

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS LICENSING
- 111. KENNELS
- 112. COIN-OPERATED DEVICES AND GAMBLING
- 113. SHOWS, GAMES AND EXHIBITIONS
- 114. GARBAGE COLLECTION
- 115. PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS
- 116. MUNICIPAL TOWING AND IMPOUNDMENT
- 117. FILLING STATIONS
- 118. SPECIAL EVENTS; PUBLIC DANCING
- 119. SEXUALLY ORIENTED BUSINESSES
- 120. ALCOHOL
- 121. SHORT-TERM VACATION RENTALS

CHAPTER 110: BUSINESS LICENSING

Section

- 110.01 Person defined
- 110.02 Business license
- 110.03 Applications
- 110.04 Granting of license
- 110.05 Term
- 110.06 Pro-rated fee
- 110.07 Prior conviction
- 110.08 Zoning
- 110.09 Display
- 110.10 Transfers
- 110.11 Suspension and revocation
- 110.12 Home occupation license

§ 110.01 PERSON DEFINED.

As used in Chapters 110 through 117 of this code of ordinances, **PERSON** means any natural person, partnership, corporation or association.
(Prior Code, § 601.01)

§ 110.02 BUSINESS LICENSE.

Proctor, MN Code of Ordinances

(A) *License required.* No person, partnership, corporation or association shall engage in or operate any of the following businesses without having obtained a license therefor, except as otherwise provided by this chapter:

- (1) Coin-operated device;
- (2) Cigarette sales;
- (3) Public dancing;
- (4) Filling station;
- (5) Public show, game or exhibition; or
- (6) Home occupations.

(B) *Scope.* The provisions of Chapters 110 through 117 of this code of ordinances shall apply to all licenses issued under Chapters 110 through 117 of this code of ordinances, except as provided otherwise.
(Prior Code, § 601.02) (Ord. 06-06, passed 11-20-2006)

§ 110.03 APPLICATIONS.

Every application for a license to engage in any business listed in § 110.02(A) shall be made to the Clerk-Treasurer on forms supplied by the city and shall state the applicant's full name, DOB, sex and address, the name of the business if different, the address of the premises on or from which the business is to be operated, any other business operated from or on the same premises, and any other information as may be required by this code of ordinances or by the Council. All applications shall be accompanied by payment in full of the license fee. The license fee shall be refunded if the license is denied, unless otherwise specifically provided by this chapter.
(Prior Code, § 601.03) (Ord. 06-08, passed 11-17-2008)

§ 110.04 GRANTING OF LICENSE.

Each completed application shall be presented to the Council by the Clerk-Treasurer. The Council shall either approve or deny each application.
(Prior Code, § 601.04)

§ 110.05 TERM.

Except as otherwise provided by this chapter, all licenses shall be for a one-year term and shall expire on June 30 of each year.
(Prior Code, § 601.05)

§ 110.06 PRO-RATED FEE.

Except as otherwise provided by this chapter, when a license is issued for less than a full year, the fee shall be pro-rated at the rate of one-twelfth of the annual fee for each month or fraction of a month remaining in the license year.

(Prior Code, § 601.06)

§ 110.07 PRIOR CONVICTION.

No person shall be denied a license because of a prior conviction unless that conviction has been determined by the Council to be related to the business for which the license is sought, as provided by M.S. Ch. 365, as it may be amended from time to time. No person shall be denied a license because of an arrest or arrests not followed by conviction or admission of guilt.

(Prior Code, § 601.07)

§ 110.08 ZONING.

No license shall be issued for any premises unless located in an area where the business for which the license is sought is permitted by the zoning regulations.

(Prior Code, § 601.08) Penalty, see § 10.99

§ 110.09 DISPLAY.

Except as otherwise specifically provided by this chapter, every license shall be kept conspicuously posted on the premises on or from which the business is operated and shall be exhibited to any person on request.

(Prior Code, § 601.09)

§ 110.10 TRANSFERS.

No license shall be transferred to another person or premises unless specifically provided for by ordinance and approved by the Council.

(Prior Code, § 601.10) Penalty, see § 10.99

§ 110.11 SUSPENSION AND REVOCATION.

The Council may suspend for a period not to exceed 60 days or revoke any license for violation of any provision of this chapter or any applicable state law or regulation, except as provided below. No license shall be suspended or revoked unless the licensee has been given ten days' written notice and a public hearing. The notice shall state the time and place of the hearing and the nature of the charges against the

licensee. The Council may, without any advance notice or hearing, suspend any license for a period not to exceed 15 days pending a hearing on revocation.
(Prior Code, § 601.11)

§ 110.12 HOME OCCUPATION LICENSE.

Home occupations are licensed by the city pursuant to § 155.001 of this code of ordinances. (For fees regarding business licenses, see individual sections covering the listed businesses. Additional fees may be referenced in the schedule of fees found in Chapter 37 of this code or ordinances.)
(Prior Code, § 601.12)

CHAPTER 111: KENNELS

Section

- 111.01 Definitions
- 111.02 Kennel licenses
- 111.03 Conditions for issuance of a kennel license

§ 111.01 DEFINITIONS.

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

KENNEL. Any place a person keeps more than three dogs for the purpose of boarding.

OWNER. Any person who owns, harbors or keeps or has custody of a dog, or the parents or guardians or a person under 18 years of age who owns, harbors, keeps or has custody of a dog.

(Prior Code, § 601A.01) (Ord. 07-07, passed 1-7-2008)

§ 111.02 KENNEL LICENSES.

(A) Kennels shall only be permitted in “S” zones. As such, a home occupation permit shall be required in addition to meeting all other conditions herein.

(B) The number of dogs allowed with a kennel license is to be determined by conditional use permit as provided herein.

(C) No person shall maintain a kennel in the city without securing a license therefor. The fee for the license shall be as set forth in the city’s fee schedule.

(D) Prior to issuance of a kennel license a hearing before the Planning and Zoning Commission requesting a conditional use permit must be held. Notice must be given to all affected property owners 350 feet of the outside dimensions of the parcel

where the kennel is contemplated, and published in the city's official newspaper at least ten days before the public hearing. The Planning and Zoning Commission will make a recommendation to the City Council in the request.

(E) Kennel licenses do not confer any property rights upon the licensee, and the issuance of licenses do not assume that future licenses will be granted. Licensees will need to independently assess whether any improvements made in relation to city requirements will be amortized during the initial time period of the license. Licenses will be issued for a set number of dogs, which shall not be exceeded. Licensees who wish to add a dog/dogs shall reapply for a kennel license. Licensees who relocate to another area of the city shall re-apply for a kennel license. Licenses are not assignable to other parties.

(F) The term for a kennel license shall be three years.

(G) Licensees authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of their license.

(H) No party, person, corporation or other entity will be allowed more than one private kennel license.

(I) Kennel licenses in effect on residential property at the time of adoption of this chapter that do not meet the requirements of this chapter are considered legal; nonconforming licensees may continue to keep up to the number of dogs authorized by the kennel license at the time of ordinance adoption. Adding more dogs to an existing license would require meeting the requirements of this chapter.

(Prior Code, § 601A.01) (Ord. 07-07, passed 1-7-2008)

§ 111.03 CONDITIONS FOR ISSUANCE OF A KENNEL LICENSE.

The following conditions are mandatory for the issuance of a conditional use permit and a kennel license.

(A) Outdoor animal exercise shall be conducted within the confines of the property, and limited to leashed animals under the direct supervision of their owners or commercial kennel staff.

(B) Indoor housing facilities must be structurally sound with ample heat, light, soundproofing and ventilation. The applicant must submit a soundproofing inspection certifying that the structure will keep the sound of the dogs undetectable past the boundaries of the property.

(C) Dogs kept outside must have continual access so animals can get in and out of shelter and protect them from the elements.

(D) If dogs are confined by chains, the chains must be attached so as not to become entangled with chains of other dogs.

(E) Individual animal enclosures must be of a size to allow each dog to turn around fully, stand, sit and lie in a comfortable condition.

(F) The temperature of indoor housing facilities shall not be less than 50°F for dogs not accustomed to lower temperatures.

(G) Disposal facilities are provided to minimize virus infestation, odors and disease hazards.

(H) Adequate storage and refrigeration is provided to protect food supplies against contamination and deterioration.

(I) The City Council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.

(J) All applicable county and state laws pertaining to the operation of a commercial kennel business are hereby incorporated by reference.
(Prior Code, § 601A.01) (Ord. 07-07, passed 1-7-2008)

CHAPTER 112: COIN-OPERATED DEVICES AND GAMBLING

Section

General Provisions

- 112.01 Definitions
- 112.02 Gambling
- 112.03 Transfers

Lawful Gambling

- 112.15 Purpose
- 112.16 Provision of state law adopted
- 112.17 License or permit required
- 112.18 Persons eligible for a license or permit
- 112.19 Eligible premises
- 112.20 Local gambling permit fee
- 112.21 Application procedure
- 112.22 Contributions
- 112.23 Conduct of gambling
- 112.24 Reporting requirements
- 112.25 Prizes
- 112.26 Bingo

Charitable Gambling

- 112.40 State license reporting requirements

- 112.99 Penalty

GENERAL PROVISIONS

§ 112.01 DEFINITIONS.

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

COIN-OPERATED DEVICE. Any machine which upon insertion of a coin, token or slug in any slot or receptacle attached to the device or connected therewith, operates or may be operated by the public generally for use as a game, entertainment or amusement. **COIN-OPERATED DEVICE** includes, but is not limited to, so-called pinball machines, motion picture machines and the device commonly known as “shuffle-board”, but does not include so-called juke boxes or machines operated by coin to play music.

OWNER. Any person who installs or permits to be installed in his or her place of business any coin-operated device for the use or patronage of the public or persons in or about the place.

PUBLIC PLACE. Any room, space, store or building of a public or quasi-public character, wherein the public may enter at large or by membership.
(Prior Code, § 602.01)

§ 112.02 GAMBLING.

(A) *Devices prohibited.* No use is permitted for any gambling device or any machine which contains an automatic pay-off device for the return of money, coins, tokens or which provides for the pay-off by any other means; provided that this provision shall not prohibit the use of any machine which returns slugs or tokens which may be used only in the machine itself, which machine does not constitute a gambling device as defined by M.S. § 609.75, as it may be amended from time to time. No person shall own, operate, maintain or keep for operation any device the licensing of which is forbidden by this division (A).

(B) *Gambling prohibited.* The owner of any coin-operated device shall not permit the operation of the device for the making of side bets or gambling in any form.
(Prior Code, § 602.05) (Ord. 02-05, passed 4-4-2005) Penalty, see § 112.99

§ 112.03 TRANSFERS.

(A) *Persons.* No license may be transferred from one person to another.

(B) *Location.* The owner of a licensed coin-operated device may move the device from one location to another.

(C) *Sales.* Whenever the owner of a licensed coin-operated device shall sell, exchange, transfer or assign the device, he or she shall report the sale or other transaction to the Clerk-Treasurer, who shall present the report to the Council.
(Prior Code, § 602.06) Penalty, see § 112.99

LAWFUL GAMBLING

§ 112.15 PURPOSE.

The purpose of this subchapter is to closely regulate and control the conduct of gambling.

(Prior Code, § 602A.01) (Ord. 03-04, passed 5-17-2004; Ord. 04-06, passed 7-5-2006)

§ 112.16 PROVISION OF STATE LAW ADOPTED.

The provisions of M.S. Ch. 349, as it may be amended from time to time, relating to the definition of terms, licensing and restrictions of gambling are adopted and made a part of this subchapter as if set out in full.

(Prior Code, § 602A.02) (Ord. 03-04, passed 5-17-2004; Ord. 04-06, passed 7-5-2006)

§ 112.17 LICENSE OR PERMIT REQUIRED.

No person shall directly or indirectly operate a gambling device, conduct a bingo operation, or conduct a raffle without a license to do so from the State Gambling Control Board, or if exempt from state licensing, without a permit from the city as provided in this section. One time events, including events conducted only annually and not requiring a license from the State Gambling Board, shall be exempt from this requirement.

(Prior Code, § 602A.03) (Ord. 03-04, passed 5-17-2004; Ord. 04-06, passed 7-5-2006)
Penalty, see § 112.99

§ 112.18 PERSONS ELIGIBLE FOR A LICENSE OR PERMIT.

A license or permit shall be issued only to entities eligible to engage in charitable gambling pursuant to M.S. Ch. 349, as it may be amended from time to time.

(Prior Code, § 602A.04) (Ord. 03-04, passed 5-17-2004)

§ 112.19 ELIGIBLE PREMISES.

Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases, except that tickets for raffles may be sold off the premises. Leases shall be in writing and shall be for a term of at least 12 months. No lease shall provide that rental payments be based on a percentage of gambling receipts. A copy of the lease shall be filed with the Clerk-Treasurer/Administrator.

(Prior Code, § 602A.05) (Ord. 03-04, passed 5-17-2004)

§ 112.20 LOCAL GAMBLING PERMIT FEE.

An annual gambling permit fee is to be paid to the city prior to the issuance of a permit. The fee due is the amount stated in the city fee schedule as periodically set by resolution of the Council, subject to the limitations imposed on the fee by state law. (Prior Code, § 602A.06) (Ord. 03-04, passed 5-17-2004)

§ 112.21 APPLICATION PROCEDURE.

Application for a permit shall be made upon a form prescribed by the City Council. No person shall make a false representation in an application. The Council shall act upon an application within 180 days from the date of application, but shall not issue a permit until at least 30 days after the date of application. (Prior Code, § 602A.07) (Ord. 03-04, passed 5-17-2004)

§ 112.22 CONTRIBUTIONS.

