

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: GENERAL BUSINESS LICENSES AND REGULATIONS

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LICENSING

§ 110.01 DEFINITIONS.

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

APPLICANT. Any person making an application for a license under this chapter.

APPLICATION. A form with blanks or spaces thereon to be filled in and completed by the applicant as his or her request for a license, furnished by the city and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

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

BUSINESS. Any activity, occupation, sale of goods or services or transaction that is either licensed or

regulated or both licensed and regulated by the terms and conditions of this chapter.

LICENSE. A document issued by the city to an applicant permitting him or her to carry on and transact a business regulated by this chapter and Chapter 111.

LICENSEE. An applicant who, pursuant to his or her application, holds a valid, current, unexpired and unrevoked license from the city for carrying on a business.

LICENSE FEE. The money paid to the city pursuant to an application and prior to issuance of a license to transact and carry on a business.

SALE, SELL and SOLD. All forms of barter and all manner or means of furnishing merchandise to persons.
(1986 Code, § 6.01)

§ 110.02 APPLICATIONS.

All applications shall be made as follows:

(A) All applications shall be made at the office of the City Clerk-Treasurer upon forms that have been furnished by the city for such purposes;

(B) Unless otherwise provided for in this chapter, all such applications must be subscribed, sworn to and include such information as the Council shall deem necessary considering the nature of the business for which license application is made;

(C) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form;

(D) The City Clerk-Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to the extent as he or she deems necessary. For the investigation the City Clerk-Treasurer may enlist the aid of the Chief of Police. The Council shall not consider an application before the investigation has been completed;

(E) Applications for renewal licenses may be made in the abbreviated form as the Council may by resolution adopt.
(1986 Code, § 6.02) Penalty, see § 110.99

§ 110.03 ACTION OF APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

(A) *Granting.* The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. Failure to pay any portion of a fee when due shall be cause for revocation. No license fee shall be refundable upon revocation or voluntarily ceasing to carry on the licensed activity. All applications, including proposed license periods, must be consistent with this chapter.

(B) *Issuing.* If an application is approved, the City Clerk-Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than \$100, a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically city-wide, licenses shall be valid only at one location and on the premises therein described.

(C) *Transfer.* A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this division (C) of this section.

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

(E) *Refusal and revocation.* The Council may, for any reasonable cause, refuse to grant any application or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing. Grounds for revocation may be, but are not limited to, any of the following:

- (1) That the licensee suffered or permitted illegal acts upon licensed premises;
- (2) That the licensee had knowledge of the illegal acts but failed to report the same to police;
- (3) That the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts; or
- (4) That the activities of the licensee created a serious danger to public health, safety or welfare.

(F) *Duplicate license.* Duplicates of all original licenses may be issued by the City Clerk-Treasurer, without action by the Council, upon licensee's affidavit that the original has been lost and upon payment of a fee of \$2 for issuance of the duplicate. All duplicate licenses shall be clearly marked duplicate. (1986 Code, § 6.03) Penalty, see § 110.99

§ 110.04 FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses under this chapter shall be fixed and determined by the Council, adopted by resolution and uniformly enforced. The license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk-Treasurer and open to inspection during regular business hours. For the purpose of fixing the fees, the Council may subdivide and categorize licenses under a specific license requirement, provided that any such subdivision or categorization shall be included in the resolution authorized by this section.

(1986 Code, § 6.04)

§ 110.05 CARRYING OR POSTING.

(A) All solicitors shall at all times when so engaged carry their license on their person.

(B) All other licensees shall post their licenses in their place of business near the licensed activity.

(C) All licensees shall display their licenses upon demand by any peace officer or citizen.

(1986 Code, § 6.05)

§ 110.06 PENALTY FOR PROPERTY OWNER.

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

(1986 Code, § 6.06) Penalty, see § 110.99

§ 110.07 RESPONSIBILITY OF LICENSEE.

The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under the license, shall be deemed the conduct of the licensee.

(1986 Code, § 6.07)

§ 110.08 CONDITIONAL LICENSES.

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

(1986 Code, § 6.08)

§ 110.09 RENEWAL OF LICENSES.

Applications for renewal of an existing license shall be made at least 60 days prior to the date of

expiration of the license and shall contain such information as is required by the city. This time requirement may be waived by the Council for good and sufficient cause.
(1986 Code, § 6.09)

GENERAL REGULATIONS

§ 110.25 KENNELS.

(A) *Defined.* For the purpose of this section, the term ***KENNEL*** means any place, building, tract of land, abode or vehicle wherein or whereon more than three dogs, over six months of age, are kept, kept for sale or boarded.

(B) *License required.* It is unlawful for any person to operate or maintain a kennel without a license therefore from the city.

(C) *Exception.* Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this section.
(1986 Code, § 6.35) Penalty, see § 110.99

§ 110.99 PENALTY.

Every person violates a section, division, subsection or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof, and shall be subject to § 10.99.
(1986 Code, § 6.99)

CHAPTER 111: AMUSEMENTS

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- 111.19 Investigation fee
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AMUSEMENT DEVICES

§ 111.01 DEFINITIONS.

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

AMUSEMENT DEVICE. A game of skill, a coin amusement or a video game, as defined in this section, or any combination thereof.

ARCADE. A contiguous area in which more than six amusement devices are kept for use by the public generally.

COIN AMUSEMENT. Any machine which upon the insertion of a coin, token or slug operates or may be operated and is available to the public generally for entertainment or amusement, which machine emits music, noise or displays motion pictures.

DISTRIBUTOR. The person who places amusement devices on premises not owned by him or her or under his or her control, which devices may be played by the public generally for a price paid either directly or indirectly.

GAME OF SKILL. Any device excepting pool and billiard tables, bowling alleys and shooting lanes, but including miniatures thereof, played by manipulating special equipment and propelling balls or other projectiles across a board or field into respective positions whereby a score is established, which is available to be played by the public generally at a price paid either directly or indirectly for the privilege.

VIDEO GAME. Any electrical device which displays objects on a screen and upon insertion of a coin, token or slug may be played by the public generally for entertainment or amusement.
(1986 Code, § 10.25(1))

§ 111.02 UNLAWFUL USE AND DEVICES.

