

TITLE XI: BUSINESS REGULATIONS

Chapter

110.TOBACCO REGULATIONS

111.ALCOHOLIC BEVERAGES

112.GENERAL LICENSING PROVISIONS

113.THERAPEUTIC MASSAGE

114.CABLE TV FRANCHISE TO CENTURY LINK

CHAPTER 110: TOBACCO REGULATIONS

Section

- 110.01 Purpose
- 110.02 Definitions and interpretations
- 110.03 License
- 110.04 Fees
- 110.05 Basis for denial of license
- 110.06 Prohibited sales
- 110.07 Vending machines
- 110.08 Self-service sales
- 110.09 Responsibility
- 110.10 Compliance checks and inspections
- 110.11 Other illegal acts
- 110.12 Violations
- 110.13 Exceptions and defenses
- 110.14 Effective date

- 110.99 Penalty

§ 110.01 PURPOSE.

This chapter is intended to regulate the sale, dispensing, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and furthering existing laws and to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices.

(Ord. 92, passed 8-13-1998)

§ 110.02 DEFINITIONS AND INTERPRETATIONS.

(A) 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 masculine shall include the feminine and neuter, and vice versa. The term **SHALL** means mandatory and the term **MAY** means permissive.

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

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

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

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

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

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

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

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

SELF-SERVICE MERCHANDISING. Open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, including, but not limited to: cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco;

snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing, or smoking.

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

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to obtain the tobacco, tobacco product, or tobacco-related device.
(Ord. 92, passed 8-13-1998)

§ 110.03 LICENSE.

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

(B) *Application.*

(1) An application for a license to sell and dispense tobacco, tobacco products, or tobacco-related devices shall be made on a form provided by the city.

(2) The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary.

(3) Upon receipt of a completed application, the City Clerk shall forward the application to the Council for action at its next regularly scheduled Council meeting.

(4) If the Clerk shall determine that an application is incomplete, the Clerk shall return the application to the applicant with notice of the information necessary to make the application complete.

(C) *Action.*

(1) The Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

(2) If the Council shall approve the license, the Clerk shall issue the license to the applicant.

(3) If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

(D) *Term.* All licenses issued under this chapter shall be valid for 1 calendar year from January 1.

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

(F) *Transfers.*

(1) All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

(2) No transfer of any license to another location or person shall be valid without the prior approval of the Council.

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

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

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

(Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.04 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be \$100 and shall be prorated at \$8.50 per month for applications for less than a 1-year period.

(Ord. 92, passed 8-13-1998)

§ 110.05 BASIS FOR DENIAL OF LICENSE.

(A) *Generally.*

(1) The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

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

(B) *Grounds for denying issuance or renewal.*

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

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

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

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

(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding such a license.
(Ord. 92, passed 8-13-1998)

§ 110.06 PROHIBITED SALES.

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

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

(B) By means of any type of vending machine, except as may otherwise be provided in this chapter;

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

(D) By means of loosies, as defined in § 110.02;

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; and/or

(F) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance, or other regulation.
(Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.07 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale or dispensing of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.
(Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.08 SELF-SERVICE SALES.

(A) It shall be unlawful for a licensee under this chapter to allow the sale or dispensing of tobacco, tobacco products, or tobacco-related devices by any means whereby the customer may have access to the items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco-related device between the licensee or the licensee's employee and the customer.

(B) All tobacco, tobacco products, and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

(C) Any licensee selling or dispensing tobacco, tobacco products, or tobacco-related devices at the time this chapter is adopted shall comply with this section within 60 days following the effective date of this chapter.
(Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.09 RESPONSIBILITY.

(A) All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale or dispensing of tobacco, tobacco products, and tobacco-related devices on the licensed premises, and the sale or dispensing of such an item by an employee shall be considered a sale or dispensing by the license holder.

(B) Nothing in this section shall be construed as prohibiting the city from also subjecting the employee to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.
(Ord. 92, passed 8-13-1998)

§ 110.10 COMPLIANCE CHECKS AND INSPECTIONS.