Each organization conducting lawful gambling within the city shall contribute at least 10% of its net profits as indicated on the Gambling Monthly Summary and Tax Return derived from pull tabs operations in the city to a fund administered and regulated by the city without costs to the fund, for disbursement by the city for lawful purposes as defined in M.S. § 349.12, subd. 11, as it may be amended from time to time. The city's use of the funds shall be determined at the time of adoption of the city's annual budget or at the time of amendments thereto. The contributions required herein are due to the city at the same time that the Gambling Monthly Summary and Tax Return is due. (Prior Code, § 602A.08) (Ord. 03-04, passed 5-17-2004)

§ 112.23 CONDUCT OF GAMBLING.

(A) *Gambling manager.* All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager to be designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. The gambling manager shall be responsible for using profits for a proper and lawful purpose.

(B) *Bond.* The gambling manager shall provide a fidelity bond in the sum of an amount set by City Council from time to time by resolution in favor of the organization conditioned on the faithful performance of his or her duties.

(C) *Qualifications of gambling manager.* The gambling manager shall be an active member of the organization and shall qualify under state law. (Prior Code, § 602A.09) (Ord. 03-04, passed 5-17-2004)

§ 112.24 REPORTING REQUIREMENTS.

(A) *Gross receipts.* Each organization licensed or permitted to operate gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipt of other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.

(B) *Separation of funds.* Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues of the organization, and placed in a separate account. The person who accounts from gross receipts, expenses and profits from the operation of gambling devices of the conduct of raffles shall not be the same person who accounts for other revenues of the organization.

(C) *Monthly reports.* Each organization licensed and permitted to operate gambling devices or to conduct raffles shall report monthly to its membership, and to the Clerk-Treasurer/Administrator, its gross receipts, expenses and profits from gambling devices or raffles, and the distribution of profits. The licensee or permit holder shall preserve the records for three years.

(Prior Code, § 602A.10) (Ord. 03-04, passed 5-17-2004)

§ 112.25 PRIZES.

(A) Total prizes awarded in or from any single game, tickets or tip board operation used as a part of a lawful gambling or bingo operation, and the total prizes awarded in any one year of operation of a lawful gambling or bingo operation shall not exceed the maximum prizes allowed by state law.

(B) In no situation shall the total prizes in any single operation of a paddle wheel or tip board or pull tab exceed the maximum prize allowed by state law.

(Prior Code, § 602A.11) (Ord. 03-04, passed 5-17-2004)

§ 112.26 BINGO.

(A) Nothing in this subchapter shall be construed to authorize the conduct of bingo without acquiring a separate bingo license or permit.

(B) Bingo operations shall be conducted in accordance with M.S. Ch. 349, as it may be amended from time to time, and the regulations promulgated by the Minnesota Gambling Control Board.

(Prior Code, § 602A.12) (Ord. 03-04, passed 5-17-2004)

CHARITABLE GAMBLING

§ 112.40 STATE LICENSE REPORTING REQUIREMENTS.

All charitable gambling licensees holding licenses issued by the state pursuant to M.S. § 349.213, as it may be amended from time to time, the licenses being issued for bingo, tip boards, paddleboards, raffles, pull tabs and ticket jars shall be required to submit a copy of any and all financial statements, reports and documents required by the state to the Clerk-Treasurer within 30 days of the licensee's submission of the statements, reports and documents to the state.

(Prior Code, § 611.01) (Ord. 02-12, passed 2-6-2012) Penalty, see § 112.99

§ 112.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) (1) *Criminal penalty.* Violation of any provision of §§ 112.15 through 112.26 shall be a misdemeanor.

(2) *License suspension and revocation.* Any permit may be suspended or revoked by the Council for any violation of §§ 112.15 through 112.26. A permit shall not be suspended or revoked until the procedural requirements or division (B)(3) below have been complied with, provided that in cases where probable cause exists as to a violation, the city may temporarily suspend upon service of notice of the hearing provided for in division (B)(3) below. A temporary suspension shall not extend for more than two weeks.

(3) *Suspension and revocation procedure.* Except as otherwise provided, a permit shall not be revoked or suspended under division (B)(2) above until notice of an opportunity to be heard has been given the permit holder. The notice shall be personally served and shall state the code provision reasonably believed to have been violated. The notice shall also state the permit holder may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permit holder requests a hearing, one shall be held on the matter by the Council at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that a violation exists, then the Council may suspend or terminate the permit.

(Prior Code, § 602A.13) (Ord. 03-04, passed 5-17-2004)

CHAPTER 113: SHOWS, GAMES AND EXHIBITIONS

Section

- 113.01 License required
- 113.02 License term
- 113.03 Fees
- 113.04 Security

Cross-reference:

Coin-operated devices and gambling, see Ch. 112

§ 113.01 LICENSE REQUIRED.

(A) *Generally.* No person shall exhibit any public show, circus, merry-go-round, caravan, theatrical or other performance or exhibition for which pay or compensation of any kind shall be demanded or received without first obtaining a license therefor.

(B) *Exception.* No license shall be required for any public performance, show or entertainment for or in connection with any religious, charitable, fraternal or veterans organizations or literary purpose located within the city or for any show, performance or entertainment consisting exclusively of amateur performers.
(Prior Code, § 603.01) Penalty, see § 10.99

§ 113.02 LICENSE TERM.

A license required under § 113.01 may be issued for the term, not exceeding one year, as the Council may approve.
(Prior Code, § 603.02)

§ 113.03 FEES.

Fees are subject to city schedule of charges and fees.
(Prior Code, § 603.03) (Ord. 02-05, passed 4-4-2005)

§ 113.04 SECURITY.

All licenses when deemed necessary by the Council as a condition of their license shall provide security by means of security personnel approved by the Council.
(Prior Code, § 603.04)

CHAPTER 114: GARBAGE COLLECTION

Section

- 114.01 License required
- 114.02 Regulations

Cross-reference:

Solid waste, see Ch. 50

§ 114.01 LICENSE REQUIRED.

No person shall engage in the business of collecting and/or removing garbage, rubbish, trash, ashes or other waste without a license as required under § 50.04 if this code of ordinances.

(Prior Code, § 605.01) Penalty, see § 10.99

§ 114.02 REGULATIONS.

(A) *Leakage.* Each vehicle shall be tightly covered at all times except during loading and unloading. No person shall load, drive or cause to be loaded or driven on any thoroughfare any vehicle containing garbage so as to permit its contents to fall, spill or leak therefrom.

(B) *Cleaning.* The owner or persons in possession or control of any vehicle shall cause it to be cleaned at least once a week while in use and to be kept clean when it is not in use.

(Prior Code, § 605.02)

CHAPTER 115: PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Section

115.01	Definitions
115.02	License required
115.03	Application
115.04	Term
115.05	Fee
115.06	Refunds
115.07	Display
115.08	Practices prohibited

§ 115.01 DEFINITIONS.

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

PEDDLER. Any person with no fixed place of business who goes from house to house, from place to place, or from street to street carrying or transporting goods, wares or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchasers.

SOLICITOR. Any person who goes from house to house, place to place, or from street to street soliciting, taking or attempting to take orders for any goods, wares or

merchandise including books, periodicals, magazines or personal property of any nature whatsoever for future delivery.

TRANSIENT MERCHANT.

(1) Any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares or merchandise within the city and who, in furtherance of the purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer or railroad car.

(2) The terms shall also include all persons, principals, agents or employees who transiently or temporarily engage in the business of assembling and trucking or assembling and transporting in any manner whatsoever any goods, wares or merchandise for the purposes of selling and delivering the same in wholesale lots or quantities and at wholesale prices to any retail dealer.
(Prior Code, § 606.01)

§ 115.02 LICENSE REQUIRED.

(A) *Generally.* Except as provided in division (B) below, no peddler, solicitor or transient merchant shall sell or offer for sale any goods, wares or merchandise within the city without having first obtained a license therefor. Each peddler, solicitor or transient merchant shall secure a separate license.

(B) *Exceptions.* The requirements of this chapter do not apply to any sale under court order, to any bona fide auction sale, to any sale at wholesale to a retail dealer, or to sales by any religious, charitable, patriotic, philanthropic or non-profit organization.

(Prior Code, § 606.02) Penalty, see § 10.99

§ 115.03 APPLICATION.

(A) *Information.* In addition to the information required by § 110.03 of this code of ordinances, each application shall state the names and addresses of all persons associated with the applicant in his or her business and shall have each person complete and sign an informed consent form authorizing the City Police Department to conduct a criminal background check. The applicant shall state the type of business for which a license is sought, the length of time for which a license is sought, a general description of the thing or things to be sold or for which orders are to be taken, the proposed method of delivery and the place of residence of the applicant for the preceding five years.

(B) *Approvals.* Each application shall bear the written approval of the Chief of Police after an investigation of the criminal background and moral character check of the applicant(s) and employee(s). If any foodstuffs are to be sold, the application shall also bear the approval of the public health office.

(Prior Code, § 606.03) (Ord. 06-08, passed 11-17-2008)

§ 115.04 TERM.

A license required by § 115.02 may be issued for the term as the Council may approve, not exceeding one year.
(Prior Code, § 606.04)

§ 115.05 FEE.

The fee for a peddler's, solicitor's or transient merchant's license shall be subject to the city schedule of charges and fees.
(Prior Code, § 606.05) (Ord. 02-05, passed 4-4-2005)

§ 115.06 REFUNDS.

No refund shall be made on the unused portion of a license, except as authorized by resolution of the Council.
(Prior Code, § 606.06)

§ 115.07 DISPLAY.

Each peddler or solicitor shall carry his or her license with him or her at all times while peddling or soliciting. Each transient merchant shall conspicuously post the license in his or her place of business. Each licensee shall exhibit his or her license to any officer or citizen upon request.
(Prior Code, § 606.07)

§ 115.08 PRACTICES PROHIBITED.

No peddler, solicitor or transient merchant shall call attention to his or her business or to his or her merchandise by crying out, by blowing a horn, by ringing a bell or by any loud or unusual noise.
(Prior Code, § 606.08)

CHAPTER 116: MUNICIPAL TOWING AND IMPOUNDMENT

Section

- 116.01 Impoundment authority
- 116.02 Reclaiming vehicles
- 116.03 Definitions
- 116.04 Towing licenses required

Proctor, MN Code of Ordinances

- 116.05 License application process
- 116.06 Fees
- 116.07 License issuance, refusal, revocation
- 116.08 Insurance
- 116.09 Off-street parking required
- 116.10 Wrecker vehicle inspection
- 116.11 Powers and duties of the Chief of Police
- 116.12 Emergency towing service
- 116.13 Towing rotation list
- 116.14 Driving wrecker to the scene of accident
- 116.15 Soliciting towing business at the scene of accident prohibited;
presence at scene is evidence of violation
- 116.16 Towing fees
- 116.17 Storage lot facilities

§ 116.01 IMPOUNDMENT AUTHORITY.

Any police officer or other duly authorized person may remove and impound any vehicle when the vehicle is found standing in violation of state statutes or other provisions of this chapter when it is reasonably believed to be an unattended stolen vehicle or when the driver of the vehicle has been taken into custody with regard to any violation of this code or state statute and the removal and impoundment is reasonably needed in the investigation of a crime.
(Prior Code, § 607A)

§ 116.02 RECLAIMING VEHICLES.

Any impounded vehicle may be reclaimed by the duly identified owner thereof only upon payment of the removal, impounding and storage fees assessed against it.
(Prior Code, § 607A)

§ 116.03 DEFINITIONS.

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

ACCIDENT. Any occurrence causing any damage to any motor vehicle which results from the motion of one or more vehicles.

CHIEF OF POLICE. The Chief of Police of the City of Proctor or any person or persons as he or she shall designate.

DISABLED VEHICLE. Any vehicle involved in an accident, any vehicle illegally standing or stopping when the owner or person in control of vehicle is not present, and any vehicle when the owner or person in control of it is not able or is not permitted to

drive, if peace officers at the scene determine that there is an apparent need to move the vehicle by wrecker.

EMERGENCY TOWING SERVICE. The business of offering service to disabled vehicles and other vehicles by means of motor vehicle at the request of the Chief of Police.

TOWING ROTATION LIST. Any list of licensed towing services located within the city maintained by the Chief of Police as provided for in this chapter.
(Prior Code, § 607A)

§ 116.04 TOWING LICENSES REQUIRED.

No person shall engage in offering emergency towing service within the city without being licensed in accordance with this chapter unless summoned by the owner or operator of the disabled vehicle or his or her agent.

(Prior Code, § 607A) Penalty, see § 10.99

§ 116.05 LICENSE APPLICATION PROCESS.

(A) Any applicant desiring to engage in or continue in the business of an emergency towing service in the city shall file with the Clerk-Treasurer a written application upon a form for that purpose which shall be signed by the applicant or his or her authorized agent.

(B) The application shall contain the name, address of the principal place of business, telephone number of the towing service, the number and types of wreckers to be operated, the license numbers of all vehicles to be used to provide emergency towing service, and the name, address and telephone number of the true owner of the company concerned.

(C) Proof of all insurance required by this chapter shall be filed with every application.

(D) The application shall also contain an agreement on the part of the licensee to abide by all of the provisions and requirements of this chapter relevant to the class of license for which he or she applies.

(E) The Clerk-Treasurer may at any time require additional information of the licensee or applicant relevant to his or her application.

(Prior Code, § 607A)

§ 116.06 FEES.

(A) The annual fee for emergency towing service license shall be subject to the city schedule of charges and fees.

(B) In addition, an annual inspection fee may be charged for each vehicle proposed to be used for towing service under this chapter at the discretion of the city.