It is unlawful for any person to:

(A) Sell or maintain a machine or device which is for gambling or contains an automatic pay-off device;

(B) Give any prize, award, merchandise, gift or thing of value to any person on account of operation of the device;

(C) Sell or maintain or permit to be operated in his or her place of business any amusement device equipped with an automatic pay-off device;

(D) Equip any amusement device with an automatic pay-off device;

(E) Permit the playing of coin amusement machines between the hours of 1:00 a.m. and 6:00 a.m. of any day;

(F) Permit the playing of coin amusement machines within 300 feet of any public or parochial elementary or secondary school structure or playground or within 100 feet of any church structure, except locations existing on the effective date of this section;

(G) Permit any student to be on the premises while school is in session; or

(H) Permit any person to be on the premises in violation of a curfew.
(1986 Code, § 10.25(2)) Penalty, see § 110.99

SHOWS AND LARGE ASSEMBLIES**§ 111.15 PERMIT REQUIRED.**

It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a permit therefore from the city. It is also unlawful for any person to promote or sponsor a large assembly for any purpose and to which the public is invited without first having obtained a permit therefore from the city. For the purpose of this section, ***LARGE ASSEMBLY*** means a gathering or projected gathering of more than 300 persons at one time and at a single location.

(1986 Code, § 6.31(1)) Penalty, see § 110.99

§ 111.16 REGULATIONS.

Unless waived or modified by the Council upon good cause being shown, all applicants for a permit where a large assembly is to be held shall show ability to provide, and during the term of the permit (if issued), shall be conditioned upon maintaining the following:

(A) If fully or partially out-of-doors, a fence shall completely enclose the location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the grounds, which fence shall have a sufficient number of gates to allow safe passage to and from the gathering;

(B) Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of persons to be assembled at the rate of at least one gallon per person per day;

(C) Enclosed toilets, separate for men and women, meeting all state and local specifications, conveniently located throughout the grounds and sufficient to provide facilities for the maximum number of people to be assembled in accordance with the Minnesota State Board of Health Regulations and Standards, which shall be kept clean, operable and free of refuse;

(D) A sanitary method of disposing of solid waste in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly's continuance and sufficient trash containers and personnel to perform the tasks and a plan to return the area to its original condition;

(E) Illumination sufficient to light the entire area of the assembly if it is to continue during the hours of darkness;

(F) Security and traffic controls meeting the requirements of local authorities and the Minnesota Department of Public Safety and regularly employed security officers, sufficient to provide adequate security for the maximum number of people to be assembled. The officers shall be licensed by the State of Minnesota;

(G) An administrative control center with telephones where local authorities can contact the permittee and law enforcement personnel inside the area of the assembly;

(H) A policy or certificate of insurance on which the city, its agents and employees are additional insureds, providing public liability insurance in the amount of at least \$100,000 for the injury of one person, \$300,000 for the injury of two or more persons in the same accident and \$50,000 for property damages;

(I) Physicians and nurses licensed to practice in Minnesota sufficient to provide the average medical care enjoyed by residents of Minnesota for the maximum number of people to be assembled at the rate of at least one physician and nurse for every 5,000 people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician and at least two emergency ambulances with attendants for each 5,000 people;

(J) A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons;

(K) Telephones connected to outside lines sufficient to provide service to the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons;

(L) Fire protection to be provided by the sponsor, including the following: fire alarms, extinguishing devices and fire lanes. The fire protection shall be sufficient to meet all applicable state laws and local regulations which are in effect. Sufficient emergency personnel to efficiently operate the required equipment shall be provided by the sponsor;

(M) Copies of all proposed advertising;

(N) All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly;

(O) Written permission from the owner of the premises.
(1986 Code, § 6.31(2))

§ 111.17 MAXIMUM SIZE.

It is unlawful for any permittee to admit a larger number of people than the maximum fixed by the Council at the time of issuance of the license.
(1986 Code, § 6.31(3)) Penalty, see § 110.99

§ 111.18 OVERNIGHT CAMPING.

It is unlawful for any permittee to permit or for any participant, spectator or customer to camp or sleep overnight at the location of a large assembly. It is also unlawful for any permittee to permit or any participant, spectator or customer to prepare food on the premises, unless the person is a concessionaire. This section does not apply to security officers performing their duties as such.
(1986 Code, § 6.31(4)) Penalty, see § 10.99

§ 111.19 INVESTIGATION FEE.

In addition to the permit fee, the Council may fix an investigation fee commensurate with the cost of the investigation.
(1986 Code, § 6.31(5))

§ 111.20 PERMITTED AREA.

Large assemblies shall be permitted only after a finding by the Council that the character of the proposed assembly is compatible with the character of the surrounding neighborhood considering the problems of noise, lighting, traffic, sanitation, congestion and other factors affecting the public health, safety and welfare of the entire area and compliance with the city code.
(1986 Code, § 6.31(6))

§ 111.21 EXCEPTIONS.

The following activities and performances are exempt from compliance with this subchapter:

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

(B) Performances of athletic, musical or theatrical events sponsored by local schools or colleges;

(C) Any performance or event in or sponsored by bona fide local church and non-profit organizations, provided that the organization shall be incorporated;

(D) In addition to the foregoing, the Council may, by resolution, exempt classes of events;

(E) Any activity or performance more specifically defined and licensed under another chapter.
(1986 Code, § 6.31(7))

CHAPTER 112: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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- 112.03 Exemptions
- 112.04 Prohibited solicitation practices
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- 112.06 Investigation, approval or disapproval
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§ 112.01 PURPOSE.

(A) This chapter is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. This chapter is to assure that peddlers, solicitors and transient merchants do not use public streets and their direct contact with residents of the city for the illegitimate solicitation practices of harassment, nuisance, theft, deceit or menacing, troublesome or unlawful activities.

(B) This chapter is intended to ferret out and control:

- (1) Businesses and organizations using solicitation as a means of concealing unlawful activities;
- (2) Businesses and organizations which, though its activities be lawful or even commendable, use illegitimate practices in solicitation; and
- (3) Individual natural persons who, though they represent lawful businesses and organizations, use illegitimate solicitation practices.

(C) The Council further finds that a large number of the residents of the city are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

(1986 Code, § 6.34)

§ 112.02 DEFINITIONS.

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

BUSINESS SOLICITATION. An attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family or household purposes, when either the solicitor or person acting for him or her contacts the solicitee by telephone or in person, other than at the established place of business of the solicitor, except:

- (1) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he or she represents, and the identity or kinds of goods, services or things of value offered;
- (2) An attempted solicitation in which the solicitee has first initiated contact with the solicitor;
- (3) An attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or
- (4) An attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of the occupancy or cultivation are proven by the solicitor.