(A) All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours.

(B) From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter the licensed premises to attempt to purchase or obtain tobacco, tobacco products, or tobacco-related devices.

(C) Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel.

(D) Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when the items are obtained as a part of the compliance check.

(E) No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which he or she is asked.

(F) Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law. (State law now mandates at least 1 unannounced compliance check per year for each licensed premises.)

(Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.11 OTHER ILLEGAL ACTS.

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

(A) For any person to sell, dispense, or otherwise provide any tobacco, tobacco product, or tobacco-related device to any minor;

(B) For any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This division (B) shall not apply to minors lawfully involved in a compliance check;

(C) For any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device;

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

(E) For any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person. (Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.12 VIOLATIONS.

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

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

(C) *Hearing officer.* The City Council shall serve as the hearing officer.

(D) *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under § 110.99, shall be recorded in writing, a copy of which shall be provided to the accused person. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the previously accused person who shall then be considered acquitted.

(E) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the District Court for Ramsey County, Minnesota.

(F) *Misdemeanor prosecution.*

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

(2) If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(G) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
(Ord. 92, passed 8-13-1998) Penalty, see § 110.99

§ 110.13 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony.
(Ord. 92, passed 8-13-1998)

§ 110.14 EFFECTIVE DATE.

This chapter becomes effective upon its passage and publication according to law.
(Ord. 92, passed 8-13-1998)

§ 110.99 PENALTY.

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

(B) *Other persons.* Persons other than minors regulated by division (C) below and licensees found to be in violation of this chapter shall be charged an administrative fee of \$50.

(C) *Minor.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices, shall be referred to the Northwest Youth and Family Services diversion program.

(D) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter in addition to any other penalty which may be imposed.
(Ord. 92, passed 8-13-1998)

Cross-reference:

General penalty, see § 10.99

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

Intoxicating Liquor and 3.2% Malt Liquor

- 111.01 Provisions of state law adopted
- 111.02 Intoxicating liquor license required
- 111.03 3.2% malt liquor license
- 111.04 Application for license
- 111.05 License fees
- 111.06 Granting of licenses
- 111.07 Persons ineligible for license
- 111.08 Conditions of license
- 111.09 Suspension and revocation
- 111.10 Effective date

INTOXICATING LIQUOR AND 3.2% MALT LIQUOR

§ 111.01 PROVISIONS OF STATE LAW ADOPTED.

The provisions of M.S. Chapter 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sale, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are adopted and made a part of this subchapter as if fully set out in full herein. (Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

§ 111.02 INTOXICATING LIQUOR LICENSE REQUIRED.

(A) *General requirement.* No person shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this subchapter. Liquor licenses shall be of 5 kinds: “on-sale,” temporary “on-sale,” “on-sale” wine, “off-sale,” and club licenses.

(B) *On-sale licenses.* On-sale intoxicating liquor licenses shall be issued only to hotels, clubs, bowling centers, and restaurants and shall permit on-sale of liquor only.

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

(D) *Temporary on-sale licenses.* Subject to the approval of the Commissioner of Public Safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other nonprofit organizations in existence for at least 3 years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the State Liquor Act.

(E) *Off-sale licenses.* Off-sale intoxicating liquor licenses shall be issued only to exclusive liquor stores.

(F) *Special club licenses.* Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans organizations which have been in existence at least 3 years and meet the qualifications of M.S. § 340A.101, Subd. 7, as it may be amended from time to time.

(G) *Special license for Sunday sales.* A special license authorizing sales of intoxicating liquor on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least 30 guests at 1 time, and which has an on-sale license. A special Sunday license is not needed for Sunday sales by wine licensees.
(Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992) Penalty, see § 10.99

§ 111.03 3.2% MALT LIQUOR LICENSE.

(A) On-sale and off-sale 3.2% malt liquor licenses may be issued to any business eligible for that license under state law.