(C) The fees specified are payable at the time of application, and no refund of fees shall be made except that the annual license fee for the towing service shall be refunded if a license application or renewal application is rejected. No proration of fees shall be made except for licenses issued after September 30 for which the license fee for that license only shall be prorated.
(Prior Code, § 607A) (Ord. 02-05, passed 4-4-2005)

§ 116.07 LICENSE ISSUANCE, REFUSAL, REVOCATION.

(A) New or renewal licenses shall be issued prior to the expiration of the calendar year provided all required application criteria have been met. Licenses shall be valid one year from the date of issuance.

(B) Licenses issued under this chapter are subject to revocation under the following grounds:

- (1) Filing false information on an application;
- (2) Failing to inform the Clerk-Treasurer of changes in required information within ten days of the change;
- (3) Failure to have an insurance policy as required in this chapter in force;
- (4) Evading or attempting to evade the towing service fee limitations of this chapter by providing services or performing acts not reasonably necessary under the circumstances;
- (5) Violation by the licensed applicant or by any employee thereof of any provision of this chapter;
- (6) Use by the licensee of any trade name for his or her towing service other than the one registered with the Clerk-Treasurer or operating any towing service vehicle without the name of the proper towing service posted in the directed manner on the vehicle or with the name of another towing service appearing in place of the proper name;
- (7) Two or more moving violations or one driving while under the influence (or 0.10 b/a or more) by a licensee or his or her employees while furnishing towing services within one year;
- (8) Soliciting business at the scene of an accident;
- (9) Providing service which manifests a substantial lack of care or competence, or both, in the provision of towing service;
- (10) Failure to respond to the scene of an accident at the request of the Chief of Police or failure to respond to the scene of an accident within 20 minutes of being summoned by the Chief of Police;
- (11) Three consecutive failures or refusals to tow a disabled vehicle at the request of the Chief of Police;
- (12) Failure to clean up debris left at the scene of an accident when responding to the Chief of Police's request to tow a disabled vehicle at the scene; and
- (13) Failure to allow a rightful claimant of a towed vehicle to regain control of it within one hour of receipt of a request therefor, whether in person, in writing or by telephone, providing that appropriate payments are tendered.

(C) Licenses subject to revocation under division (B) above shall be reviewed by the Chief of Police and a report and recommendation thereon shall be submitted by the Chief to the City Public Safety Commission.

(D) In addition, any licensee who has been the subject of suspension or revocation within five years of a new or renewal application for a license under this chapter may be denied the new or renewed license by the Clerk-Treasurer upon his or her review of the application.

(E) (1) Any licensee whose license has been recommended for suspension or revocation by the Chief of Police or had his or her renewal for license denied by the Clerk-Treasurer shall be entitled to a hearing before the Public Safety Committee of the City Council by filing a letter requesting a hearing within ten days of receiving notice of the revocation, suspension or refusal to issue. The decision of the Committee shall be in writing and filed with the Clerk-Treasurer and served upon the aggrieved applicant not later than 60 days following the filing of the letter requesting the hearing before the committee.

(2) Thereafter the aggrieved party shall have ten days to appeal the Committee's decision to the City Council which shall, upon receipt of a written letter of appeal, hold a hearing to reconsider the license. The hearing shall be held at the next scheduled Council meeting.

(3) Upon completion of the hearing, the City Council shall either sustain, reverse or modify the actions previously taken. The decision shall be final. (Prior Code, § 607A) Penalty, see § 10.99

§ 116.08 INSURANCE.

(A) Each license applicant shall present proof of insurance coverage naming the city as an additional insured in the following amounts:

(1) Comprehensive general liability insurance insuring against liability imposed by law for bodily injury or death in the sum of an amount set by City Council from time to time by resolution for any one person and in the sum of an amount set by City Council from time to time by resolution for two or more persons for the same occurrence and for damages to property in the sum of an amount set by City Council from time to time by resolution;

(2) Worker's compensation insurance and employer's liability insurance as required by law;

(3) Automobile liability and property damage insurance and basic economic loss benefits or a personal injury protection endorsement (PIP), including coverage for non-owned and hired vehicles, in limits as for comprehensive general liability coverage above; and

(4) Garagekeeper's liability coverage of an amount set by City Council from time to time by resolution.

(B) Every policy referred to in division (A)(2) above shall contain an endorsement providing for 30 days' notice to the Clerk-Treasurer in the event of any material change or cancellation of the policy.

(Prior Code, § 607A)

§ 116.09 OFF-STREET PARKING REQUIRED.

All wrecker services shall provide sufficient off-street parking to accommodate all vehicles to which they render and intend to render service, and no wrecker services shall permit vehicles to which they render or intend to render service to be parked on any street.

(Prior Code, § 607A)

§ 116.10 WRECKER VEHICLE INSPECTION.

(A) Any vehicle intended to be used for the offering of wrecker service shall be submitted to persons inspecting on behalf of the city to determine compliance with the following standards.

(1) Every vehicle shall have a manufacturer-rated capacity of not less than one ton and be equipped with brake-lock system and/or wheel shocks.

(2) Each vehicle shall be equipped with a power operated winch, winchline and boom with a factory-rated lifting capacity or tested capacity of not less than 8,000 pounds, single-line capacity.

(3) Each vehicle shall carry as standard equipment a tow bar, towing dollies or a roll-back car hauler, safety chains, a fire extinguisher, a "state of the art" car door opener, a wrecking bar, a broom, a shovel and flares.

(4) Each vehicle and all of its equipment shall be in safe and good working condition.

(B) Any vehicle intended to be used as a heavy duty wrecker for providing emergency wrecker service shall be equipped as in division (A) above except:

(1) Each vehicle shall have a manufacturer-rated capacity of not less than two and one-half tons;

(2) Each vehicle shall be equipped with a power operated winch, winchline and boom with a factor-rated lifting capacity or tested capacity of not less than 32,000 pounds, single or double line capacity; and

(3) No towing dollies need be carried, but must be available.

(C) Every vehicle proposed for use in offering wrecker services shall have the name and telephone number of the company owning the vehicle displayed.

(D) Any vehicle proposed for use in offering towing services shall have emergency lights complying with standards of the state.

(Prior Code, § 607A)

§ 116.11 POWERS AND DUTIES OF THE CHIEF OF POLICE.

The Chief of Police shall be empowered to investigate all applicants for licenses under this chapter and to inspect or have inspected all vehicles proposed to be used in conformity with the provisions of this chapter. In addition, the Chief of Police shall have the power and duty to enforce all provisions of this chapter and to take action with regard to suspensions and revocations as are indicated in this chapter.

(Prior Code, § 607A)

§ 116.12 EMERGENCY TOWING SERVICE.

An emergency towing service shall provide the following minimum services.

(A) The service shall provide services with a wrecker or wreckers which meet the vehicular requirements of this chapter.

(B) The service shall provide 24 hour a day, seven day a week service.

(C) The service shall come at all times when summoned by the Chief of Police to remove a disabled vehicle and, when summoned, shall remove the vehicle on all occasions.

(D) The service vehicles shall arrive at the scene of a disabled vehicle when summoned by the Chief of Police within a reasonable time after being summoned, the time not to exceed 20 minutes.

(E) The services shall, upon the request of any peace officer, store any vehicle inside a building which is reasonably weather-proof and secure for as long as is necessary to complete any police investigation of the vehicle.

(F) If the Chief of Police directs that any vehicle be towed to any location other than a storage location normally used by the wrecker service providing the service, the wrecker service shall deposit the vehicle as directed; provided that if services provided pursuant to this direction would justify additional charges under this chapter, the Chief of Police shall pay the charges.

(Prior Code, § 607A)

§ 116.13 TOWING ROTATION LIST.

(A) The Chief of Police shall call only emergency towing services as provided herein when the Police Department requires towing services in the course of duty. When emergency wrecker services are to be provided, the Chief of Police shall call the first service on the rotation list. When a service has been called, its name shall be placed last on the rotation list.

(B) The Chief of Police shall keep records of all calls made for emergency wrecker services under the provisions of this chapter which shall be public record.

(C) In case of emergency when the Chief of Police shall determine that the public convenience and necessity requires it, the Chief of Police may depart from the strict rotation of emergency wrecker lists for the duration of the emergency and call any licensed wrecker service at his or her discretion. A record of the departure together with the reason therefor shall be maintained with the record referred to in division (B) above.

(D) In circumstances and situations where the owner of a vehicle subject to emergency towing under this division (D), divisions (A) and (B) above presents the Chief of Police or his or her official designee with valid proof of towing insurance from an automotive club or insurer at the site where towing is required, the Chief or his or her designee shall allow the owner to contact a towing service honoring the towing insurance held by the owner. If the owner's attempt to contact a towing service honoring

the aforementioned insurance fails, the Chief or his or her designee shall then utilize the provisions of divisions (A) and (B) above to facilitate the required tow.
(Prior Code, § 607A)

§ 116.14 DRIVING WRECKER TO THE SCENE OF ACCIDENT.

No persons shall drive a wrecker, licensed or unlicensed, to the scene of an accident or collision on the streets of the city unless the person has been called to the scene by the Chief of Police or has been requested by the owner or operator of a disabled vehicle or his or her agent.

(Prior Code, § 607A) Penalty, see § 10.99

§ 116.15 SOLICITING TOWING BUSINESS AT THE SCENE OF ACCIDENT PROHIBITED; PRESENCE AT SCENE IS EVIDENCE OF VIOLATION.

No person shall solicit in any manner, directly or indirectly, on the streets of the city the business of towing any vehicle which is a disabled vehicle on the street regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing the vehicle.

(Prior Code, § 607A) Penalty, see § 10.99

§ 116.16 TOWING FEES.

(A) No licensed emergency towing service shall charge in excess of an amount set by City Council from time to time by resolution per tow plus applicable tax relative to the towing of any motorcycle, ATV, snowmobile, automobile or light truck towed pursuant to this chapter plus an amount set by City Council from time to time by resolution per tow plus applicable tax using a flat bed type of truck.

(B) Provided, any emergency towing service may charge additional reasonable fees for rendering services in addition to towing, to include the use of any accessory equipment required to perform the services requested.

(C) In addition, there shall be no regulation of fees charged by towing services licensed under this chapter relative to the towing of any vehicles other than described above at division (A).

(D) No licensed emergency towing service shall charge in excess of the city schedule of charges and fees relative to the impoundment and/or storage of motorcycles, ATVs, snowmobiles, automobiles or light trucks towed and stored under the provisions of this chapter.

(Prior Code, § 607A) (Ord. 02-05, passed 4-4-2005) Penalty, see § 10.99

§ 116.17 STORAGE LOT FACILITIES.

(A) All licensed emergency towing services required by this chapter shall maintain a storage lot located within the city limits. Any vehicles towed pursuant to this chapter shall be stored within the confines of that lot; provided, vehicles towed pursuant to § 116.13(D) may be stored in accordance with the contract of towing insurance applicable.

(B) Any storage lot utilized by each sub-emergency towing service which is located within the city limits of the city shall comply with the zoning requirements of the zone in which it is located.

(C) Any storage lot which is located within the city limits shall be effectively screened from adjacent residential developments to prevent adverse visual or noise impact upon neighborhoods.

(Prior Code, § 607A)

CHAPTER 117: FILLING STATIONS

Section

117.01	Definition
117.02	License required
117.03	Fee
117.04	Transfers
117.05	Eligibility
117.06	Inspections
117.07	Operation

§ 117.01 DEFINITION.

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

FILLING STATION. Any place, building, pump or device maintained and used on private premises within the city for the purpose of selling or disbursing gasoline or other motor fuels for use in vehicles of any kind.

(Prior Code, § 608.01) (Ord. 02-12, passed 2-6-2012)

§ 117.02 LICENSE REQUIRED.

No person, firm or corporation shall engage in the business of keeping, maintaining or operating any filling station without first obtaining a license therefor.

(Prior Code, § 608.02) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 117.03 FEE.

The annual fee for a filling station shall be an amount set by City Council from time to time by resolution per pump.

(Prior Code, § 608.03) (Ord. 02-12, passed 2-6-2012)

§ 117.04 TRANSFERS.

A filling station license may be transferred, if approved by the Council, if the licensee desires to change his or her place of business or has sold or disposed of his or her business. A request for a transfer shall be in writing and signed by both the licensee and the transferee.

(Prior Code, § 608.04) (Ord. 02-12, passed 2-6-2012)

§ 117.05 ELIGIBILITY.

A filling station license shall be issued only if the premises are in compliance with all applicable Fire Code and Building Code provisions.

(Prior Code, § 608.05) (Ord. 02-12, passed 2-6-2012)

§ 117.06 INSPECTIONS.

Every filling station shall permit the Fire Chief, his or her agents, or other properly designated officers to enter and inspect the premises at various and reasonable times without a warrant for the purpose of enforcing all applicable fire safety regulations.

(Prior Code, § 608.06) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)

§ 117.07 OPERATION.

No filling station or other person in charge of operating a filling station shall fill or allow to be filled with fuel the tank or tanks of any motor vehicle while the engine of the vehicle is running or is in motion; and no owner or other person driving, operating or in charge of a motor vehicle shall fill, allow or cause to be filled with fuel the tank or tanks of the motor vehicle while the engine is running.