CONTRIBUTION SOLICITATION. An attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him or her contacts the solicitee by telephone or in person other than at the established place of meeting, business, service or activity of the organization represented by the solicitor, except:

- (1) An attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he or she represents and the identity of the services performed or offered by the organization; or
- (2) An attempted solicitation in which the solicitee has first initiated the contact with the solicitor or the organization represented by him or her.

ESTABLISHED PLACE. Real estate in the city, owned, leased on a month to month or term certain longer than 30 days. The term includes a booth, compartment or area leased or assigned during and for the length of an event or occasion.

GOODS. Any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom. The term also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by the seller.

PEDDLER. Any person, whether a resident of the city or not, who goes from house to house, from

place to place, or from street to street, conveying or transporting goods, wares, or merchandise or offering or exposing the same for sale, or making sales and delivering articles to purchasers. It does not include vendors of milk, bakery products, ice or groceries who distribute their products to regular customers on established routes.

SOLICITEE. The person solicited.

SOLICITOR. Any person whether a resident of the city or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for sale of goods, wares or merchandise including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery, or for service to be performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the order or whether or not he or she is collecting advance payments on the orders. The definition includes any person who, for himself, herself or for another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or other place for the primary purpose of exhibiting samples and taking orders for future delivery. This definition also includes any person, organization, society, association, corporation, or similar business entity who solicits in its name money, donations of money or property, or financial assistance of any kind or sells or distributes any item of literature or merchandise for which a fee is charged, or solicits from persons other than members of the organizations upon the streets, in the office or business buildings, by house to house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose.

TRANSIENT MERCHANT. A transitory or temporary trader, who has no intention of locating permanently in the city, and includes any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies, any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place for the exhibition and sale of the goods, wares and merchandise, either privately or at public auction.

SERVICES. Work, labor, or services of any kind.
(1986 Code, § 6.34)

§ 112.03 EXEMPTIONS.

This chapter shall not apply to:

(A) Persons duly licensed or specifically exempted from licensing under the Constitution and laws of the state, or the city code, at such times as such persons are conducting only the activity described by the laws;

(B) Persons making an initial uninvited call upon the householders of the city as a preliminary to the subsequent establishment of a regular route service for the sale and delivery to customers of the daily necessities of life which are perishable or subject to spoiling within a reasonable period of time;

(C) Charitable organizations, and representatives thereof, duly registered under the laws of Minnesota as set forth in M.S. §§ 309.50 through 309.61 or those specifically exempted from registration under the provisions thereof, including, but not limited to schools, scouts, organized youth athletic leagues and their representatives;

(D) Farmers or truck gardeners who offer for sale or sell, or who peddle from house to house or in the markets, vegetables, butter, eggs, or other farm or garden products produced and raised by the farmer or truck gardener from lands occupied and cultivated by him or her in this state; (Every farmer or truck gardener claiming the exemption from the license requirements of this chapter shall upon request of the City Clerk-Treasurer, present satisfactory proof by means of sworn statements or otherwise, that the farmer or truck gardener is entitled to the license exemptions; provided further that whoever shall execute a false sworn statement or make any false representations which shall induce the city to grant the exemption, shall upon conviction thereof, be deemed to be guilty of a misdemeanor.) (see also §72.15)

(E) Also exempted from the provisions of this chapter are certain charitable, social, fraternal, educational or related organizations or activities as more fully appearing on a list to be kept in the office of the City Clerk-Treasurer, the list to be promulgated or amended from time to time by resolution of the Council; and
(Ord. passed 12-1-86)

(F) The provisions of this chapter shall not apply to sales made to businesses by commercial travelers or selling agents in the usual course of their business.
(1986 Code, § 6.34) (Ord. 64, 2nd Series, passed 9-29-93)

§ 112.04 PROHIBITED SOLICITATION PRACTICES.

It is unlawful for any peddler, solicitor or transient merchant to:

(A) Engage in solicitation for any unlawful business or organizational purpose or activity;

(B) Practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of solicitation;

(C) Gain entrance, to residential premises displaying at the entrance a sign with the words “Peddlers and Solicitors Prohibited” or “Solicitors Prohibited;”

(D) Refuse to leave premises when requested by the owner, lessee or person in charge thereof;

(E) Engage in a non-exempt contribution solicitation without completion of licensing or registration as herein provided; and

(F) Engage in a non-exempt business solicitation without a license as herein provided.
(1986 Code, § 6.34)

§ 112.05 APPLICATIONS.

(A) No application for a peddler, solicitor or transient merchant license shall be applied for unless a current and valid license has been issued by the Auditor of Roseau County which authorizes the individual(s) to engage in the basis for the license.

(B) Applications for city licensing or registration shall contain the name and address of the business or organization for which solicitations are sought and such other information as may reasonably be required by the Council as a condition to registration or licensing or to permit investigation into the applicant's background and past solicitation practices.

(1986 Code, § 6.34)

§ 112.06 INVESTIGATION, APPROVAL OR DISAPPROVAL.

(A) All applications for licensing or registration shall be immediately referred to the Chief of Police, and by him or her or other person acting in his or her stead, investigated as to the truth thereof. The Chief of Police shall have five business days within which to investigate and make a recommendation thereon.

(B) If he or she finds no past history of the applicant indicating violations similar to those declared unlawful in this chapter, he or she shall recommend issuing a license or approving registration, as the case may be, and the City Clerk-Treasurer shall forthwith advise the applicant. The City Clerk-Treasurer shall issue a license, upon payment of the fee therefore, to the approved applicant for appropriate business activity.

(C) If the Chief of Police finds a past history of the applicant indicating violations similar to those declared unlawful in this chapter, he or she shall recommend denial of the license or registration. In all matters of recommended denial the applicant shall be forthwith advised thereof, and the application shall be referred to the Council and considered by it at its next regular or special meeting occurring more than ten days thereafter. The applicant shall be afforded an opportunity to be heard at the meeting.

(1986 Code, § 6.34)

§ 112.07 USE OF STREETS

No licensed person shall occupy any location in the public streets nor shall they be permitted a stationary location thereon, unless in the opinion of the Chief of Police, no traffic hazard exists, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of the Chief of Police exercised in good faith, shall be deemed conclusive as to whether the area or street is congested and the public impeded or inconvenienced.