(B) Licenses for the sale of 3.2% malt liquor, whether on-sale or off-sale, may be issued in any combination and in the numbers as may be permitted by state law and, where otherwise not provided, in the numbers as the governing body shall determine.

(C) The sale of 3.2% malt liquor, whether on-sale or off-sale, shall be permitted during the hours and on the days as authorized by state law.

(D) Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale license to sell 3.2% malt liquor and may sell the same at on-sale without further license.

(E) Any person licensed to sell intoxicating liquor at off-sale shall not be required to obtain an off-sale license to sell 3.2% malt liquor and may sell the same at off-sale without further license.
(Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992) Penalty, see § 10.99

§ 111.04 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license to sell intoxicating liquor, 3.2% malt liquor, or wine shall state the name of the applicant, his or her age, representations as to his or her character, 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 the other information as the Council may require from time to time. In addition to containing the information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

(B) *Financial responsibility.*

(1) No retail license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as required in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. The proof shall be submitted to the Commissioner of Public Safety.

(2) The security offered shall be approved by the City Council. Operation of a licensed business without having on file with the city at all times effective security is a cause for revocation of the license.

(Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

§ 111.05 LICENSE FEES.

(A) *Fees.* The annual fee shall be for an on-sale intoxicating liquor license; for an on-sale wine license; for an off-sale intoxicating liquor license; for an on-sale 3.2% malt liquor license; and, for a special club license shall be in an amount set by Council from time to time. The fee for a temporary on-sale intoxicating liquor or on-sale 3.2% malt liquor license shall be set by the Council at the time the application is approved.

(B) *Payment.* Each application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the license fee and the fixed investigation fee, if any, required under § 111.06. All fees shall be paid into the general fund. If an application for a license is rejected, the Clerk shall refund the amount paid as the license fee.

(C) *Term; pro rata fee.* Each license shall be issued for a period of 1 year, except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as 1 month. Every license shall expire on the last day of December.

(D) *Refunds.* No refund of any fee shall be made except as authorized by Minnesota Statutes.
(Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

§ 111.06 GRANTING OF LICENSES.

(A) Preliminary investigation.

(1) On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with his or her application an investigation fee of \$100 and the city shall conduct a preliminary background and financial investigation of the applicant.

(2) The application in the case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with the additional information as the Council may require.

(3) If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine.

(4) In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation.

(5) No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest.

(B) Hearing and issuance.

(1) The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to division (A) above.

(2) Opportunity shall be given to any person to be heard for or against the granting of the license.

(3) After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application.

(4) No on-sale wine license or off-sale intoxicating liquor license shall become effective until it has been approved by the Commissioner of Public Safety.

(C) Person and premises licensed; transfer.

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

(2) No license may be transferred to another person or place without City Council approval.

(3) Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. (Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

§ 111.07 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person made ineligible for such a license by state law. No more than 1 intoxicating liquor license shall be directly or indirectly issued within the city to any 1 person. (Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

§ 111.08 CONDITIONS OF LICENSE.

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

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

(C) *Licensee's responsibility.* Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell the beverages in the establishment is the act of the licensee. (Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992) Penalty, see § 10.99

§ 111.09 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for up to 60 days or revoke any retail license, or impose a civil fine not to exceed an amount set by Council from time to time, for each violation upon a finding that the licensee has failed to comply with an applicable statute, regulation, or ordinance relating to alcoholic beverages.

(B) Except in cases of failure of financial responsibility required by M.S. § 340A.409, as it may be amended from time to time, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing under M.S. §§ 14.57 to 14.70 of the Administrative Procedure Act, as they may be amended from time to time.

(C) Lapse of required insurance or bond, or withdrawal of a required deposit of cash or securities required by M.S. § 340A.409, as it may be amended from time to time, shall effect an immediate suspension of any license issued pursuant to this subchapter without further action by the City Council.

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

(E) The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if the request is made in writing to the Clerk a hearing shall be granted within 10 days or such longer period as may be requested.

(F) Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirements of this subchapter have again been met.
(Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

§ 111.10 EFFECTIVE DATE.