(Prior Code, § 608.07) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)

CHAPTER 118: SPECIAL EVENTS; PUBLIC DANCING

Section

Special Events

118.01 Application for approval

Public Dancing

- 118.15 Adoption by reference
- 118.16 Term

Street Dances

- 118.30 Permit required
- 118.31 Hours
- 118.32 Areas allowed
- 118.33 Other requirements
- 118.34 Insurance and deposits
- 118.35 Public safety
- 118.36 Fee

Police Services

- 118.50 Introduction and purpose
- 118.51 Description of criteria
- 118.52 Special events safety
- 118.53 Special event risk factors
- 118.54 Factors that increase risk levels for any event
- 118.55 Factors that decrease risk levels for any event
- 118.56 Guidelines for event sponsors to consider
- 118.57 Special events staffing matrix

Cross-reference:

Business licensing, see Ch. 110

Shows, games and exhibitions, see Ch. 113

SPECIAL EVENTS

§ 118.01 APPLICATION FOR APPROVAL.

Any person(s) wishing to hold a special event, to include pyrotechnics, shall apply for approval on forms to be provided by City Hall and the Event Coordinator. The City Council will create by resolution, specific deadlines for all permits and approvals necessary to conduct a special event, which copies thereof will be provided to the city. No special event may be held unless an application as provided for herein has been submitted, fully completed and approved in writing by the City Administrator or designee, Event Coordinator and Public Safety Committee.
(Ord. 02-17, passed 5-1-2017)

PUBLIC DANCING

§ 118.15 ADOPTION BY REFERENCE.

The provisions of state law regarding public dancing are adopted by reference. No person shall conduct a public dance unless he or she has been issued a public dance license.

(Prior Code, § 610.01) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 118.16 TERM.

Dance licenses may be issued for a one-year term or for a one-day term. In addition to the information required by § 118.30, each application shall state whether a one-year or a one-day license is requested.

(Prior Code, § 610.02) (Ord. 02-12, passed 2-6-2012)

STREET DANCES

§ 118.30 PERMIT REQUIRED.

Any person, association, organization or business entity requesting to hold a public dance, music festival or music celebration featuring live or recorded music upon any street, alleyway, sidewalk or other property owned by the city by virtue of license, fee, title, easement or equity shall apply to the city for a permit for an event. Applications for permits shall be maintained at City Hall.

(Prior Code, § 610.04) (Ord. 09-05, passed 7-18-2005; Ord. 02-12, passed 2-6-2012)

§ 118.31 HOURS.

No public dance, music festival or music celebration as described in § 118.30 shall be permitted to begin before noon, and any music or entertainment presented in connection with the events shall terminate at 12:00 a.m.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 118.32 AREAS ALLOWED.

Any public dance, music festival or music celebration for which a permit is required as set forth in § 118.30 shall be restricted to areas of the city zoned commercial, industrial or open space/recreational.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012) Penalty, see § 10.99

§ 118.33 OTHER REQUIREMENTS.

(A) (1) The City Council will create by resolution, specific deadlines for all applicants for a permit as set forth in § 118.30 and shall submit a formal permit application to the Event Coordinator provided by the city and available at City Hall. No special event may be held unless an application as provided for herein has been submitted, fully completed and approved in writing by the Event Coordinator and Public Safety Committee.

(2) The permittee liability insurance shall provide coverage in an amount no less than the liability limits set forth in M.S. § 466.04, subd. 1, as it may be amended from time to time. Additionally, any monetary deposits or insurance policies procured by the permittee as required by this subchapter shall be delivered to the Event Coordinator no later than the guidelines set by resolution of the City Council, prior to the event.

(B) Any completed application submitted by a permittee shall include specific information regarding:

- (1) Date(s) of the event;
- (2) Time(s) of the event;
- (3) Location;
- (4) Permittee's proposal for traffic and crowd control, police protection and cleanup;
- (5) Expected number of patrons; and
- (6) The name, policy number and liability limits of any insurer providing liability insurance coverage for the event, together with the name, address and telephone number of the insurance agent procuring the policy on behalf of the permittee. The liability insurance shall provide coverage in an amount no less than the liability limits set forth in M.S. § 466.04, subd. 1, as it may be amended from time to time.

(C) Additionally, any monetary deposits or insurance policies procured by the permittee as required by this subchapter shall be delivered to the City Administrator no later than seven calendar days prior to the event.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012; Ord. 03-17, passed 5-1-2017)

§ 118.34 INSURANCE AND DEPOSITS.

(A) All permittees shall be required to provide evidence of a general liability policy in the amount as set forth in § 118.33. In addition, if the permittee sells, barbers, trades or in any way dispenses alcoholic beverages at the event, the permittee must also provide evidence of dram shop insurance in the minimum amount required by state law. Any policies of insurance shall name the city as an additional insured.

(B) A cleanup deposit of an amount set by City Council from time to time by resolution shall also be posted by the permittee and shall be refundable upon timely satisfactory cleanup. The on-duty city police officer shall be the agent of the city for purposes of determining whether the cleanup has been completed. It shall be the duty of the permittee to contact the officer and inspect the area with him or her upon completion of cleanup.

(C) The permittee shall also secure and erect barricades prior to any event as required by the Chief of Police and shall be responsible for timely removal thereof at the conclusion of the event.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012)

§ 118.35 PUBLIC SAFETY.

(A) The permittee shall provide officers as follows:

(1) Two officers for any event with anticipated attendance of zero to 300 patrons with one additional officer for each additional 200 patrons.

(2) The officers hired by the permittee shall be retained by the permittee under the following priority:

(a) Off-duty city officers;

(b) Officers from a jurisdiction sharing mutual aid agreements with the city; or

(c) As approved by the City Chief of Police; provided, all officers hired under the priority listed in this division (A)(2)(c) shall be licensed, full-time peace officers from a jurisdiction within the state.

(B) Any and all selling or dispensing of alcoholic beverages at any event regulated hereunder shall conform to state and city liquor laws and ordinances, to be enforced by the applicable policing unit.

(Prior Code, § 610.04) (Ord. 02-12, passed 2-6-2012)

§ 118.36 FEE.

The permit application fee hereunder shall be per city schedule of charges and fees.

(Prior Code, § 610.04) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012)

POLICE SERVICES

§ 118.50 INTRODUCTION AND PURPOSE.

(A) While there are a variety of considerations utilized to determine the level of police services staffing for each event, the following is compromised of the typical criteria considered by the Police Chief on a case-by-case basis for the majority of special events in the city.

(B) If in the professional judgment of the Chief of Police or his or her designee, an event warrants more than the usual security coverage, event organizers will be advised as soon as thorough assessment of the event can be made. This includes security assessments for physical security (barricades, metal detectors and the like) or police, or other personnel.

(C) Each event will be evaluated and the minimum amount of police services personnel will be assigned to accomplish the security/law enforcement goal for the event.

(D) While the Police Department works closely in event planning with all organizations to provide a reasonably safe environment for special events, the final decision on all event security measures and police services staffing levels is the responsibility of the Chief of Police.

(Ord. 03-15, passed 6-15-2015)

§ 118.51 DESCRIPTION OF CRITERIA.

(A) *Prior history.* If an event is conducted with any level of repetition (annual, each semester, monthly and the like) the Police Department will examine past event history to ascertain if the event usually ran smoothly or had been prone to security problems. Problem events may warrant a higher level of security coverage.

(B) *Estimated crowd size.* Each event will be assessed on the basis of past history for the estimated crowd size versus actual crowd size. If repeat events are prone to low crowd estimates but history has shown larger than estimated crowd actually attends the event, then security coverage will be estimated upward.

(C) *Impact on public property and/or surrounding community.* In order to control any adverse impact (crowd management issues, traffic considerations and the like) as the result of a certain type of event, staffing and physical security measures may be increased.

(D) *Location of event.* Events that require controlled access and which have many potential entry points to the event venue normally require a higher level of staffing and physical security measures.

(E) *Advertising.* Events that are advertised in the media beyond the community may require a higher degree of security consideration (staffing, physical security and the like).

(F) *Higher profile or VIP speakers or subject matter.* Celebrities, controversial speakers and some politicians may require “dignitary protection” measures that normally go beyond normal event security measures. Similarly, events that have controversial or highly charged subject matter may warrant special security consideration.

(G) *Money exchange.* Events which involve the selling of tickets or merchandise normally require a police detail.

(Ord. 03-15, passed 6-15-2015)

§ 118.52 SPECIAL EVENTS SAFETY.

(A) The City Police Department recognizes the rights of individuals to engage in constitutionally protected free speech and public assembly. The Police Department also recognizes its responsibility to protect the rights of persons who choose to engage in the activity in a reasonable manner.

(B) However, when the activity infringes on the rights and safety of others, the activity loses constitutional protection and may become a violation of law, city policy or union contractual agreements.

(C) (1) The Police Department is one of the departments that must be involved in the pre-planning and research of all major special events held in the city.

(2) The reasons for detailed planning are:

(a) To provide a safe and secure environment;

(b) To prevent crime;

(c) To maintain order;

(d) To protect persons and property;

(e) To respond to and implement emergency services when

required;

(f) To prepare for and request necessary emergency and non-emergency services; and

(g) To determine the best methods for achieving these goals in a cost effective manner.

(Ord. 03-15, passed 6-15-2015)

§ 118.53 SPECIAL EVENT RISK FACTORS.

(A) (1) The following risk factors often influence the staffing levels indicated on the matrix guide.

(2) These factors will be discussed with event organizers with the goals of:

(a) Reducing risk; and

(b) Making the event successful.

(B) The Police Department looks at special events at three different risk levels. Those levels are identified as low, medium and high. Each event has factors attached that may increase or decrease the risk level which affect staffing.

(Ord. 03-15, passed 6-15-2015)

§ 118.54 FACTORS THAT INCREASE RISK LEVELS FOR ANY EVENT.

(A) The need for personal protection for speakers, performers or guests;

(B) Guest(s) will be in the city at multiple locations;

(C) Out of city advertising (non-city guests);

(D) Cash protection/deliveries;

(E) Anticipation of large ticket sales (or oversell);

(F) Night time event;

(G) Outdoor venue;

(H) Live/amplified entertainment;

(I) Multiple events on the same day;

(J) Venues with multiple entrances;

(K) Traffic control needs;

- (L) Sales of alcoholic beverages;
 - (M) Lack of significant number of toilets;
 - (N) Lack of timely notification to the Police Chief and City Police Department;
- and
- (O) Other factors determined by the Police Chief.
- (Ord. 03-15, passed 6-15-2015)

§ 118.55 FACTORS THAT DECREASE RISK LEVELS FOR ANY EVENT.

- (A) Guest(s) will be in the city at one general location;
 - (B) Events limited to city residents, those employed in the city;
 - (C) Competing event elsewhere will affect attendance;
 - (D) Patrons are screened for weapons at the entrance;
 - (E) Prior events of similar nature with no history of safety problems or required police actions;
 - (F) Day time event;
 - (G) Indoor venue;
 - (H) Shorter duration of event;
 - (I) Historically poor ticket sales;
 - (J) Student affairs oversight and presence at students events;
 - (K) Formal or semi-formal events; and
 - (L) Other factors determined by the Police Chief.
- (Ord. 03-15, passed 6-15-2015)

§ 118.56 GUIDELINES FOR EVENT SPONSORS TO CONSIDER.

- (A) Have you given sufficient notification to the Police Chief regarding your event?
 - (B) Will the event impact other events, city traffic or surrounding community in any way?
 - (C) What special safety considerations should be taken for day versus nighttime events?
 - (D) How will the size of the crowd that gathers before and after the event impact our community?
 - (E) How will potential complaints regarding noise, litter, parking, lack of toilets and loitering be mitigated?
 - (F) Does the event have proper insurance/liability coverage?
 - (G) What if it rains?
 - (H) Can medical or emergency personnel get into the venue without complications?
 - (I) What is the maximum capacity of the venue?
 - (J) What potential threats need to be shared with the Police Chief?
- (Ord. 03-15, passed 6-15-2015)

§ 118.57 SPECIAL EVENTS STAFFING MATRIX.

The Police Department staffing matrix is a guideline to assist the planner in reasonably predicting the staffing levels necessary for the event. The number of the personnel assigned may vary as dictated by the nature of the particular event, or as calculated to be necessary by the Police Department and those responsible for the event. Ultimately, the decision of the Police Department regarding its deployment will prevail.

Police Department Staffing Matrix							
	Low Risk		Medium Risk		High Risk		
Estimated # of Attendance	0—100	101—200	201—500	501—1,000	1,001—2,000	2,001—3,000	3,000+
Dances	0	2 PS	2 O 2 PS	2 O	6 O 1 S 4 PS	8 O 1 S 6 PS	2 Add'l. O
Fairs/festivals	0	0	2 O 1 S	3 O	5 O 1 S 4 PS	6 O 1 S 10 PS	2 Add'l. O
Invited guests/speakers	2 O	2 O	2 O 1 S	3 O	4 O 1 S	6 O 1 S	2 additional O for each 500
Live concerts	0	2 PS	2 O 4 PS	3 O 1 S 8 PS	5 O 1 S 8 PS	9 O 2 S 10 PS	2 Add'l. O
Sports, dirt track racing, film shoots, foot races, parades	TBD by Police	TBD by Police	TBD by Police	TBD by Police	TBD by Police	TBD by Police	TBD by Police
Key O - Officers S - Sergeant PS - Private Security*							
* The definition of PRIVATE SECURITY FOR SPECIAL EVENT STAFFING is off duty police officers approved by the Police Chief							

(Ord. 03-15, passed 6-15-2015)

CHAPTER 119: SEXUALLY ORIENTED BUSINESSES

Section

- 119.01 Purpose, findings and conclusion
- 119.02 Definitions
- 119.03 Location restrictions
- 119.04 Regulated uses
- 119.05 Licensing
- 119.06 Inapplicability of M.S. § 617.242

- 119.99 Penalty

§ 119.01 PURPOSE, FINDINGS AND CONCLUSION.

(A) *Purpose.* The purpose of this chapter is to control and regulate certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods.