(1986 Code, § 6.34)

§ 112.08 REAPPLICATION.

No permittee whose permit has been revoked shall make further application until at least six months have elapsed since the last previous revocation.

(1986 Code, § 6.34)

§ 112.09 EXPIRATION OF PERMIT.

All annual permits issued under the provisions of this chapter shall expire at midnight December 31 in the year when issued. Other than annual licenses shall expire at midnight on the date specified in the license.

(1986 Code, § 6.34) (Ord. passed 3-1-95)

CHAPTER 113: ALCOHOLIC BEVERAGES

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Business Regulations
GENERAL PROVISIONS

§ 113.01 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this chapter as if set out in full, with the following exception: No sale of intoxicating liquor for consumption on the licensed premises may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday. It is the express intent of the City Council that the expanded hours for the sale of intoxicating liquor for consumption authorized by M.S. § 340A.504, Subd. 2, as it may be amended from time to time, not be allowed in the city.

(Ord. 102, 2nd Series, passed 12-2-96; Am. Ord. 141, 2nd Series, passed 11-3-03)

§ 113.02 MUNICIPAL LIQUOR DISPENSARY.

(A) *Establishment.* A Municipal Liquor Dispensary is established to be operated within the city for the sale of liquor potable as a beverage and containing more than 3.2% of alcohol by weight. The Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the city. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary. All employees, including the Manager, shall hold their positions at the pleasure of the Council.

(B) *Dispensary Fund.* A Liquor Dispensary Fund is created into which all revenues received from the operation of the Dispensary shall be paid and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by motion or resolution of the Council and expended for any municipal purpose.

(1986 Code, § 5.80)

INTOXICATING LIQUOR

§ 113.15 LICENSE REQUIRED.

(A) *General requirement.* 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 intoxicating liquor without a license to do so as provided in this subchapter. Liquor licenses shall be of five kinds: "on-sale," temporary "on-sale," "on-sale" wine, "off-sale" and club licenses.

(B) *On-sale licenses.* "On-sale" licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores and shall permit "on-sale" of liquor only.

(C) *On-sale wine licenses.* "On-sale" wine licenses shall be issued only to restaurants meeting the qualifications of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and shall permit only the sale of wine not exceeding 14% alcohol by volume for consumption on the licensed premises only in conjunction with the sale of food.

(D) *Temporary on-sale licenses.* Subject to the approval of the Commissioner of Public Safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of

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intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the State Liquor Act.

(E) *Off-sale licenses.* The city has established a Municipal Liquor Dispensary for the purpose of dispensing intoxicating liquors, wine and 3.2% malt liquor and malt liquor products containing more than 3.2% of alcohol by weight. An "off-sale" license shall be issued to the Municipal Liquor Dispensary of the City of Roseau for intoxicating liquors, wine and malt liquor products containing more than 3.2% of alcohol by weight only. An "off-sale" license for the sale of 3.2% malt liquor and related projects containing not more than 3.2% of alcohol by weight shall be issued to other persons or entities at the discretion of the City Council.

(F) *Special club licenses.* Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence at least three years. (Ord. 102, 2nd Series, passed 12-2-96)

§ 113.16 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license to sell liquor shall state the name of the applicant, his or her age, representations as to his or her character (with such references as the Council may require), his or her citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place and such other information as the Council may require from time to time. Every application shall also include a copy of each summons received by the applicant under M.S. § 340A.802, as it may be amended from time to time, during the preceding year. (M.S. § 340.409, Subd. 8.) In addition to containing the information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the City Clerk-Treasurer. No person shall make a false statement in an application.

(B) *Bond.* Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States government bonds of equivalent market value as provided in M.S. § 340A.412, Subd. 1, as it may be amended from time to time. The surety bond or other security shall be in the sum of \$300 for an applicant for an "on-sale" license or an "on-sale" wine license.

(C) *Financial responsibility.* No liquor license may be issued, maintained or renewed unless the applicant demonstrates 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 the statutes, § 340A.801, as it may be amended from time to time. The proof shall be filed with the Commissioner of Public Safety. Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year. Any liability insurance policy filed as proof of financial responsibility under this division shall conform to M.S. § 340A.409, as it may be amended from time to time.

(D) *Approval of security.* The security offered under division (B) of this section shall be approved by the City Council and in the case of applicants for "on-sale" wine licenses and "off-sale" licenses by the State Commissioner of Public Safety. Liability insurance policies required by this subchapter but not by state law and surety bonds required under division (B) shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the city at all times effective security as required in divisions (B) and (C) of this section is a cause for revocation of the license.

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(Ord. 102, 2nd Series, passed 12-2-96)

§ 113.17 LICENSE FEES.

(A) *Fees.* Fees are in accordance with a fee schedule adopted by the City Council from time to time.

(B) *Payment.* Each application for a license shall be accompanied by a receipt from the City Clerk-Treasurer for payment in full of the license fee and the fixed investigation fee required under § 113.18(A) if any. All fees shall be paid into the General Fund. If an application for a license is rejected, the City Clerk-Treasurer shall refund the amount paid as the license fee.

(C) *Term; pro rata fee.* Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of November.

(D) *Refunds.* No refund of any fee shall be made except as authorized by statute.
(Ord. 102, 2nd Series, passed 12-2-96)

§ 113.18 GRANTING OF LICENSES.

(A) *Preliminary investigation.* On an initial application for an on-sale license and on application for transfer of an existing on-sale license the applicant shall be subject to the right of the city to conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$ 10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

(B) *Issuance.* The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to division (A) of this section. After the investigation the Council shall, in its discretion, grant or refuse the application. No "on-sale" license or "off-sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

(C) *Person and premises licensed; transfer.* Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the

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license, and a transfer of stock without prior Council approval is a ground for revocation of the license. (Ord. 102, 2nd Series, passed 12-2-96; Am. Ord. 128, 2nd Series, passed 2-5-01)

§ 113.19 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the County of Roseau, State of Minnesota. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person. (Ord. 102, 2nd Series, passed 12-2-96)

§ 113.20 PLACES INELIGIBLE FOR LICENSE.

(A) *General prohibition.* No license shall be issued for any place or any business ineligible for such a license under state law.

(B) *Delinquent taxes and charges.* No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid. (Ord. 102, 2nd Series, passed 12-2-96)

§ 113.21 CONDITIONS OF LICENSE.