This subchapter becomes effective upon its passage and publication according to law.
(Ord. 81, passed 7-22-1991; Am. Ord. passed 9-10-1992)

CHAPTER 112: GENERAL LICENSING PROVISIONS

Section

- 112.01 License required
- 112.02 Application
- 112.03 Fees
- 112.04 Issuance of licenses; temporary licenses
- 112.05 Expiration
- 112.06 Minimum qualifications
- 112.07 Revocation or suspension
- 112.08 Period of suspension
- 112.09 Revocation upon violations
- 112.10 Insurance

- 112.99 Penalty

§ 112.01 LICENSE REQUIRED.

Before any person shall engage in the business of performing any of the work listed below in this section within the City of North Oaks, whether as a contractor, employee, or independent contractor, such person shall first obtain a license to do so as hereinafter provided:

(A) General construction, including alteration or repair of any structure, where such work is deemed commercial in nature and not within the exclusive licensing authority of the State of Minnesota.

(B) Mechanical contracting work, including installation, alteration or repair of any heating, ventilation, air conditioning, refrigeration or wood burning system or appliance.

(C) Tree trimming, tree removal, tree stump removal, tree maintenance or tree disease prevention. (Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005) Penalty, see § 112.99

§ 112.02 APPLICATION.

Application for licenses required by § 112.01 above shall be filed with the City Administrator on forms provided by the city.
(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.03 FEES.

The fee for a license granted under § 112.01 above shall be established annually by the city. The fee shall be an annual fee which is not prorated regardless of when the license is granted or renewed.
(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.04 ISSUANCE OF LICENSES; TEMPORARY LICENSES.

All licenses shall be issued by the City Administrator after approval by the City Council. A temporary license may be issued by the City Administrator with the approval of the Mayor, which approval shall be at the Mayor's sole discretion, to be effective only until the next regular City Council meeting is held.
(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.05 EXPIRATION.

All licenses shall expire on the thirty-first day of December following the date of issuance, unless sooner revoked or forfeited.
(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.06 MINIMUM QUALIFICATIONS.

No license shall be issued to an applicant for work which is also licensed by the State of Minnesota unless such applicant already possesses the license required by the State of Minnesota. No license shall be issued for the work described at § 112.01(C) unless the person (or a person in such person's employ who is supervising the work) is an ISA Certified Arborist or such person attends an annual workshop by the City Forester which addresses tree, shrub and other woody plant maintenance and removal practices.
(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005) Penalty, see § 112.99

§ 112.07 REVOCATION OR SUSPENSION.

The City Council may suspend or revoke the license of any person whose work is found to be improper, defective or so unsafe as to jeopardize life or property. The licensee shall be given 20-days' written notice by certified mail, return receipt requested, and granted the opportunity to be heard before such action is taken. If such notice is sent to the address of the licensee that appears on the application for license, and the person fails or refuses to appear at said hearing, then the license will be automatically suspended or revoked 5 days after the date of hearing.

(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.08 PERIOD OF SUSPENSION.

When a license is suspended, the period of suspension shall be as determined by the City Council.

(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.09 REVOCATION UPON VIOLATIONS.

When any licensee has been convicted for the second time by a court of competent jurisdiction for violation of any city ordinance, then the City Council shall revoke the license of the person so convicted. Such person may not make application for a new license for a minimum period of 1 year after revocation.

(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.10 INSURANCE.

Any person applying for a license shall file with the application a certificate of insurance provided by an insurance company authorized to do business in the State of Minnesota with coverage and for amounts required by the city. Such insurance certificate shall indicate that the insurance coverage will not be changed or cancelled without at least 10-days' prior written notice to the city. Receipt by the city of notice that such insurance coverage will be cancelled or changed so as not to meet the minimum requirements established by the city will result in the license being suspended until evidence that the required insurance coverage is in force; provided, however, if such evidence of insurance coverage is not provided within 30 days after the city's receipt of the notice of cancellation or change, then the license shall automatically be deemed revoked and terminated.

