

**TITLE XI: BUSINESS REGULATIONS**

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## TITLE XI: BUSINESS REGULATIONS

**CHAPTER 110: ALCOHOLIC BEVERAGES**

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## TITLE XI: BUSINESS REGULATIONS

### *GENERAL PROVISIONS*

#### **§ 110.010 APPLICATION.**

This chapter shall apply to all transactions involving alcoholic beverages within the city. Furthermore, this chapter is intended to act as a localized supplement to M.S. Chapter 340A, of the Minnesota Liquor Act as it may be amended from time to time. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

#### **§ 110.020 DEFINITIONS.**

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

**3.2% MALT LIQUOR.** Malt liquor containing not less than one-half of 1% alcohol by volume nor more than 3.2% alcohol by weight.

**ALCOHOLIC BEVERAGE.** Any beverage containing more than one-half of 1% alcohol by volume.

**CLUB.** A corporation organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans organization which has more than 30 members, has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members and is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. (*Ord. 2020-B, passed 11-09-2020*)

**EXCLUSIVE LIQUOR STORE.** An establishment used exclusively for the sale of intoxicating liquor, whether on-sale, off-sale or a combination of on-sale and off-sale. The establishment may also incidentally sell ice, tobacco products, soft drinks or food for consumption on the premises.

**HOTEL/MOTEL.** An establishment where food and lodging are regularly furnished to transients and which has a resident proprietor or manager, a dining room with public facilities for seating not less than 30 guests at one time and at least ten guest rooms.

**INTOXICATING LIQUOR.** Ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2% of alcohol by weight.

**LICENSED PREMISES.** The premises described in the approved license application consisting of an enclosed building or portion of an enclosed building and possessing a specific street address within the city. However, a licensee possessing a temporary liquor license may utilize outdoor premises for no more than five days per calendar year. The outdoor premises must be enclosed by fencing which prevents patrons from passing alcoholic beverages to people who are outside the fencing.

**OUTDOOR SEATING.** A commercial or club smoking patio, service area, or seating area for business patrons which is not located in an indoor area as defined by M.S. § 144.413, Subd. (1)(a), as it may be amended from time to time.

**PERSON.** An individual natural person, corporation or unincorporated group of natural persons, including

partnerships.

**RESTAURANT.** An establishment where meals are regularly served at tables to the general public with seating facilities for not less than 25 guests at one time. (*Ord. 2020-B, passed 11-09-2020*)

**WINE.** An intoxicating liquor containing no more than 24% of alcohol by volume, and made by the fermentation of grapes, grape juice, other fruits or honey, and including compounds sold as wine, vermouth, cider, or saki. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*). (*Ord. 2020-B, passed 11-09-2020*)

### **§ 110.030 LIABILITY INSURANCE.**

(A) *Required limits.* When liability insurance is required, the minimum requirement of coverage shall be at least \$50,000 of coverage of bodily injury to any one person in any one occurrence; \$100,000 of bodily injury to two or more persons in any one occurrence; \$10,000 of injury to or destruction of property of others in any one occurrence; \$50,000 for loss of means of support to any one person in any one occurrence; and \$100,000 for loss of means of support of two or more persons in any one occurrence. An annual aggregate policy limit for dram shop insurance of not less than \$310,000 per policy year may be included in the policy provisions. (*Ord. 2020-B, passed 11-09-2020*)

(B) *When insurance is not required.* If insurance is not required by a licensee because of annual sales which are less than a prescribed amount, then a licensee claiming the insurance waiver must provide the City Administrator with an affidavit establishing compliance with the monetary limits plus copies of federal and state income tax returns, or such other accounting documents as may be required by the City Administrator in order to verify the monetary claim. The City Administrator shall advise the Council of compliance with these requirements at the time the Council is requested to approve the applicable liquor license. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

### **§ 110.040 HOURS OF SALE.**

(A) (1) *3.2% malt liquor, on-sale or off-sale.* No sale of 3.2% malt liquor, whether on-sale or off-sale, may be made at the following times.

(a) Between 2:00 a.m. and 8:00 a.m. on Monday through Saturday.

(b) Between 2:00 a.m. and 10:00 a.m. on Sundays.

(2) However, sale of 3.2% malt liquor made by a licensee possessing an intoxicating liquor license shall conform with the hours of sale established for the style of intoxicating liquor license possessed by the licensee.

(B) *Intoxicating liquor, on-sale.* No sale of intoxicating liquor at on-sale may be made at the following times.

(1) Between 2:00 a.m. and 8:00 a.m. on Monday through Saturday.

(2) Between 2:00 a.m. and 10:00 a.m. on Sundays.

(3) Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25.

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### (C) *Intoxicating liquor, off-sale.*

(1) No sale of alcoholic beverages may be made by an off-sale licensee at the following times.