(A) *In general.* Every license is subject to the conditions in the following divisions of this section and all other provisions of this subchapter and of any other applicable ordinance, state law or regulation.

(B) *Insurance.* Compliance with financial responsibility requirements of state law and of this subchapter is a continuing condition of any license granted pursuant to this subchapter.

(C) *Licensee's responsibility.* Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

(D) *Inspections.* Every licensee shall allow any peace officer, health officer or properly designated officer or employee of the city to enter, inspect and search the premises of the licensee during business hours without a warrant. (Ord. 102, 2nd Series, passed 12-2-96)

§ 113.22 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for up to 60 days or revoke any liquor license or impose a civil fine not to exceed \$2,000 for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 to 14.70 of the administrative procedure act, as they may be amended from time to time.

(B) (1) Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this subchapter without further action of the City Council. Notice of cancellation, lapse of a current liquor liability policy or bond

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or withdrawal of deposited cash or securities 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 bond or withdrawal of a required deposit or of suspension or revocation of a license may request a hearing thereon and if such a request is made in writing to the Clerk-Treasurer a hearing shall be granted within ten days or such longer period as may be requested.

(2) Any suspension under this division shall continue until the City Council determines that the financial responsibility requirements of this subchapter have again been met.
(Ord. 102, 2nd Series, passed 12-2-96)

§ 113.23 3.2% MALT LIQUOR EXCLUDED.

3.2% malt liquor and beer products containing not more than 3.2% of alcohol by weight are not the subject of this subchapter and are governed by §§ 113.35 to 113.37.
(Ord. 102, 2nd Series, passed 12-2-96)

§ 113.24 INTOXICATING LIQUOR; SUNDAY SALES, ON-SALE

(A) Except on dates prohibited by Minnesota Law, a restaurant, club, bowling center, or hotel with seating capacity of at least 30 persons and which holds an on-sale intoxicating liquor license, may sell intoxicating liquor for consumption on the premises, in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays.

(B) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the City Council of the City of Roseau for a period of one (1) year, and the fee for the license may not exceed Two Hundred and 00/100 (\$200.00) Dollars, or the maximum amount provided by Minnesota Statutes as the same may be amended from time to time. Application to the City of Roseau for a Sunday license may be included on an application for an on-sale license when both applications are made at the same time.

3.2% MALT LIQUOR LICENSES

§ 113.35 3.2% MALT LIQUOR LICENSE REQUIRED.

(A) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale or otherwise dispose of 3.2% malt liquor as part of a commercial transaction without a license therefore from the city.

(B) This section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding 3.2% malt liquor licenses from the city.
(1986 Code, § 5.30) Penalty, see § 113.99

§ 113.351 HOURS AND DAYS OF SALE.

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

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through Saturday or between 1:00 A.M. and 10:00 A.M. on Sunday.

(Ord. No. 3, 3rd Series, passed 4-3-06)

§ 113.36 TEMPORARY 3.2% MALT LIQUOR LICENSE.

(A) *Applicant.* A club or charitable, religious or nonprofit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota and having its registered office and principal place of activity within the city shall qualify for a temporary on-sale 3.2% malt liquor license for serving 3.2% malt liquor in areas specified by the Council.

(B) *Conditions.*

(1) An application for a temporary license shall state the exact dates and place of proposed temporary sale.

(2) No applicant shall qualify for a temporary license for more than a total of 180 days in any calendar year.

(3) (a) The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary 3.2% malt liquor license on premises owned or controlled by the city. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant shall file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$10,000 for injury to any one person and \$20,000 for injury to more than one person, naming the city as an insured during the license period.

(b) The license shall be issued only on the condition that the applicant will not sell in excess of \$10,000 (retail value) worth of 3.2% malt liquor in any calendar year and thereupon shall be exempt from proof of financial responsibility as provided for herein.

(1986 Code, § 5.31)

§ 113.37 3.2% MALT LIQUOR LICENSE RESTRICTIONS AND REGULATIONS.

(A) No gambling or gambling device shall be permitted on any licensed premises, except such as are licensed by the Charitable Gambling Control Board.

(B) No licensee shall, during the effective period of the license, be the owner or holder of a federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, unless the owner or holder also holds a liquor license from the city, and ownership or holding thereof shall be grounds for immediate revocation, without a hearing.

(C) No license shall be granted to a wholesaler or manufacturer of 3.2% malt liquor or to anyone holding a financial interest in the manufacture or wholesaling.

(D) Except as otherwise provided in this chapter, no license shall be granted for any building within 300 feet of any public elementary or secondary school structure or within 100 feet of any church structure, with the exception of existing locations licensed by the city.

(E) Annual on-sale licenses shall be granted only to bona fide clubs, taverns, bowling alleys and

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restaurants.

(F) Annual “off-sale” licenses shall be granted at the discretion of the City Council.

(G) Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the city code and other laws relating to the operation of licensee’s business.
(1986 Code, § 5.32)

§ 113.38 UNLAWFUL ACTS.

It is unlawful for any:

(A) Person to knowingly induce another to make an illegal sale or purchase of 3.2% malt liquor;

(B) Licensee to sell or serve 3.2% malt liquor to any person who is obviously intoxicated;

(C) Licensee to sell 3.2% malt liquor on any day or during any hour when the sales are not permitted by law;

(D) Licensee to allow consumption of 3.2% malt liquor on licensed premises on any day when sales of 3.2% malt liquor are not permitted by law;

(E) Person to purchase 3.2% malt liquor on any day or during any hour when sales of 3.2% malt liquor are not permitted by law.

(1986 Code, § 5.34) Penalty, see § 113.99

WINE LICENSES

§ 113.50 ON-SALE WINE LICENSE REQUIRED.

(A) It is unlawful for any person to sell or keep or offer for sale any wine without a license therefore from the city.

(B) This section shall not apply:

(1) To possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony;

(2) To sales by manufacturers to wholesalers duly licensed as such by the State of Minnesota;

(3) To sales by wholesalers to persons holding on-sale liquor licenses from the city; or

(4) To sales by wholesalers to persons holding on-sale wine licenses from the city.

(1986 Code, § 5.70(1))

§ 113.51 ON-SALE WINE LICENSE RESTRICTIONS AND REGULATIONS.