(B) *Findings.* The City Council makes for the following findings regarding the effect of where sexually oriented businesses are located.

(1) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending licensed daycare homes, persons using public parks and children and other persons attending public schools.

(2) Sexually oriented businesses can contribute an increase in criminal activity in the area where the businesses are located, taxing local law enforcement services.

(3) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the value of the residential housing in the area in which the businesses are located.

(4) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which the businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of the businesses is perceived by others as an indication that the area is desecrating and the result can be devastating as other businesses and residences move out of the vicinity. Declining real estate values, which can result from the concentration of the business, erode the city's tax base.

(C) *Authority.* This city has the authority under to regulate the location of this type of business.

(D) *Conclusions.* In order to minimize the detrimental effect that sexually oriented businesses have on adjacent land uses, the City Council adopts the following regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.
(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012)

§ 119.02 DEFINITIONS.

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

ADULT CABARET. A building or portion of a business used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age, or if dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

ADULT ENTERTAINMENT CENTER. An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the

facility, wherein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in an attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

ADULT HEALTH/SPORT CLUB. A health/sport club which excludes minors by reason of age, or if the club is distinguished or characterized by an emphasis on specified sexual activities or nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

ADULTS-ONLY BOOKSTORE. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of any material, for sale to patrons therein. It shall be presumed that an establishment is an **ADULTS-ONLY BOOKSTORE** if 10% or more of its floor space is devoted to the materials.

ADULTS-ONLY MOTION PICTURE THEATER/VIDEO STORE. An enclosed building used regularly and routinely for presenting, selling or renting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation by patrons therein. It shall be presumed that an establishment is an **ADULTS-ONLY MOTION PICTURE THEATER/VIDEO STORE** if 10% or more of its floor space is devoted to those materials.

ADULT RAP PARLOR. A conversation/rap parlor which excludes minors by reason of age, and which provides the service of engaging in listening to conversation, talk or discussion, if the service is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

ADULT SAUNA. An establishment or place primarily in the business of providing:

- (1) A steam bath or hot air bathing; and/or
- (2) Massage services which excludes minors by reason of age where the service(s) is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for patrons.

ADULT STEAM ROOM/BATH HOUSE FACILITY. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

MASSAGE PARLOR. A massage parlor which restricts minors by reason of age, or which provides the service of massage, if the service is distinguished by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

NUDITY. The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

SADOMASOCHIST ABUSE. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

SEXUAL CONDUCT. Acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if the person be a female, her breast.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SEXUALLY ORIENTED BUSINESS. An adult bookstore, adult theater, adult massage parlor, adult conversation/rap parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined here.

(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012)

§ 119.03 LOCATION RESTRICTIONS.

(A) Adult use only bookstore, adult theaters, adult massage parlors, adult conversation/rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult steam room/bathhouse facilities and other sexually oriented businesses may be located or maintained within commercially zoned areas only.

(B) Adults-only bookstores, adult theaters, adult massage parlor, adult conversation/rap parlor, health/sport club, adult steam room/bathhouse and other sexually oriented businesses shall not:

(1) Be operated or maintained within 1,000 feet of a residential zone;

(2) Be operated or maintained within 1,000 feet of a church, licensed daycare facility, public library, educational facility which serve persons age 17 or younger, place of worship, public park or elderly housing facility;

(3) Be operated or maintained within 2,000 feet of another sexually oriented business;

(4) In regard to distance limitations set forth herein, be measured in a straight line from the primary structure of the premises in commercially-zoned districts or from the demarcation lines of residential zones; and

(5) Be located in the same building or upon the same property as another use.

(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012) Penalty, see § 119.99

§ 119.04 REGULATED USES.

(A) *Windows.* Notwithstanding any other provision of this code, a sexually oriented business:

(1) Shall not display merchandise or pictures of the products or entertainment in window areas or any area where they can be viewed from the road frontage;

(2) Shall leave windows covered or opaque; and

(3) Shall not place a sign in any window, notwithstanding other ordinances regulating signs on commercial structures.

(B) *Hours of operation.* Notwithstanding any other provisions of this code, a sexually oriented business:

(1) May operate between 10:00 a.m. and 12:00 a.m.; and

(2) Shall be closed on Sundays and holidays as defined by the city code herein.

(C) *Physical contact.* Notwithstanding any other provisions of this code, a sexually oriented business:

(1) Employing dancers or other live entertainment shall not allow physical contact between the dancers/entertainers and the patrons of the business; and

(2) Employing dancers or other live entertainers shall maintain a distance of at least four feet at all times between the dancers/entertainers and the patrons of the business.

(D) *Gratuities.* Notwithstanding any other provision of this code, a sexually oriented business:

(1) Shall not allow its dancers or other live entertainers to solicit payments/gratuities from the patrons of the business; and

(2) Shall not allow the patrons of the business to make direct payment/gratuities to its dancers or other live entertainers.

(Prior Code, § 612) (Ord. 02-12, passed 2-6-2012) Penalty, see § 119.99

§ 119.05 LICENSING.

(A) *Basic provisions for licensing; license required.* No person or corporation, shall directly or indirectly deal in or operate in this city an adult use only bookstore, adult theaters, adult massage parlors, adult conversation/rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult steam room/bathhouse facilities or other sexually oriented businesses without a license to do so as provided in this chapter.

(B) *License process.*

(1) *Application.* Every application for a license under this section shall state the name of the applicant, his or her age, representations as to his or her character with the 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 any other information as the Council may require from time to time. In addition, the application shall be

verified and filed with the Clerk-Treasurer. No person shall make a false statement in an application.

(2) *License fee.* The annual fee for a license under this chapter shall be found on the city schedule of charges and fees.

(3) *Payment of fee.* Each application for a license issued pursuant to this chapter shall be accompanied by a certified check or money order for the license fee. All fees shall be paid into the General Fund. If a license is rejected, a full refund of the fee shall be made.

(4) *Transfers.* Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without having been first considered by the city.

(C) *Denial of license.* No license shall be granted to or held by any person who:

(1) Is under 21 years of age;

(2) Is an alien or nonresident of the state;

(3) Is not of good moral character;

(4) Is not the proprietor of the establishment for which the license is

issued;

(5) Is not current on real property taxes, assessments and city-owned utilities relating to the licensed premises; and

(6) In addition, the city may refuse to renew the license of and shall refuse to issue a new license to a person who, within five years of the license application, has been convicted of a willful violation of a federal, state law or local ordinance concerning the type of businesses covered by this chapter.

(D) *Inappropriate licensee and revocation.*

(1) *Conviction/revocation.* The City Council shall not grant any licenses to any premises where a licensee has been convicted of violating this chapter or any state law concerning the type of businesses covered by this chapter, where any license to operate hereunder has been revoked for cause unless one year's time has elapsed after conviction or revocation. A plea of guilty shall constitute a conviction.

(2) *Suspension/revocation process.* The violation of any provision or condition of this chapter or any other ordinance or state law or regulation concerning the type of businesses covered by this chapter is grounds for revocation or suspension of the license. A license granted under this chapter may be revoked or suspended by the Council after written notice to the licensee and a public hearing held by the Council. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The city may suspend any license pending a hearing on revocation or suspension. No suspension shall exceed 60 days. Repeated violations (more than two) by the same licensee, its heirs or assigns, may be subject to revocation of the license through the hearing process.

(E) *Enforcement and inspection.*

(1) *Enforcement.* It shall be the duty of all police officers of the city to enforce the provisions of this chapter and state law, to search premises and seize evidence of violation, reserve the same as evidence against the person alleged to be in violation, and to prepare the necessary processes and papers therefor.

(2) *Inspections.* Any business which is the subject of a license issued under this chapter shall be open at all reasonable hours for inspection by any peace officer, or other properly designated officer of the city. Refusal to permit the inspection shall be a violation of this code.

(F) *Licensee responsibility.* Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of order. (Prior Code, § 612) (Ord. 02-05, passed 4-4-2005; Ord. 02-12, passed 2-6-2012) Penalty, see § 119.99

§ 119.06 INAPPLICABILITY OF M.S. § 617.242.

M.S. § 617.242, as it may be amended from time to time, does not apply to or in the city. The section is also inapplicable to or in the city as to any portion of the operations of sexually oriented businesses that are not regulated by this chapter but which may otherwise have been subject to it. (Prior Code, § 612) (Ord. 04-07, passed 7-2-2007; Ord. 02-12, passed 2-6-2012)

§ 119.99 PENALTY.

A violation of this chapter shall be a misdemeanor under state law. (Prior Code, § 612) (Ord. 02-12, passed 2-6-2012)

CHAPTER 120: ALCOHOL

Section

Municipal Liquor Store

- 120.001 Liquor store established
- 120.002 Location and operation
- 120.003 Dispensary Fund
- 120.004 Hours of operation
- 120.005 Regulation

3.2% Malt Liquor

- 120.020 Definitions
- 120.021 License required
- 120.022 License applications
- 120.023 Form of affidavit

Intoxicating Liquor

- 120.035 Basic provisions for licensing
- 120.036 Restaurant licenses
- 120.037 Developmental licenses

Proctor, MN Code of Ordinances

- 120.038 Brewery taproom licenses.
- 120.039 License process

Club Licensing

- 120.050 Adoption by reference
- 120.051 State permit required
- 120.052 Inspections
- 120.053 One day permits

Liquor Licensing Procedure

- 120.065 Definitions
- 120.066 Fees
- 120.067 Application process
- 120.068 Denial of license
- 120.069 Inappropriate licensee/location
- 120.070 Suspension/revocation process
- 120.071 Regulation of hours and conduct
- 120.072 Enforcement and inspection

Public Consumption of Alcohol

- 120.085 Violations
- 120.086 Permits
- 120.087 Temporary and/or one day license holders

- 120.999 Penalty

MUNICIPAL LIQUOR STORE

§ 120.001 LIQUOR STORE ESTABLISHED.

A municipal liquor dispensary is hereby established to be operated within this municipality for the sale of liquor for use as a beverage and containing more than 3.2% of alcohol by weight in sealed or closed receptacles or containers to be consumed off or away from the premises.

(Prior Code, § 701.01)

§ 120.002 LOCATION AND OPERATION.

(A) *Location.* The liquor store or stores shall be at a place or places as the Council shall determine by motion and may be either leased or owned by the municipality.

(B) *Operation.* The store or stores shall be in the charge of a person known as the “manager” who shall be selected by the Council and who shall be paid compensation as the Council shall determine. The manager shall have full charge of the

operation of the store or stores and shall have authority to purchase supplies and merchandise as may be necessary and shall pay over to the Clerk-Treasurer, at regular intervals to be determined by the Council, all funds which shall come into his or her possession in the operation of the establishment. Additional help may be employed by the Council as may appear necessary at a rate of compensation under rules to be determined by the Council. All employees, including the manager, shall hold their positions at the pleasure of the Council. No minor person shall be employed in the liquor store or stores.

(Prior Code, § 701.02)

§ 120.003 DISPENSARY FUND.

A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the dispensary shall be paid; provided that the initial costs of rent, fixtures and stock may be paid for out of the General Fund of the municipality, but the amount shall be reimbursed to the General Fund out of the first moneys coming into the Liquor Fund not needed to carry on the business. Any surplus accumulating in this Fund may be transferred to the General Fund by resolution of the Council and expended for any municipal purpose.

(Prior Code, § 701.03)

§ 120.004 HOURS OF OPERATION.

(A) *General.* The municipal store or stores shall at all times observe the following on the hours of operation.

(B) *Intoxicating liquor; off-sale.*

(1) No sale of intoxicating liquor may be made by an off-sale licensee:

(a) On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.;

(b) Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

(c) On Thanksgiving Day;

(d) On Christmas Day, December 25; and

(e) After 8:00 p.m. on Christmas Eve, December 24.

(2) Sunday sale is permitted in accordance to M.S. § 340A.504, subd. 4, as it may be amended from time to time. These hours may be further limited by Council resolution.

(Prior Code, § 701.04) (Ord. 07-05, passed 6-6-2005; Ord. 04-17, passed 6-19-2017)
Penalty, see § 120.999

§ 120.005 REGULATION.

(A) *Gambling.* No person on the premises of the municipal liquor store shall keep, possess or operate on the premises or in any rooms adjoining or connecting therewith any slot machine, dice or any other gambling device or permit the same to be so kept. No gambling shall be permitted on the premises; nor shall any person of known immoral character or any disorderly person be permitted on the premises. Charitable or other regulated gambling, as allowed by state law and local ordinance, may be permitted.

(B) *Other business.* No other business than the sale of liquor and related items, as previously set forth in this chapter, shall be carried on by the store or by any person employed therein during the time so employed.

(C) *Intoxicated persons.* No liquor shall be sold to any person who is in an intoxicated condition.

(D) *Underaged persons.* No liquor shall be sold to any person under the age of 21 years.

(E) *Health inspection.* The premises occupied by the liquor store shall be duly inspected by the health officer of the county as required by law.

(F) *Loitering.* No person shall be permitted to loaf or loiter about the store habitually.

(G) *Oversight, operation and control.* The City Council shall review the operation, profitability and business of the municipal liquor store on at least a quarterly basis. Any adjustments in the store's operation or profitability made by the City Council shall be acted upon by the City Administrator and the manager of the liquor store.

(Prior Code, § 701.05) Penalty, see § 120.99

3.2% MALT LIQUOR

§ 120.020 DEFINITIONS.

(A) The provisions of M.S. Ch. 340A, as it may be amended from time to time, applicable to the sale of 3.2% malt liquor are adopted herein by reference.

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

3.2% MALT LIQUOR. Any beverage containing alcohol of more than 1.5% by volume and not more than 3.2% by weight.

