Ord. 9.02, passed 6-3-02)

Section

- 112.01 Definitions **CHAPTER 112: PEDDLERS AND SOLICITORS**
- 112.02 Exceptions to definitions
- 112.03 Licensing; exemptions
- 112.04 License ineligibility
- 112.05 License suspension and revocation
- 112.06 License transferability
- 112.07 Registration
- 112.08 Prohibited activities
- 112.09 Exclusion by placard

§ 112.01 DEFINITIONS.

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

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

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

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

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

(Ord. 08-2004, passed 8-16-04)

§ 112.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms ***PEDDLER, SOLICITOR,*** and ***TRANSIENT MERCHANT*** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, not shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

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

(C) Nothing in this chapter shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under § 112.07. The term ***DOOR-TO-DOOR ADVOCACY*** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.
(Ord. 08-2004, passed 8-16-04)

§ 112.03 LICENSING; EXEMPTIONS.

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

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

(C) *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business.

Application for a license shall be made on a form approved by the City Council and available from the Office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicants full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address or applicants permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent;
- (7) Full address of applicant's regular place of business (if any);
- (8) Any and all business related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business;
- (13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;
- (15) Proof of any requested county license;

(16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;

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

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

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

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

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the fee schedule, pursuant to § 36.01, as it may be amended from time to time.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided within the application. Within ten regular business days of receiving a complete application, the City Clerk must issue the license, unless there exist grounds for denying the license under § 112.04, in which case the Clerk must deny the license. If the City Clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

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

(G) *License exemptions.*

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

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

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
(Ord. 08-2004, passed 8-16-04) Penalty, see § 10.99

§ 112.04 LICENSE INELIGIBILITY.

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

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

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

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

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

(E) The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.
(Ord. 08-2004, passed 8-16-04)

§ 112.05 LICENSE SUSPENSION AND REVOCATION.

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

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

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

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

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(4) Violation of any provision of this chapter.

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

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

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

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

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

(Ord. 08-2004, passed 8-16-04) Penalty, see § 10.99

§ 112.06 LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

(Ord. 08-2004, passed 8-16-04) Penalty, see § 10.99

§ 112.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 112.03, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term DOOR-TO-DOOR ADVOCACY includes door-to-door canvassing

and pamphleteering as vehicles as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required.

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Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

(Ord. 08-2004, passed 8-16-04) Penalty, see § 10.99

§ 112.08 PROHIBITED ACTIVITIES.

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

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

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

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

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

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

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

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive. (Ord. 08-2004, passed 8-16-04) Penalty, see § 10.99

§ 112.09 EXCLUSION BY PLACARD.

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant with the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or otherwise comparable

statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

(Ord. 08-2004, passed 8-16-04) Penalty, see § 10.99

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