(A) No license shall be granted to a wholesaler or manufacturer of wine or to anyone holding a

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financial interest in the manufacture or wholesaling.

(B) No gambling or gambling device shall be permitted on any licensed premises, except such as are licensed by the Charitable Gambling Control Board.

(C) No person under the age of 18 years shall be employed upon premises or in any rooms constituting the same, except that persons under the age of 18 years may be employed as musicians or to perform the duties of a busboy or dishwashing services in places defined as a restaurant. Persons under 18 years of age may be employed as waiters or waitresses in places defined as a restaurant to serve food in rooms in which only wine is sold on-sale, provided they shall not be permitted to serve or sell wine.

(D) No license shall be granted for any building within 300 feet of any public elementary or secondary school structure or within 100 feet of any church structure, with the exception of existing locations licensed by the city.

(E) No more than one license shall be held by any person. For the purpose of this section, any person owning a beneficial interest of 5%, or more, of any licensed establishment shall be considered a licensee.

(F) On-sale wine licenses shall be granted only to restaurants as defined in this chapter; provided, however, for purposes of this section, the restaurant shall have appropriate facilities for seating not less than 25 guests at one time.

(G) Every license shall be granted subject to the provisions of this chapter and all other applicable provisions of the city code and other laws relating to the operation of the licensed business.
(1986 Code, § 5.71(2))

§ 113.52 UNLAWFUL ACTS.

It is unlawful for any:

(A) Person to knowingly induce another to make an illegal sale or purchase of wine;

(B) Licensee to sell wine on any day or during any hour when sales of wine are not permitted by law;

(C) Person to purchase wine on any day or during any hour when sales of wine are not permitted by law;

(D) Licensee to sell or serve wine to any person who is obviously intoxicated; and

(E) Licensee to sell wine except in conjunction with the sale of food.
(1986 Code, § 5.72) Penalty, see § 113.99

§113.53. COMPLIANCE CHECKS:

(A) Responsibility of Licensee, Right to Search, and Compliance Checks:

Every licensee shall be responsible for the conduct of his, her or its place of business and the conditions of

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sobriety and orderliness in it, as required by Minnesota Statutes Section 340A.501. The act of any employee of the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.

(B) Requirements. The issuing authority or the City Police Department or both shall:

(1) Have, as a condition of the license, the right to enter, inspect, and search the licensed premises without a search and seizure warrant during the hours in which the licensed premises are open for the sale of alcoholic beverages and continuing through the time period when patrons and employees are present on the premises; and

(2) Conduct random compliance checks each year, and issue citations to any licensee and/or employee violating the provisions of their license or any relevant provisions of Minnesota Statutes Section 340A.

§113.54. ADMINISTRATIVE PENALTIES

(A) Administrative Offense Defined:

(1) An administrative offense is a violation of a provision of this code and/or Minnesota Statutes Chapter 340A and is subject to the administrative penalty set forth in the schedule of offenses and penalties referred to in Chapter 113.55, Section 2 below.

(2) At any time prior to the payment of the administrative penalty as provided for hereafter, the individual may withdraw from administrative participation procedures in which event the City may bring criminal charges in accordance with law. Likewise, the City in its discretion, may choose not to initiate an administrative offense procedure and may bring criminal charges in the first instance.

(3) Nothing in this section shall preclude the City from bringing both Administrative penalties and criminal charges for those in violation of this code and/or Minnesota Statutes Chapter 340A.

(B) Notice:

Any officer of the City Police Department or any other person employed by the City authorized in writing by the City Clerk/Treasurer and having authority to enforce this Code shall, upon determining that there has been a violation, notify the violator. This notice shall set forth the nature, date and time of the violation and amount of the scheduled penalty and/or license suspension and/or revocation.

(C) Payment:

Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of

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the notice, pay the amount set forth on the schedule of penalties for the violation or may request a hearing in writing as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

(D) Hearing:

(1) Any person contesting an administrative offense pursuant to this chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

(2) Upon a finding by the hearing officer that licensee or permit holder or employee or representative of the licensee or permit holder has violated a provision of this Code and/or Minnesota Statutes Chapter 340A; the hearing officer shall provide written documentation of said finding to the City Council.

(3) Appointment of Hearing Officer. The City Clerk/Treasurer shall appoint a hearing officer to conduct such informal hearings.

(E) Penalties for Non-compliance:

In addition to any criminal penalties which may be imposed by a Court of Law, the City Council may suspend the license for up to sixty (60) days and revoke a license and/or may impose a civil fine on a licensee not to exceed Two Thousand and no/100 (\$2,000.00) Dollars for each violation on a finding that the license holder or its employee has failed to comply with the statute, rule, or ordinance relating to alcoholic beverages, non-intoxicating malt liquor or wine.

(F) License Suspension or Revocation:

No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a public hearing before the City Council, a committee of the Council, or a hearing under the Administrative Procedures Act, in accordance with Minnesota Statutes 340A.415 as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than fifteen (15) nor more than thirty (30) days prior to the hearing date, stating the time, place and purpose thereof.

(G) Appeal Process:

Any person aggrieved by a final decision following the public hearing is entitled to judicial review of the decision pursuant to the provisions of the Administrative Procedures Act, as set forth in Minnesota

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Statutes Chapter 14.

(H) Failure to Pay:

(1) In the event a party who is charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the City for the same violation.

(2) In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of the subsequent criminal sentence in the event the party is charged and is convicted of the criminal violation.

(I) Disposition of Penalties:

All penalties collected pursuant to this Chapter shall be paid to the City Clerk-Treasurer and shall be used to fund the cost of development and operation of related programs.

(J) Minimum Penalties:

In no event shall a penalty be less than the following per calendar year:

<u>Administrative Offense</u>	<u>1st Event</u>	<u>2nd Event</u>	<u>3rd Event</u>	<u>4th Event</u>
1. Commission of a felony related to the licensed activity	Revocation	N/A	N/A	N/A
2. Sale of alcoholic beverages while license is under suspension	Revocation	N/A	N/A	N/A
3. Sale/purchase of alcoholic beverages to/by under age person	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
4. Sale of alcoholic beverages to obviously intoxicated person	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18 day suspension	Revocation
5. After hours sale of alcoholic beverages	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation

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6. After hours display or consumption of alcoholic beverages	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
7. Refusal to allow City Inspectors or Police admission to inspect premises	\$250.00	\$500.00 & 3-day suspension	Revocation	N/A
8. Illegal gambling on premises	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
9. Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation

A day shall be defined as a business day.