(Ord. 42, passed 10-15-1964; Am. Ord. passed 1-11-1979; Am. Ord. passed 4-13-1995; Am. Ord. 42-A, passed 9-8-2005)

§ 112.99 PENALTY.

Any person performing work within the City of North Oaks without a valid license as required in this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$700 or shall be imprisoned for a period not to exceed 90 days, or both.
(Am. Ord. 42-A, passed 9-8-2005)

**CITY OF NORTH OAKS
ORDINANCE 113
TO REGULATE THERAPEUTIC MASSAGE ESTABLISHMENTS
AND MASSAGE THERAPISTS**

Adding Title XI, Section 113 of the North Oaks Code of Ordinances relating to Licenses and Business Regulations for Therapeutic Massage and Establishments.

The City Council of the City of North Oaks does ordain as follows:

That the North Oaks Code of Ordinances be amended by adding thereto a new Section 113 to read as follows:

§ 113.10. PURPOSE.

The purpose and intent of this Ordinance is to regulate Therapeutic Massage Establishments and Massage Therapists, as defined herein, in order to protect and promote the public health, safety and welfare by:

- A. Providing a clean, sanitary, healthy and safe environment in which Massage Therapists can operate.
- B. Recognizing Therapeutic Massage as a legitimate business occupation.

§ 113.20. DEFINITIONS.

As used in this Section, the following terms shall mean:

- A. "Therapeutic Massage" shall mean, for the purposes of this ordinance, services consisting of or relating to any method of the manipulation of soft body tissue (muscle, connective tissue, tendons and ligaments), including but not limited to applying pressure to, or friction against, or rubbing, stroking, kneading, tapping or rolling of the external parts of the human body.
- B. "Massage Therapist" shall mean any person who offers Therapeutic Massage.
- C. "Therapeutic Massage Establishment" shall mean any place wherein Therapeutic Massage is conducted by a Massage Therapist.
- D. "City" shall mean the city of North Oaks located in Minnesota.
- E. "Applicant" shall mean either the owner of the Therapeutic Massage Establishment or the Massage Therapist, who applies for the license.
- F. "Responsible Person" shall mean a parent or guardian of a minor.

§ 113.30. EXEMPTIONS.

The following persons are exempt from compliance with the provisions of this Section: Persons licensed or registered to practice medicine, surgery, nursing, osteopathy, chiropractic, dentistry, physical therapy, or podiatry, and individuals performing Therapeutic Massage under the direction of such persons, provided that they are rendering Therapeutic Massage within their scope of employment.

§ 113.40. LICENSE REQUIRED.

Except as otherwise provided herein, no person shall provide Therapeutic Massage or engage in the business of operating a Therapeutic Massage Establishment, without first obtaining a license issued by the City. The license of a Therapeutic Massage Establishment and the license of each Massage Therapist must be displayed prominently on its premises.

§ 113.50. LICENSE REQUIREMENTS.

- A. Investigations. The City is empowered to conduct any and all investigations to verify the information on applications submitted under this section, including ordering a criminal history inquiry and/or a driver's license/identification history inquiry on the Applicant or persons listed in the application, and any other inquiry deemed necessary by the City or its agents.
- B. Application for a Therapeutic Massage Establishment. The application for a license, or renewal of a license, for a Therapeutic Massage Establishment shall be made only upon forms furnished by the City and when completed by the Applicant, shall be filed with the City, and shall contain the following information:
1. Names and addresses of the business owner, the manager or operator and, if a corporation, and names and addresses of the officers of such corporation.
 2. Names of all persons performing Therapeutic Massage in the Therapeutic Massage Establishment, including any names they have ever used or been known by.
 3. A statement as to whether the persons named in Section 113.50(B) have had any license denied, revoked or suspended, and the reason therefor.
 4. Applicant shall include information about past applications for a license with the City for operating a Therapeutic Massage Establishment, including if the application was denied or the license was revoked or suspended and the reason therefor.
 5. A description of any crime or other offense, including the time, place, date and disposition for which any of the persons required to be named in Section 113.50(B) have been arrested and convicted.
 6. Proof of Insurance and policy coverage.
 7. The applicant shall report any disciplinary action recorded by the Office of Unlicensed Complementary and Alternative Health Care Practice in the Minnesota Department of Health, Health Occupations Program and/or from other similar state agencies, of any employee of the Therapeutic Massage Establishment.
 8. A description of services to be offered related to Therapeutic Massage.
- C. Application for a Massage Therapist. The application for a license, or renewal of a license, for a Massage Therapist shall be made only upon forms furnished by the City and