PREMISES. An establishment for the sale of 3.2% malt liquor.

TAPROOM. A room that is ancillary to the production of beer at a production brewery where the public can purchase and/or consume only the beer provided on site.

TEMPORARY. A period not to exceed three days. Sales made pursuant to any **TEMPORARY** license shall meet all other requisites of this chapter.

WINE. As defined by M.S. Ch. 340A, as it may be amended from time to time. The holder of an on-sale wine license who also hold an on-sale 3.2% malt liquor license is authorized to sell malt liquor with content over 3.2% (strong beer) without an additional license.

(Prior Code, § 702.01) (Ord. 02-10, passed 4-19-2010; Ord. 01-14, passed 4-7-2014; Ord. 05-15, passed 1-4-2016)

§ 120.021 LICENSE REQUIRED.

(A) *Licenses.*

(1) No person, firm, partnership, corporation or association, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise or keep or offer for sale any wine or non-intoxicating malt liquor within the city without first having received a license as hereinafter provided.

(2) Licenses shall be of three kinds:

- (a) Regular “on-sale”;
- (b) Temporary “on-sale”; and
- (c) “Off-sale”.

(B) *Regular on-sale.* Regular “on-sale” licenses shall be granted only to bona fide clubs, retail establishments holding wine or 3.2% malt liquor licenses, exclusive “on-sale” liquor 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 wine or 3.2% malt liquor for consumption on the premises only.

(C) *Temporary on-sale.* Temporary “on-sale” licenses shall be granted only to bona fide clubs and charitable, religious and non-profit organizations for the sale of wine or 3.2% malt liquor for consumption on the premises only.

(D) *Off-sale.* “Off-sale” licenses shall permit the sale of wine or 3.2% malt liquor at retail in the original package for consumption off the premises only.

(Prior Code, § 702.01) (Ord. 08-07, passed 1-22-2008; Ord. 02-10, passed 4-19-2010; Ord. 05-15, passed 1-4-2016) Penalty, see § 120.99

§ 120.022 LICENSE APPLICATIONS.

(A) *Applications.* Every application for a license to sell wine or 3.2% malt liquor shall be made on forms to be supplied by the city setting forth the name of the applicant, his or her age, representations as to his or her character with references such as may be required, his or her citizenship, the location where the business is to be carried on, the type of license applied for, the business in connection with which the proposed license will operate, if any, whether the applicant is the owner and operator of the business, the time the applicant has been in that business at that place, and any other information as the Council may require from time to time. The application shall be verified by the oath of the applicant. It shall be unlawful to make any false statement in an application.

(B) *Certification/affidavit.*

(1) Prior to the issuance of a wine, 3.2% malt liquor license of the types described in § 120.021, as applicable, each license applicant shall provide the Clerk-Treasurer with a notarized affidavit in a form and manner set forth and provided by the city, which shall state:

Proctor, MN Code of Ordinances

(a) The applicant's gross annual sales of 3.2% malt liquor will not equal or exceed an amount set by City Council from time to time by resolution for the year for which the license is sought; or

(b) The applicant's gross annual sales of 3.2% malt liquor will equal or exceed an amount set by City Council from time to time by resolution for the year for which the license is sought.

(2) If a wine license is sought, that applicant is and shall remain in compliance with M.S. Ch. 340A, as it may be amended from time to time.

(C) *Security.* In the event that an applicant for a 3.2% malt liquor license submits a notarized statement under division (B) above which states that the gross 3.2% malt liquor sales of the applicant will equal or exceed an amount set by City Council from time to time by resolution for the license year, the applicant shall file with the Clerk-Treasurer a liability insurance policy in an amount set by City Council from time to time by resolution coverage for one person and an amount set by City Council from time to time by resolution coverage for more than one person. The policy must comply with the provisions of M.S. § 340A.301, as it may be amended from time to time, regarding liability insurance policies.

(D) *Auditing right.* The city reserves the right to conduct an annual independent audit of the records and books of each licensed applicant regarding the information contained in the notarized statement filed pursuant to division (A) above. The audit may be conducted after the Liquor Committee of the City Council has considered the matter and recommended to the City Council that the audit be undertaken. The City Council may or may not order an audit based upon the Liquor Committee's recommendations.

(Prior Code, § 702.01) (Ord. 02-10, passed 4-19-2010) Penalty, see § 120.99

§ 120.023 FORM OF AFFIDAVIT.

AFFIDAVIT OF LICENSEE
Name of Licensee _____
Person signing this statement _____
Relationship or position of person signing this statement with Licensee _____
Under oath, I state and affirm that the gross wine or 3.2% malt liquor sales for the previous license year amount to the total sum of _____ Dollars (\$_____).
I further state and affirm that, upon good faith analysis of present and past trends regarding the gross wine or 3.2% malt liquor sales, that the gross wine or 3.2% malt liquor sales for the current license year, 20_____, will/will not (<i>strike one inapplicable term</i>) equal or exceed Twenty-Five Thousand and no/100ths Dollars (\$25,000), the 20_____ gross beer sales being presently estimated to equal approximately _____.
Further your affiant saith not. _____

Licensee's Designated Representative
Subscribed and sworn to before me this _____ day of _____, 20____.
Notary Public

(Prior Code, § 702.01) (Ord. 01-06, passed 6-5-2006; Ord. 02-10, passed 4-19-2010)

INTOXICATING LIQUOR

§ 120.035 BASIC PROVISIONS FOR LICENSING.

(A) *Generally.*

(1) The provisions of M.S. Ch. 340A, as may be amended from time to time, applicable to the sale of intoxicating liquor are adopted herein by reference.

(2) The term **LIQUOR** herein means intoxicating liquor as defined in M.S. Ch. 340A, as may be amended from time to time.

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

(C) *Off-sale prohibited.* There shall be no off-sale of any intoxicating liquor by any person or corporation within the city except as allowed under §§ 120.001 through 120.005 (municipal liquor store).

(D) *On-sale licenses.* There shall be allowed "on-sale" licenses as enumerated within M.S. Ch. 340A, as may be amended from time to time, the licenses to be limited in their issuance to only restaurants or hotels with seating capacities of 30 guest seats or more, except as provided in §§ 120.036 and 120.037, pertaining to restaurant licenses and developmental licenses, respectively.

(E) *Brewery taproom license.* A brewery taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer.

(Prior Code, § 702.02) (Ord. 05-15, passed 1-4-2016)

§ 120.036 RESTAURANT LICENSES.

(A) *Definition.* For purposes of the issuance of a restaurant liquor license within the purview of this section, **RESTAURANT** means an establishment other than a hotel or motel; under the control of a single proprietor or manager; having appropriate facilities for the serving of meals in a formal atmosphere (consisting of a full menu as distinguished from exclusively "fast food" items such as pizza, hamburgers and other sandwiches) and where, in consideration of payment therefor, meals are regularly

served at tables, with reusable utensils and dishware, to the general public; which employs an adequate staff to provide the usual and suitable service to its guests; the principal part of the business (meaning at least 60% of the gross income from sales during each calendar quarter) being the serving of foods and which shall have seating facilities for seating not less than 30 guests at one time and have an appraised value of at least an amount set by City Council from time to time by resolution as to the building or portions of the building associated with liquor sales.

(B) *Sale, sell, sold.* **SALE, SELL** and **SOLD** mean all barters and all manners or means of furnishing alcoholic beverages to persons, including the furnishing in violation or evasion of law.

(C) *Adjustment of dollar amounts.* The dollar amounts in this section shall be adjusted annually by the same percentage as the consumer price index ("CPI"). (Prior Code, § 702.02) (Ord. 01-08, passed 2-19-2008) Penalty, see § 120.99

§ 120.037 DEVELOPMENTAL LICENSES.

For purposes of the issuance of a developmental liquor license within the purview of this section, **DEVELOPMENTAL** means a licensed establishment coupled with a restaurant and an entertainment, lodging or recreation facility designed for family entertainment; or a business(es) located within a commercial development in which the business(es) employs at least 150 full-time employees outside of the licensed establishment.

(Prior Code, § 702.02) Penalty, see § 120.99

§ 120.038 BREWERY TAPROOM LICENSES.

This license may be issued to the holder of a brewer's license under M.S. § 340A.301, as may be amended from time to time.

(A) *Conditions for brewery taproom license.*

(1) A brewer may hold only one brewer taproom license under this section, and may not have an ownership of another brewery.

(2) The on-sale of malt liquor may only be sold Monday through Saturday, unless a Sunday sales license is obtained, and during the hours that "on-sale" of liquor may be made.

(3) A brewery must demonstrate compliance with all zoning standards pertaining to production breweries.

(4) All other provisions of this chapter shall be applicable to the licenses and licensees unless inconsistent with the provisions of this section.

(B) *Preclude.* Nothing in this section shall preclude the holder of a brewer taproom license from also holding a license to operate a restaurant at the taproom location.

(Ord. 05-15, passed 1-4-2016) Penalty, see § 120.99

§ 120.039 LICENSE PROCESS.

(A) *Application.*

(1) 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 references such 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 any other information as the Council may require from time to time.

(2) In addition to containing this information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the Clerk-Treasurer. No person shall make a false statement in an application.

(B) *Liability insurance.* Prior to the issuance of a liquor license, the applicant shall file with the Clerk-Treasurer a liability insurance policy which shall comply with the provisions of M.S. Ch. 340A, as may be amended from time to time, relating to liability insurance policies and shall include the minimum limits of coverage specified herein. (Prior Code, § 702.02) (Ord. 05-15, passed 1-4-2016) Penalty, see § 120.99

CLUB LICENSING

§ 120.050 ADOPTION BY REFERENCE.

The regulatory provisions of M.S. Ch. 340A, as it may be amended from time to time, are hereby adopted by reference as they apply to club licenses. (Prior Code, § 702.03)

§ 120.051 STATE PERMIT REQUIRED.

(A) It shall be unlawful for any private club as defined by state law, directly or indirectly or upon any pretense or by any device, to allow the consumption or display of intoxicating liquor or the serving of any liquid for the purpose of mixing with intoxicating liquor without first securing a permit from the Commissioner of Public Safety.

(B) This requirement shall include the consumption and display of 3.2% malt liquor for which a permit shall also be necessary under this subchapter. (Prior Code, § 702.03) Penalty, see § 120.99

§ 120.052 INSPECTIONS.

(A) Any private club allowing the consumption or display of intoxicating liquor shall be open at all reasonable hours for inspection by the Commissioner of Public

Safety, his or her designated agents, and any peace officer, health officer or other properly designated officer of the city.

(B) Refusal to permit the inspection shall be a violation of this code.
(Prior Code, § 702.03) Penalty, see § 120.99

§ 120.053 ONE DAY PERMITS.

(A) Any private club, as defined by state law, may apply for a one-day permit for the consumption and display of intoxicating liquor by filing an application for the permit with the Commissioner of Public Safety and a copy thereof with the Clerk-Treasurer.

(B) Any permit fee specified by state law shall be remitted to the Commissioner.
(Prior Code, § 702.03)

LIQUOR LICENSING PROCEDURE

§ 120.065 DEFINITIONS.

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

ON-SALE. The sale of any product licensed hereunder for consumption on the premises where sold.

OFF-SALE. The sale of any product licensed hereunder for consumption off the premises where sold.

(Prior Code, § 702.04)

§ 120.066 FEES.

(A) *Municipal liquor store.* There shall be no fee collected by the city from its municipal liquor store for the granting of its franchise or right to operate.

(B) *3.2% malt liquor.*

(1) *“On-sale”.* The annual fee for an “on-sale” license shall be as set forth in the city schedule of charges and fees.

(2) *“Off-sale”.* The annual fee for an “off-sale” license shall be as set forth in the city schedule of charges and fees.

(3) *“Temporary.”* The fee for a “temporary” license shall be as set forth in the city schedule of charges and fees.

(C) *Intoxicating liquor.*

(1) *“Off-sale”.* There shall be no “off-sale” intoxicating liquor licenses issued by the city.

(2) *“On-sale”*. The annual fee for an “on-sale” license shall be as set forth in the city schedule of charges and fees.

(3) *“Temporary”*. The fee for a “temporary” license shall as set forth in the city schedule of charges and fees.

(D) *Club licenses*.

(1) *“On-sale”*. The annual fee for an “on-sale” club license shall be as set forth in the city schedule of charges and fees. This license fee shall be in addition to any permit fee charged by the Commission of Public Safety.

(2) *“Off-sale”*. No “off-sale” club licenses shall be issued by the city.

(3) *One day “on-sale”*. The license fee for a one day “on-sale” club license issued under this subchapter shall be as set forth in the city schedule of charges and fees.

(4) *Sunday “on-sale”*. Sunday “on-sale” liquor licenses may be granted by the City Council as per this subchapter. The annual fee for Sunday “on-sale” licenses for restaurants, hotels and private clubs holding regular “on-sale” or club licenses shall be as set forth in the city schedule of charges and fees.

(Prior Code, § 702.04) (Ord. 01-05, passed 3-7-2005; Ord. 02-05, passed 4-4-2005; Ord. 06-05, passed 6-6-2005; Ord. 08-07, passed 1-22-2008)

§ 120.067 APPLICATION PROCESS.

(A) *Payment of fee*. Each application for a license issued pursuant to this subchapter shall be accompanied by a certified check or money order for at least one-half of the license fee. In the event that the applicant pays only one-half of the license fee at the time of making the application, the other one-half of the fee shall be paid no later than June 1 of that year. All fees shall be paid into the General Fund. If a license is rejected, a full refund of the fee shall be made.