(K) The penalties assessed shall be in accordance with the calendar year, commencing January 1st of each year and ending December 31st of that year.

§ 113.60 UNLAWFUL ACTS AFTER CLOSING TIME.

(A) Consumption: It is unlawful for any person to consume, or any licensee to permit the consumption of, beer (including, but not limited to, 3.2 beer), wine, or liquor on the licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.

(B) Removal of Containers: It is unlawful for any licensee to permit any glass, bottle or other container, which contains beer (including, but not limited to, 3.2 beer), wine or liquor in any quantity to remain upon any table, bar, stool or other place where customers are served, or for the same to be in the possession of any customer, more than twenty (20) minutes after the hour when a sale thereof can be legally made.

(C) Presence on Licensed Premises: It is unlawful for any customer, patron or other person, other than an on-sale licensee or his or her bona fide employee actually engaged in the performance of his or her duties, to be present on the licensed premises more than thirty (30) minutes after the legal time of the making of a licensed sale.

(D) Applicability: Subdivisions A, B and C above apply to any private licensee or club licensee in the City of Roseau.

(Ord. No. 4, 3rd Series, passed 11-13-06)

Penalty, see § 113.99

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§ 113.99 PENALTY.

(A) Every person violates a section, division, subsection or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful or fails to act when the failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof, and shall be subject to § 10.99.
(1986 Code, § 5.99)

(B) Any person violating any provision of §§ 113.15 *et seq.* is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 or imprisonment in the county's jail for not more than 90 days, or both, plus the cost of prosecution in any case.
(Ord. 102, 2nd Series, passed 12-2-96)

CHAPTER 114 - REGULATING TETRAHYDROCANNABINOL PRODUCTS

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Violations and Penalties

- 114.10 Violations and Penalty

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- 114.11 Severability

- Section 2 - Fee Schedule
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- Section 4 – Effective Date

114.01. PURPOSE AND INTENT.

The purpose of this chapter is to regulate the sale of legalized adult-use of any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. §151.72, as amended also known as “THC Products” for the following reasons:

- (a) Minn. Stat. §151.72 allows the sale of certain products containing tetrahydrocannabinol, also known as “THC”.
- (b) Minn. Stat. §151.72, as amended in 2023, does not prohibit municipalities from adopting and enforcing local ordinances to regulate THC product businesses including, but not limited to, local zoning and land use requirements and business license requirements.
- (c) The National Institute of Health has raised concerns about the safety of THC products, including for medical purposes, especially for youth.
- (d) The City recognizes the danger THC use presents to the health, welfare, and safety of youth in Roseau.
- (e) The Minnesota Legislature recognized the danger of THC product use among the public at large by setting potency and serving size requirements.
- (f) The Minnesota Legislature recognized the danger of THC product use among youth by prohibiting the sale of any product containing THC to those under the age of 21, requiring that edible THC products be packaged without appeal to children and in child-resistant packaging or containers.
- (g) The City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve

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compliance among THC product retailers with laws prohibiting the sale or marketing of THC products to youth.

(h) A local regulatory system for THC product retailers is appropriate to ensure that retailers comply with THC product laws and business standards of the City of Roseau to protect the health, safety, and welfare of our youth and most vulnerable residents.

(i) A requirement for a THC product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute THC products to adults but will allow the City of Roseau to regulate the operation of lawful businesses to discourage violations of state and local THC Product-related laws.

(j) Restrictions as to time and place for sale or distribution of THC products will not unduly burden legitimate business activities of retailers.

(k) In making these findings and enacting this ordinance, it is the intent of the Roseau City Council to ensure responsible THC product retailing, allowing legal sale and access without promoting increases in use, and to discourage violations of THC Product-related laws, especially those which prohibit or discourage the marketing, sale, or distribution of THC products to youth under 21 years of age.

114.02 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

COMPLIANCE CHECKS. The system the City uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this article. Compliance checks involve the use of persons under 21 who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the City, Roseau County Sheriff's Department, or other units of government, or other designee of the City of Roseau, for educational, research, and training purposes, or for investigating or enforcing Federal, State, or local laws and regulations relating to licensed products.

EXCLUSIVE LIQUOR STORE. An establishment that meets the definition of exclusive liquor store in Minn. Stat. § 340A.101, subd. 10.

LICENSED PRODUCT OR THC PRODUCT. Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. §151.72, as may be amended from time to time. Licensed product does not include medical cannabis as defined in Minn. Stat. §152.22, subd. 6, as may be amended from time to time, , excluding "medical cannabis" as defined by Minn. Stat. §152.22, Subd. 6, as the same may be amended from time to time.

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

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

SCHOOL. Any public or private elementary, vocational, or secondary school, or a public or private college or university, or a state licensed date care center.

SELF-SERVICE MERCHANDISING. Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed the customer and the licensee or employee.

THC. Is the acronym for tetrahydrocannabinol, the principal psychoactive constituent of cannabis.

TOBACCO STORE. A retail store utilized primarily for the sale of tobacco products and accessories and which the sale of other products is incidental.

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

114.03 LICENSE.

Subd. 1. License Required. No person shall sell or offer to sell any licensed product within the City without first having obtained a license to do so from the City.

Subd. 2. Application. An application for a license to sell licensed products shall be made on a form provided by the City. The application shall contain the full name and date of birth 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. A business applicant, at the time of application, shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk-Treasurer in writing of any change in ownership in the business. If the City Clerk-Treasurer determines that an application is incomplete, the City Clerk-Treasurer shall return the application to the applicant with notice of the information necessary to make the application complete. Upon receipt of a completed application, the City Clerk-Treasurer shall forward the application to the City of Roseau Chief of Police to conduct a criminal background check utilizing the Minnesota Bureau of Criminal Apprehension for said background check. Upon completion of the background check, the City Clerk-Treasurer shall forward the application to the City Council for action at its next regularly scheduled City Council meeting.

Subd. 3. Action. The City Council may either approve or deny the application for a 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 approves the license, the City Clerk-Treasurer 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. Appeals of any decision must be made within thirty (30) days of the denial. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.

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Subd. 4. Term. All licenses issued under this article shall expire on December 31 of each year.

Subd. 5. Revocation or Suspension.