when completed by the Applicant shall be filed with the City, and shall contain the following information:

1. The name, address and birth date of the Applicant.
 2. A statement as to whether the Applicant has received a Comprehensive Certificate of Massage from a school recognized by the Minnesota Higher Education Board, or certification or licensing from an equivalent accredited out of state institution and be a member in good standing of the Minnesota Therapeutic Massage Network or the American Massage Therapy Association or other organizations possessing the same or similar standards and having an enforceable code of ethics.
 3. A statement whether or not the Applicant has had any license denied, revoked or suspended and the reason therefor.
 4. A description of any crime or other offense, including the time, date and disposition, for which any of the persons named in Section 113.50(B) have been arrested and convicted.
- D. The application shall not be granted, or any granted license shall be subject to discipline, if one or more of the following is found to be true:
1. Except in the case of a corporation, the Applicant is under eighteen (18) years of age.
 2. A Massage Therapist is under eighteen (18) years of age.
 3. A Massage Therapist is not a United States citizen or lawfully authorized to work in the United States.
 4. A Massage Therapist has not received a Comprehensive Certificate of Massage from a school recognized by the Minnesota Higher Education Board, or certification or licensing from an equivalent accredited out of state institution and be a member in good standing of the Minnesota Therapeutic Massage Network or the American Massage Therapy Association or other organizations possessing the same or similar standards and having an enforceable code of ethics.
 5. The Applicant, any employee or any contractor has been convicted of a felony, any sexually oriented crime, ordinance violation or any conducted prohibited by Minnesota statutes 146A.08.
 6. The Applicant, any employee, or any contractor has been required to register as a predatory offender under Minnesota statute Section 243.166 or similar law in Minnesota or elsewhere.
- E. Applicant. The Applicant shall comply with the following:
1. The Applicant shall make an inquiry to determine that all of Section 113.50(D) is complied with prior to filing an application for a license.
 2. Applicant shall inform the City promptly if any part of Section 113.50(D) is found not to be true, or becomes not true.
 3. In the case of an application for a Therapeutic Massage Establishment, employment records, including copies of documents used to determine if the employee, agent, or contractor is eighteen (18) years of age or older, for each employee employed by a licensed Therapeutic Massage Establishment shall be kept at the licensed premises and available for immediate review upon request of a city officer. Documents that are acceptable forms of identification can be found in Minnesota Rule Part 7410.0100.
 4. Applicant shall promptly notify the City of any changes or corrections to the information provided in the application.

- F. License fees and Investigation Fees. The annual fee for a license and the investigation fee for the purpose of establishing a licensed Therapeutic Massage Establishment shall be determined from time to time by resolution or ordinance of the City Council. If the license is denied by the City, then no part of the application fee or the investigation fee shall be returned. No part of the annual license fee shall be refunded if the license is suspended, revoked, or discontinued.

§ 113. 60. LICENSE EXPIRATION.

Licenses issued under this Section shall expire on December 31st of each year.

§ 113.70. THERAPEUTIC MASSAGE ESTABLISHMENT REGULATIONS.