(B) *Pro rata fee*. Every license except a temporary license is issued for a period of one year and shall expire on January 1 or July 1, in the event that the second half of the license fee has not been paid for that year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing the fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific date on which a special event to which the sale in incident is being held, and the date shall be stated on the license.

(C) *Refunds*. No part of the fee paid for any license issued under this section shall be refunded except in the following instances upon application to the Council within 30 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 licensee 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 municipality making it unlawful for the licensed business to continue; or

(5) Change in owner - pro rata - in the event of a change in ownership of the underlying real property and/or business entity upon which the license is premised and issued.

(D) *Transfers.* Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without having been first considered by the Liquor Control Committee. Following the Liquor Control Committee's consideration of any proposed transfer, the Committee shall make a recommendation to the City Council. The Council shall consider the Committee's recommendation and approve or reject the transfer.

(E) *Pre-approval investigation.* The Liquor Control Committee shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Committee shall recommend that the City Council grant or refuse the application in its discretion. No license shall be granted to any applicant or premises on which taxes, assessments or other financial claims of the city or its utilities are delinquent and unpaid. Following the recommendation of the Committee, the City Council shall vote on the recommendation.

(F) *Application deadline.* All applications, including renewals, shall be filed on or before the first Friday in December. Applicants filing applications, including renewals, after the deadline or whose applications are still incomplete after the deadline, shall be required to pay an additional fee as set forth in the city schedule of charges and fees, commencing on the first business day after the deadline. Provided, however, that any application, including renewals, not filed and/or still incomplete as of the last regularly scheduled City Council meeting of that year shall not be accepted for filing or considered accepted. In the event that a request is made for the issuance of a new license, and the above-referenced deadline of the first Friday in December has passed, an additional fee shall be as set forth in the city schedule of charges and fees.

(G) *Non-enclosed premises.*

(1) Any application granted for the inclusion of non-enclosed premises in the licensed premises will be granted upon the terms and conditions as the Council may specify in granting the application relating to the limits of the use including provisions relating to:

(a) Barriers to be maintained delineating the unenclosed area such as requiring planters, walls or fences;

(b) Proposed lighting;

(c) Types of chairs and/or tables used and/or means to secure the same;

(d) Personnel required to supervise the proposed area;

(e) Items required by applicable fire, health, building and life safety codes;

(f) Maximum number of persons who may be present at any one time;

- (g) Means and methods used to restrict consumption to the licensed area and prevent removal or consumption of beverages outside licensed areas;
- (h) The type of beverage containers used;
- (i) Sanitary facilities provided, their location and number;
- (j) Days and times that the non-enclosed area would be used by the licensee; and
- (k) Outdoor music, entertainment and all other activities proposed.

(2) In the event that application is made herein at any time other than the time at which the license is renewed or initially granted, the Council may impose an additional fee per city schedule of charges and fees.
(Prior Code, § 702.04) (Ord. 02-05, passed 4-4-2005; Ord. 06-05, passed 6-6-2005; Ord. 08-07, passed 1-22-2008)

§ 120.068 DENIAL OF LICENSE.

- (A) No license shall be granted to or held by any person who:
- (1) Is under 21 years of age;
 - (2) Is a manufacturer of 3.2% malt liquor or intoxicating liquor or is interested in the control of any place where the liquor is manufactured;
 - (3) Is an alien or nonresident of the state;
 - (4) Is not of good moral character;
 - (5) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at the place; or
 - (6) Is not the proprietor of the establishment for which the license is issued.
- (B) In addition, the city may refuse to renew the license of and shall refuse to issue a new license to a person who, within five years of the license application, has been convicted of a willful violation of a federal, state law or local ordinance concerning the manufacture, sale, distribution or possession for sale or distribution of an intoxicating liquor or 3.2% malt liquor.
(Prior Code, § 702.04)

§ 120.069 INAPPROPRIATE LICENSEE/LOCATION.

(A) *Conviction/revocation.* The City Council shall not grant any licenses to any premises where a licensee has been convicted of violating this subchapter or any state liquor law or where any license to operate hereunder has been revoked for cause unless one year's time has elapsed after conviction or revocation. A plea of guilty shall constitute a conviction.

(B) *Distance from schools and churches.* No license shall be granted for any place within 200 feet of any school or church. In applying this restriction, the distance shall be measured between the main front entrances following the route of ordinary pedestrian travel.
(Prior Code, § 702.04)

§ 120.070 SUSPENSION/REVOCAION PROCESS.

The violation of any provision or condition of this subchapter or any other ordinance or state law or regulation relating to the sale, use or possession of 3.2% malt liquor or intoxicating liquor by a 3.2% malt liquor licensee or his or her agent is grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at the place shall be revoked without notice and without hearing. In all other cases, a license granted under this subchapter may be revoked or suspended by the Council after written notice to the licensee and a public hearing held by the Liquor Control Committee. Upon completion of the hearing, the Committee's recommendation shall be voted upon by the City Council. No additional hearings shall be held by the City Council. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The city may suspend any license pending a hearing on revocation or suspension. No suspension shall exceed 60 days. Repeated violations (more than two) by the same licensee, its heirs or assigns, may be subject to revocation of the license through the hearing process.
(Prior Code, § 702.04)

§ 120.071 REGULATION OF HOURS AND CONDUCT.

(A) *Hours of operation.*
(1) On any licensed premises, no sale of any 3.2% malt liquor or intoxicating liquor shall be authorized under this subchapter before 8:00 a.m. Sunday nor after 2:00 a.m. on Monday provided that the licensee is permitted to engage in those sales after 1:00 a.m. pursuant to M.S. Ch. 340A, as it may be amended from time to time. No sale shall be authorized between the time set for the cessation of consumption and 8:00 a.m. on any other day.
(2) No licensee or his or her agent shall allow another person to consume alcohol on a licensed premises from that period 30 minutes after sales are ceased by this subchapter until the next time sales are authorized or allowed by law. A person in charge of a licensed premises shall not allow alcoholic beverages in glasses, cups or other containers used for consumption of alcohol nor in open or uncorked cans or bottles following the expiration of the above-stated 30-minute grace period. Bottles and containers stored behind the bar with sealed lids, tappers or spout stoppers shall be considered corked.

Proctor, MN Code of Ordinances

(3) All patrons of the establishments shall be required to leave the licensed premises no later than 30 minutes after the time set for the cessation of consumption. All employees of the licensed premises (to include bartenders), members of musical performance groups removing equipment after their last scheduled show at a licensed establishment and janitors employed by a licensee shall be required to leave the premises no later than one hour after the time set for cessation of consumption.

(B) *Sales to certain persons prohibited.* No sales by a licensee hereunder shall be made:

(1) To a person under the age of 21 years;
(2) To a person in an intoxicated condition; or
(3) To any other person who is prohibited by federal, state or other local law, ordinance provision or other regulation from purchasing or possessing the same.

(C) *Certain activities prohibited.*

(1) No person on the premises shall engage in gambling or be allowed to do the same except that charitable or other gambling as allowed by state law and local ordinances may be permitted.

(2) No underage person (person under 21) shall be allowed to consume 3.2% malt liquor or intoxicating liquor on a licensed premises.

(3) No person under the age of 21 shall misrepresent his or her age for the purpose of inducing any licensee to serve him or her 3.2% malt liquor or intoxicating liquor in violation of this subchapter.

(4) (a) No sales by a licensee hereunder shall be allowed on Sundays unless a Sunday "on-sale" liquor license is purchased.

(b) There shall be Sunday retail on-sale licenses and Sunday club licenses. Such shall be issued only to a restaurant, hotel or club as defined in this subchapter. Restaurants and hotels so licensed shall have facilities for serving not less than 30 guests at one time. Any establishment which receives a Sunday on-sale license (including a club permit) may serve intoxicating liquors between the hours of 10:00 a.m. Sundays and 1:00 a.m. on Mondays. The licenses issued to hotels and restaurants must be utilized by the establishments in conjunction with the serving of food.

(5) Interest of manufacturers or wholesalers: no manufacturer or wholesaler of 3.2% malt liquor shall have any ownership of or interest in any establishment licensed to sell at retail contrary to the provisions of M.S. § 340A.38, as it may be amended from time to time. No retail licensee and manufacturer or wholesaler of 3.2% malt liquor shall be party to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of 3.2% malt liquor, and no manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(6) No person shall consume, mix or prepare intoxicating liquor for barter, display or sale in any public place or business unless licensed under this subchapter.

(7) Liquor dealer's stamp: no licensee shall sell 3.2% malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of the state to sell intoxicating liquors.

(8) Intoxicating liquor: no licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of a licensee shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this subchapter. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption and display permit.

(Prior Code, § 702.04) (Ord. 06-15, passed 1-19-2016) Penalty, see § 120.99

§ 120.072 ENFORCEMENT AND INSPECTION.

(A) *Purpose.* Because the city finds that there is a connection between high risk and illegal conduct related to the illegal sale and possession of alcoholic beverages within the city; and, since the city further believes it is in the best interests of its citizens for the city to regulate the sale and distribution of alcoholic beverages in a manner which will help to prevent illegal sales and the sale and possession of alcoholic beverages by minors and underage adults (those under the drinking age), the city believes that it is in the best interests of its citizens and the general public that the city adopt an ordinance providing for compliance checks and administrative penalties for licensees who sell, barter or dispense intoxicating (and non-intoxicating beverages) in violation of the provisions of M.S. Ch. 340A, as it may be amended from time to time, and applicable law.

(B) *Definitions and interpretations.* Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The term “shall” means mandatory and the term “may” means permissive. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell alcoholic beverages are following and complying with the requirements of applicable state laws and city ordinances with regard to the sale of alcoholic beverages. Compliance checks may involve the use of individuals (including minors) under the age of 21 as authorized by this section.

INTOXICATING AND NON-INTOXICATING LIQUOR. Alcoholic beverages as referred to in this subchapter are intended to refer to both intoxicating and non-intoxicating liquors as those terms are defined by Minnesota Statute and in this subchapter.

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

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

UNDERAGE ADULT. Any natural person who is an adult but who has not yet reached the legal age for the consumption of intoxicating or non-intoxicating beverages as defined by then existing Minnesota Statutes.

(C) *Responsibility.*

(1) *Enforcement.* It shall be the duty of all police officers of the city to enforce the provisions of this subchapter and state law regarding intoxicating liquors, to search premises and seize evidence of violation, reserve the same as evidence against the person alleged to be in violation, and to prepare the necessary processes and papers therefor.

(2) *Inspections.* Any private club allowing the consumption or display of intoxicating liquor shall be open at all reasonable hours for inspection by the Commissioner of Public Safety, his or her designated agents, and any peace officer, health officer or other properly designated officer of the city. Refusal to permit the inspection shall be a violation of this code.

(3) *Licensees responsible.* All licensees shall be responsible for the actions of their employees in regard to the sale of alcoholic beverage on the licensed premises, and for purposes of this subchapter the sale of an item by an employee shall be considered a sale by the license holder. Additionally, every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.

(D) *Citation process and right to a hearing.* Upon discovery of a violation of this section or pursuant to a compliance check, the involved clerk or bartender and the licensee shall be issued a citation by city police. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. All fees imposed by this section will be payable to the City Administrator. No administrative fee may be imposed until the clerk or bartender and the licensee has received written notice of the violation by personal service or by certified mail sent to the location of the alleged violation and the cited parties have been afforded an opportunity for a hearing. Any cited party that requests a hearing in writing within 20 days of the date of mailing of the written notice of violation will be afforded an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing and will be completed within ten days of the hearing.

(E) *Right to obtain a transcript.* If a hearing is requested, the hearing will not be recorded and will only be transcribed if all financial arrangements are made in advance with a certified court reporter by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the city with a copy of the transcript at no cost to the city.

(F) *Compliance checks and inspections.*

(1) *Generally.* All licensed premises shall be open to inspection by city police or other authorized city officials during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging underage youth to enter the licensed premises to attempt to purchase alcoholic beverage. No minor or underage adult used in compliance checks shall attempt to use a false identification or theatrical makeup which misrepresents their age. All minors and underage adults lawfully engaged in a compliance check shall answer all questions about their age truthfully when asked by the licensee and shall produce any identification which he or she is asked to produce. In all instances, the minors or underage adults shall be accompanied by city police or authorized city officials to the location of the compliance check.

(2) *Mandatory keg registration.* As of the date of the adoption of this section codified in this subchapter, all off-sale licensed establishments will be required to register and mark for identification all kegs sold to the public. The information that will be required for registration includes, but is not limited to, any registration number located or placed on the keg, the name and address and driver's license number of the individual to whom the keg was sold, the day in which the keg was sold, the brand of beer in the keg and the keg size. Merchants/licensees will be required to maintain this information on all kegs sold within the city for a minimum of one year. In addition, the merchant/licensee will be required to make this information available to the city police officers upon demand during normal hours of operation. Merchant license holders will be required to mark the kegs sold in a manner in which to allow them to specifically identify them.

(G) *Exceptions and defenses.* Nothing in this subchapter shall prevent the providing or use of alcoholic beverages to underage adults or minors as part of a lawfully recognized religious, spiritual or cultural ceremony or by a parent or guardian of a minor or underage adult in the household of the parent or guardian. It shall also be an affirmative defense to the violation of this subchapter for a person to have reasonably relied on proof of age as described by law.

(H) *Severability and savings clause.* If any section or portion of this subchapter shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or provision of this subchapter.

(I) *Judicial review.* Any person who maintains they are aggrieved by a decision pursuant to this section may have the decision reviewed in the district court consistent with M.S. § 462.361, as it may be amended from time to time.
(Prior Code, § 702.04) Penalty, see § 120.99

PUBLIC CONSUMPTION OF ALCOHOL

§ 120.085 VIOLATIONS.