- (1) Any license issued under this chapter may be revoked or suspended as provided in this chapter.
- (2) If a license is mistakenly issued or renewed to a person or a business, it shall be revoked upon the discovery that the person or business was ineligible for the license under this chapter and the City shall provide the person or business with a notice of revocation, along with information on the right to appeal.
- (3) Any change in the ownership or control of a licensed business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the City Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The City Council may revoke any license issued upon its determination that a change of ownership of a licensee has resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the City Council on notice to the licensee.

Subd. 6. 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 or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.

Subd. 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 8. Renewals. The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

Subd. 9. Issuance as Privilege and Not a Right. The issuance of a license issued under this article is a privilege and does not entitle the license holder to automatic renewal of the license.

114.04 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 article shall be established by the City Council and adopted in the City fee schedule and may be amended from time to time.

114.05 ELIGIBILITY AND BASIS FOR DENIAL OF LICENSE.

Subd. 1. Eligibility.

- (1) *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 article. Sales by licensees must be made on

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premises only and licensees shall be prohibited from selling any place outside of the fixed location (such as a catered event).

(2) *Proximity to Schools.* No license shall be issued for a premises within 500 feet of any school. The distance is to be measured from the closest side of the school to the closest side of the structure on the premises which the licensed product is be sold.

(3) *Delinquent Taxes and Charges.* 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. In the event an action has been commenced pursuant to the provisions of Minn. Stat. ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the City Council may, on application by the licensee, waive strict compliance with this paragraph. No waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due.

Subd. 2. Grounds for Denial. Grounds for denying the issuance or renewal of a license under this chapter include, but are not limited to, the following:

(1) The applicant is under the age of 21 years.

(2) The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.

(3) The applicant has been convicted within the past five years for any violation of a Federal, State, or local law, other ordinance, provision, or other regulation relating to the licensed products.

(4) The applicant has had a license to sell licensed products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.

(5) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.

(6) The applicant is the spouse of a person ineligible for a license pursuant to the provision of subdivision 2(2) and 2(3) of this section or who, in the judgement of the City Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.

(7) The applicant fails to provide any information required on the application or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.

114.06 PROHIBITED ACTS.

Subd. 1. In general.

(1) No person shall sell or offer to sell any licensed product: (i) By means of any type of vending machine.

(ii) By means of self-service merchandising.

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

(iv) That is not in the original packaging with labeling in compliance with labeling requirements of Minn. Stat. §151.72, subd. 5, as may be amended from time to time.

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(2) No person shall sell or offer for sale a product containing THC that does not meet all the requirements of Minn. Stat. §151.72, subd. 3., as may be amended from time to time.

Subd. 2. Legal Age. No person shall sell any licensed product to any person under the age of 21.

(1) *Age Verification.* Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age.

(2) *Signage.* Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 3. Samples Prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost.

Subd. 4. Use of False Identification. It shall be a violation of this chapter for any person to attempt to disguise their 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 person.

Subd. 5. Unlawful Purchases. It shall be unlawful for any person who is under the age of 21 years to purchase any licensed product. Persons acting under the direct supervision of the City, law enforcement, or other governmental unit and which are actively engaged in a compliance check of the licensed premises are exempted from this provision while engaged in the compliance check.

Subd. 6. Hours and Days of Sale. No sale of THC products may be made between 10:00 p.m. and 8:00 a.m Monday through Sunday.

Subd. 7. Sale to Obviously intoxicated person prohibited. THC products must not be sold to a customer who the retailer knows or reasonably should know is intoxicated.

114.07 ADDITIONAL REQUIREMENTS.

Subd. 1. Storage. All licensed products 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.

Subd. 2. Minimum Clerk Age. Individuals employed by a licensed retail establishment under this article must be at least 18 years of age to sell edible cannabinoid products.

114.08 RESPONSIBILITY.

All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting the employee to any civil penalties that the City deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

114.09 COMPLIANCE CHECKS AND INSPECTIONS.

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All premises licensed under this chapter shall be open to inspection by the City during regular business hours. From time to time, but at least once per year, the City or the Roseau County Sheriff's Department, or other entity authorized by the City of Roseau Chief of Police shall conduct compliance checks.

No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. The City will conduct a compliance check that involves the participation of a person at least 18 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase the licensed products. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this chapter 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. Additionally, from time to time, the City will conduct inspections to determine compliance with any or all other aspects of this chapter.

114.10 VIOLATIONS AND PENALTY.

Subd. 1 Criminal Penalty. A violation of this chapter shall be a misdemeanor. Nothing in this chapter prohibits the City from seeking prosecution as a misdemeanor for an alleged violation of this chapter.

Subd. 2. Administrative Penalty. If a licensee or an employee of a licensee is found to have violated this article, the licensee shall be charged an administrative penalty as follows:

(1) *First Violation.* The City Council shall impose a civil fine of \$500.00 and suspend the license for not less than 1 day.

(2) *Second Violation Within 36 Months.* The City Council shall impose a civil fine of \$1,000.00 and suspend the license for not less than 3 consecutive days.

(3) *Third Violation Within 36 Months.* The City Council shall revoke the license for at least one year.

Subd. 3. Administrative Penalty Procedures. No penalty shall take effect until the licensee has received notice (served personally or by mail) of the alleged violation and of the opportunity for a hearing before the City Council, and such notice must be in writing and must provide that a right to a hearing before the City Council must be requested within 10 business days of receipt of the notice or such right shall terminate.

Subd. 4 Revocation. In addition to any other penalty imposed under this chapter, any license issued under this section may be revoked by the City Council for a violation of any provision of this chapter if the licensee has been given a reasonable notice and an opportunity to be heard.

Subd. 5. Appeal. Any appeal of the decision of the City Council to impose a civil penalty must be made within thirty (30) days of the decision of the City Council.

114.11. SEVERABILITY

If any section or provision of this ordinance is held invalid, such invalidity shall not affect other sections or provisions that can full force and effect without such invalidated section or provision.

SECTION 2. FEE SCHEDULE AMENDMENT. The fee schedule shall be amended from time to time by the Roseau City Council. Current THC License fee is \$ 2,000.00.

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SECTION 3. REPEAL OF TEMPORARY EMERGENCY ORDINANCE. On the effective date of this ordinance as defined in Section 4 below, the Temporary Emergency Ordinance adopted by the Roseau City Council on August 1st, 2022 shall be repealed in its entirety.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publications as required by law. (Adopted July 27, 2023)