A Therapeutic Massage Establishment shall protect the public from the unprofessional, improper, incompetent and unlawful practice of Therapeutic Massage. A Therapeutic Massage Establishment shall comply with the following regulations:

- A. The premises shall comply with applicable zoning, fire, health, building codes, and licensing inspection and be open to inspection by licensing inspectors, police officers, city officials, or building managers.
- B. The premises and equipment shall be clean, sanitary and well maintained.
- C. The Therapeutic Massage Establishment, any person in their employ and any contractors shall comply with all applicable city, county, state or federal ordinances, regulations and laws which are applicable to the premises and the practice of Therapeutic Massage. The Therapeutic Massage Establishment shall obtain and maintain all other licenses or permits which may be applicable.
- D. The Therapeutic Massage Establishment and any person in their employ and any contractors shall permit inspections during regular business hours by the City's law enforcement agency, city manager, building inspector, or appropriate fire or health officials to determine compliance with the city regulations or other appropriate state or county regulations.
- E. No alcohol may be sold on the premises.
- F. The Hours of Operation shall be limited to no earlier than 6:00 a.m. and no later than 9:00 p.m.
- G. No minor under the age of eighteen (18) shall be permitted to receive Therapeutic Massage unless consent is given by a parent or guardian. Such consent must be signed in the presence of the Therapeutic Massage Establishment operator.
- H. No residential use is allowed on the premises. Furniture used in Therapeutic Massage must not be intended for sleep.
- I. Massage Therapists must be fully clothed such that they do not expose his/her breasts, buttocks, or genitals.
- J. Sanitation and health requirements must be met in the Therapeutic Massage Establishment premises, including as follows:
 - 1. Employees, agents and contractors must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises.
 - 2. Toilet room(s) must be adequately and conveniently located on the premises for the accommodation of its employees and patrons. The toilet room(s) must be kept clean

and in good repair and be fully and adequately illuminated and well ventilated and enclosed with a door.

3. Single service disposal paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage and must be sanitized after each massage.
4. Massage tables, chairs or furniture on which the patron receives the massage must have surfaces that can be readily cleaned and disinfected after each massage.
5. Massage Therapist's must wash their hands and arms with water and soap, antibacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.

§ 113.80. INSURANCE REQUIRED.

Therapeutic Massage Establishments must have and maintain in full force and effect, a policy of liability and malpractice insurance issued by an insurance company licensed to do business in the state of Minnesota covering death, personal injury and property damage in the minimum amount of Three Hundred Thousand (\$300,000) Dollars per person and per occurrence.

§ 113.90. ADVERSE LICENSE ACTION; GROUNDS.

It shall be grounds for denial, revocation, nonrenewal, suspension or any other appropriate adverse license sanction if the licensee, or any of its employees, agents or contractors:

- A. Fails to comply with or has a history of violations of this ordinance or the laws and ordinances that apply to public health, safety and morals.
- B. Is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premise, of any city ordinance or federal or state statute.
- C. Has evidenced in the past willful disregard for health codes and regulations.
- D. The applicant gave false or misleading information during the application process or failed to provide all information and certificates required by this Section.
- E. The Therapeutic Massage Establishment has been operated without a valid Therapeutic Massage license or has operated when the license was suspended.
- F. The Applicant, or the responsible person, is delinquent in payment to the City of property taxes or fees related to the Therapeutic Massage Establishment.
- G. The Applicant or its employees, agents or contractors, refuses to permit any authorized police officers, building inspectors or city officials to inspect the premises or the operations.
- H. The City Council may base denial, suspension, revocation, or nonrenewal of a license upon any additional grounds which they may, in their sole discretion, determine to be sufficient cause.

§ 113.100. APPEAL.

If the license is suspended or revoked by the City Administrator, the license holder shall have a right to appeal to the City Council.

§ 113.110. SEVERABILITY.

If any provision of this Section is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall remain with full force and effect.

§ 113.120. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication.

Passed by the City Council this 9th day of April, 2015.

Michael Egelston
Mayor

Michael Robertson
City Administrator

Attested:

ORDINANCE NO. 114

AN ORDINANCE GRANTING A CABLE TV FRANCHISE TO CENTURYLINK

Passed by the Council this 12th day of November, 2015.

Mayor

Attested:

City Administrator