No person shall consume 3.2% malt liquor or intoxicating liquor on a public street, highway, sidewalk, in a public park or upon any other publicly owned property.
(Prior Code, § 703.01) (Ord. 02-05, passed 4-4-2005) Penalty, see § 120.99

§ 120.086 PERMITS.

The public body governing and controlling the public property may, upon notice to the City Police Department, permit the consumption in limited areas maintained for that purpose.
(Prior Code, § 703.01)

§ 120.087 TEMPORARY AND/OR ONE DAY LICENSE HOLDERS.

Persons consuming non-intoxicating malt liquor or intoxicating liquor in public areas for which a valid “temporary” or “one day” license has been issued pursuant to §§ 120.021(C) or 120.053, shall be exempt from the provisions of this subchapter; provided that all other requisites of this chapter have been complied with.
(Prior Code, § 703.01)

§ 120.999 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any licensee’s designated representative who misrepresents his or her annual gross 3.2% malt liquor sales or projected sales under § 120.022(A) as described in the required affidavit (§ 120.023) filed with the Clerk-Treasurer shall be guilty of a misdemeanor.

(Prior Code, § 702.01)

(C) (1) Notwithstanding the provisions in § 120.072(A) through (C), the clerk or employee specifically involved in a compliance check violation or determined to have violated §§ 120.065 through 120.072 will be personally liable to pay an administrative fee in addition to any fees or license suspensions or revocations imposed upon the employer or license holder.

(2) It is hereby determined that the following penalty schedule is adopted.

(a) A first offense violation will result in an administrative fee of an amount set by City Council from time to time by resolution to the merchant license holder and a penalty fee of an amount set by City Council from time to time by resolution to the individual clerk or bartender involved in the violation. The administrative fee assessed the merchant license holder will be waived if the merchant license holder was not the individual clerk or bartender involved directly in the violation and if the merchant license holder can provide proof within 14 days of the date of the violation that the employee involved in the violation had attended RBS (responsible beverage service) staff training prior to the alleged offense as approved by the city.

(b) A second offense violation within 24 months of the first violation will result in an administrative penalty of an amount set by City Council from time to time by resolution to any clerk or bartender previously cited within 24 months and an administrative penalty of an amount set by City Council from time to time by resolution to any merchant/licensee whose clerk was previously cited for a violation of §§ 120.065 through 120.072 within a 24-month period. If the clerk or bartender cited has not been previously cited in the preceding 24-month period, the administrative fee of the merchant/licensee will be reduced to an amount set by City Council from time to time by resolution if the merchant license holder can provide proof that his or her employees have attended staff ID training as approved by the city within 14 days of the determination of a violation. Failure to comply with this mandate may result in an additional suspension or revocation of any license issued by the city.

(c) A third offense violation within 24 months will result in an administrative penalty of an amount set by City Council from time to time by resolution to any clerk or bartender cited with two prior violations of §§ 120.065 through 120.072 and will result in an administrative penalty of an amount set by City Council from time to time by resolution to any merchant/licensee whose clerk was previously cited for a violation of §§ 120.065 through 120.072 within a 24-month period. If the clerk or bartender cited has not been previously cited in the preceding 24-month period the administrative fee of the merchant/licensee will be reduced to an amount set by City Council from time to time by resolution if the merchant license holder can provide proof that his or her employees have attended staff ID training as approved by the city within 14 days of the determination of a violation. Failure to comply with this mandate may result in an additional suspension or revocation of any license issued by the city.

(d) A fourth offense violation within a 24-month period by a licensee will result in a penalty fee of an amount set by City Council from time to time by resolution to the merchant/license holder. The merchant/license holder will also be required to provide proof that his or her employees have attended staff ID training as approved by the city within 14 days of determination of violation. Failure to comply with these mandates may result in an additional suspension or revocation of any license issued by the city.

(e) In each instance where the clerk or bartender involved in a violation is also the merchant license holder, the individual cited will receive only the penalty prescribed for the merchant license holder.

(3) All administrative fees imposed by §§ 120.065 through 120.072 are deemed payable within 60 days of the date of citation or no later than 30 days after the date of any written decision determining that a violation has occurred for all appeals. Failure to pay any administrative fee imposed within the time limits set herein will result in a license suspension until the date of payment.

(D) Failure to comply with § 120.072(F) will result in an administrative penalty of an amount set by City Council from time to time by resolution for a first offense and of an amount set by City Council from time to time by resolution for a second or any subsequent offense.

(Prior Code, § 702.04)

(E) Any violation of §§ 120.085 through 120.087 shall constitute a petty misdemeanor with a fine subject to the city administrative fine schedule.

(Prior Code, § 703.01)

(Ord. 02-05, passed 4-4-2005; Ord. 02-10, passed 4-19-2010)

CHAPTER 121: SHORT-TERM VACATION RENTALS

Section

- 121.01 Purpose
- 121.02 Definitions
- 121.03 Exemptions
- 121.04 License required

Proctor, MN Code of Ordinances

121.05	Application
121.06	Lodging tax
121.07	Expiration of license
121.08	Renewal of license
121.09	Permitted premises
121.10	Recreational vehicles
121.11	Licenses not transferable
121.12	Registered agent required
121.13	Responsibility of owners
121.14	Disorderly conduct prohibited
121.15	Permit revocation
121.16	Violation
121.17	Zoning
121.18	Current short-term rentals

§ 121.01 PURPOSE.

The purpose of this chapter is to ensure that the short-term rental of dwelling units within the city is conducted, operated and maintained in a manner so as to protect the public health, safety and welfare of the citizens of the city, and so as to not become a nuisance to the surrounding neighborhood.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.02 DEFINITIONS.

The following terms, as used in this chapter, shall have the meanings stated in this section.

DWELLING. Any building, or portion thereof, which is designed for or used for residential purposes.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit equipped and intended to be used for living, sleeping, cooking and eating.

ON-PREMISES SIGN. As defined in § 155.227.

OPERATE. To charge a rental charge for the use of a unit in a dwelling.

OWNER. Any person who, alone or jointly or severally with others:

(1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, prime tenant, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this section, to the same extent as if that person were the owner.

PERSON. Any individual, firm, corporation, association or partnership.

RECREATIONAL VEHICLE. Any of the following:

(1) **MOTOR HOME.** A portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

(2) **PICK-UP COACH.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

(3) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a **TRAVEL TRAILER** by the manufacturer of the trailer.

SHORT-TERM RENTAL. The rental or lease of a dwelling unit, in whole or in part, for 30 days or less.

SHORT-TERM RENTAL PERMIT. The permit issued by the city for the rental or lease of a dwelling unit, in whole or in part, for 30 days or less.

SOLID WASTE. Garbage, refuse or any other discarded solid organic or inorganic materials.

TENANT. Any person who is occupying a dwelling unit, in whole or in part, under any agreement (written or oral), lease or contract.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.03 EXEMPTIONS.

This chapter shall not apply to hospital units or rooms, nursing homes, retirement homes, hotels, motels, bed and breakfasts, or other similar rental space that is otherwise licensed by the state or the city.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.04 LICENSE REQUIRED.

No owner shall undertake the short-term rental of any dwelling unit to a tenant or tenants unless properly permitted by state, county and any other governmental regulations, and as hereinafter provided.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.05 APPLICATION.

An owner desiring to undertake or allow the short-term rental of a dwelling unit in the city shall apply for a short-term rental license. The application shall be submitted by the owner. The permit application shall be on a form prescribed by the city and shall include all required information.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.06 LODGING TAX.

Short-term rentals are subject to lodging tax as provided for in the city code. An application for a short-term rental license must be accompanied by a lodging tax form, as prescribed by the city, including all required information. A short-term rental permit holder is required to file monthly lodging tax reports.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.07 EXPIRATION OF LICENSE.

A short-term rental license shall expire annually on December 31, unless suspended or revoked as provided for in this chapter.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.08 RENEWAL OF LICENSE.

Applications for the renewal of an existing short-term rental license must be made at least 60 days prior to the expiration of the current short-term rental license. All such applications shall be made to the city on forms provided by the city.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.09 PERMITTED PREMISES.

Short-term rentals shall only be licensed for dwelling units located on conforming lots as defined in the zoning ordinance. All licensed premises must be hooked up to city water and sewer services.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.10 RECREATIONAL VEHICLES.

The short-term rental of recreational vehicles parked or otherwise located on property outside of designated campsites within the city is prohibited.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.11 LICENSES NOT TRANSFERABLE.

No short-term rental licenses shall be transferable to another person or another dwelling unit. Every person holding a short-term rental license shall give notice in writing to the city within five business days after having legally transferred or otherwise disposed of the legal control of any dwelling unit for which a short-term rental license has been issued. Such notice shall include the name and address of the person succeeding to the ownership or control of such dwelling unit.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.12 REGISTERED AGENT REQUIRED.

No short-term rental permit shall be issued without the designation of a local agent. The agent must live and work within 30 miles of the dwelling unit. The agent may be, but is not required to be, the owner. One person may be the agent for multiple dwelling units. At all times, the agent shall have on file with the city primary and secondary telephone numbers as well as a current address. The agent or a representative of the agent shall be available 24 hours a day during all times that the dwelling unit is being rented, at the primary or secondary telephone number, to respond immediately to complaints and contacts relating to the dwelling unit. The city shall be notified in writing within five business days of any change of agent. The agent shall be responsible for the activities of tenants and for the maintenance and upkeep the dwelling unit and shall be authorized and empowered to receive notice of a violation of the provisions of city ordinances and state law, to receive orders, to institute remedial action to effect such orders, and to accept service of process pursuant to law. (Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.13 RESPONSIBILITY OF OWNERS.

No owner shall undertake or allow the short-term rental of a dwelling unit that does not comply with all applicable city ordinances, the laws of the state, and this section. It shall be the owner's responsibility to ensure compliance with the following:

(A) *Maintenance standards.* Every dwelling unit used for short-term rental shall conform to all building and zoning requirements of the city and the laws of the state.

(B) *Parking.* All short-term rentals shall have their own designated, off-street parking and their own drive, not shared with another dwelling or business.

(C) *Signs prohibited.* On-premises signs are prohibited.

(D) *Tenants.* The owner or registered agent shall maintain a list of all current and prior tenants of each dwelling unit, including the dates they stayed at the dwelling unit. The owner or registered agent shall make the list available to city staff and/or law enforcement upon request.

(E) *Emergency contact.* The owner shall post within the dwelling unit the name, address, email and primary and secondary telephone numbers of the owner or any registered agent that can be utilized 24 hours a day by tenants or their guests.

(F) *Noise standards.* Quiet hours shall be between 10:00 p.m. and 8:00 a.m. Any outdoor amplified sound during this time that can be heard by neighboring property owners is prohibited.

(G) *Solid waste.* The owner shall ensure that appropriate solid waste and/or recycling bins are available for use by tenants and guests, and shall not be stored in public view.

(H) *Posted notice.* The owner shall post within the dwelling unit notice of all use restrictions as set forth in this chapter.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.14 DISORDERLY CONDUCT PROHIBITED.

Disorderly conduct is prohibited on all permitted premises. It shall be the responsibility of the owner to ensure that all tenants occupying the permitted premises, and their guests, conduct themselves in such a manner as not to cause the permitted premises to be disorderly. For purposes of this section, disorderly conduct refers to any disorderly conduct violation under state statutes or city ordinances.
(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.15 PERMIT REVOCATION.

Every short-term rental permit is subject to revocation for violations of this chapter or any other provision of state statutes or city ordinances.

(A) *Violations.* Violations of this chapter shall be reported to the City Clerk's office and/or the City Council. The City Council shall review the violation and provide written notice to the permit holder of the violation and any necessary remedial actions.

(B) *Revocation.* If a license holder fails to correct a violation or receives three violations within any 12-month period, the City Council shall recommend revocation of the short-term rental license. The City Council and the City Clerk shall provide written notice to the owner and any registered agent of the revocation. The notice shall inform the owner and agent of the right to appeal the decision of the City Council.

(C) *Appeal.* A license holder aggrieved by the revocation of a short-term rental license may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk's office within ten days after date of issuance of the written revocation notice, a written statement requesting a hearing before the City Council and setting forth fully the grounds for the appeal. A hearing shall be held within 30 days of receipt of the request. Notice of the hearing shall be given by the City Clerk in writing, setting forth the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her last known address at least five days prior to the date set for hearing.

(D) *Effect of revocation.* If a short-term rental permit is revoked, it shall be unlawful for anyone to thereafter allow any new short-term rental occupancies of the dwelling unit until such time as a valid short-term rental permit is issued by the city. No person who has had a permit revoked under this section shall be issued a short-term rental permit for one year from the date of revocation.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.16 VIOLATION.

Any person who undertakes or allows any violation of this chapter shall be guilty of a misdemeanor.

(Ord. 05-19, passed 12-16-2019; Ord. 04-20, passed 3-16-2020)

§ 121.17 ZONING; EXISTING SHORT-TERM RENTALS.

Short-term rentals shall only be allowed uses in R3 zones and up, and shall only be allowed pursuant to conditional use permits. Further, the conditional use permit issued to a licensed short term rental owner shall cease if the property is sold, either through a conveyance or through the conveyance of a controlling interest in a business entity.

(Ord. 04-20, passed 3-16-2020)

§ 121.18 CURRENT SHORT-TERM RENTALS.

Existing short-term rental properties which are not in an allowed zone shall only be permitted to operate as a short-term rental for an additional period of six months after the passage of this chapter. Existing short-term rental properties which are in zones permitted by this chapter shall only be permitted as allowed herein, by obtaining a conditional use permit and licensure.

(Ord. 04-20, passed 3-16-2020)