(a) On Sundays from 12:00 a.m. (midnight) to 11:00 a.m. and again from 6:00 p.m. until Monday morning at 8:00 a.m.

(b) Before 8:00 a.m. on Monday through Saturday.

(c) After 10:00 p.m. on Monday through Saturday.

(d) On Thanksgiving Day.

(e) On Christmas Day, December 25.

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

(2) No delivery of alcohol to an off-sale licensee may be made by a wholesaler or accepted by an off-sale licensee on a Sunday. No order solicitation or merchandising may be made by a wholesaler on a Sunday.

(D) *Set-up permit limitations.* No establishment with a set-up permit may allow a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor at the following times.

(1) Between 2:00 a.m. and 10:00 a.m. on Sundays.

(2) Between 2:00 a.m. and 8:00 a.m. on Monday through Saturday.

(E) *Wine, on-sale.* A licensee possessing an on-sale wine license may not sell wine at the following times.

(1) Between 2:00 a.m. and 8:00 a.m. on Monday through Saturday.

(2) Between 2:00 a.m. and 10:00 a.m. on Sundays.

(3) Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, unless December 24 is a Sunday, in which case the Sunday sales schedule shall apply.

(4) Between 2:00 a.m. and 8:00 a.m. on December 25, unless December 25 is a Sunday, in which case the Sunday sales schedule shall apply. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)  
*Penalty, see § 10.990*

### **§ 110.050 PERSONS ALLOWED ON LICENSED PREMISES.**

(A) *Closing the licensed premises.* All licensed premises must be closed to the public and no one may be on the licensed premises at the time that sales, consumption or display of alcoholic beverages are prohibited, except as follows.

(1) An employee of the licensee actually engaged in the performance of duties for the licensee.

(2) A restaurant while actually serving meals to customers, but only if the annual gross receipts of the restaurant are at least 60% attributable to the sale of food.

(3) For 30 minutes after the time for sales at on-sale only of 3.2% malt liquor, intoxicating liquor or wine to allow patrons to finish consuming alcoholic beverages purchased before the sales deadline. No persons other than employees shall be permitted within such establishments during the closed periods.

(4) Upon order of the Chief of Police for the purpose of promoting and ensuring public safety;

(5) A business possessing only an off-sale 3.2% malt liquor license.

(B) *Age restrictions.*

(1) No person under 18 years of age may serve or sell intoxicating liquor in a licensed premises.

(2) No person under 21 years of age may enter a licensed premises except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold. However, those persons may attend social functions that are held in a portion of the premises where liquor is sold if there is present on the premises an off-duty city police officer employed by the licensee to monitor compliance with applicable liquor laws. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)  
*Penalty, see § 10.990*

### **RETAIL LICENSING RULES**

#### **§ 110.150 LICENSE REQUIRED; APPLICATION.**

(A) *License required.* No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale or otherwise dispose of alcoholic beverages as part of a sales transaction without first having obtained a license from the city.

(B) *Council approval required.* No license or permit will be issued within the city without the prior approval of the City Council.

(C) *License application process, in general.* A person wishing to obtain a license to sell alcoholic beverages within the city shall submit all of the following to the City Administrator:

(1) The application form which conforms to the type of license desired.

(2) A certificate of liability insurance, if required for the particular type of license.

(3) The investigation fee, if the application is for the initial issuance or transfer of an on-sale intoxicating liquor license or wine license.

(4) A certificate of workers compensation insurance as required by the laws of the state.

(5) Annual or pro-rated license fee in accordance with the fee schedule.

(6) Written appointment of resident agent.

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(D) *Expiration date of licenses.* All licenses expire on June 30 of each year.

(E) *New license application procedures.* An application for a new license may be submitted at any time. If an investigation fee is required, it must be paid in full and all required insurance certificates must be submitted with the application. Upon approval of the application, the annual license fee must be paid in full before the application will be forwarded to the state. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)  
*Penalty, see § 10.990*

### **§ 110.160 LICENSING OFFICIAL.**

The City Administrator shall be the licensing official for the city. All applications for any license shall be made to the City Administrator. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

### **§ 110.170 RENEWAL OF PRE-EXISTING LICENSE.**

(A) *Set up permit.* The application for renewal of a pre-existing set-up permit must be submitted on or before June 20 for a permit taking effect on the following July 1. All annual permit fees shall be paid in full on or before June 20 of the current year.

(B) *Pre-existing liquor licenses.* All other applications for renewal of a pre-existing license must be submitted on or before June 20 for a license taking effect on the following July 1. All annual license fees shall be paid in full on or before June 20. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

### **§ 110.180 TRANSFER DUE TO CHANGE OF OWNERSHIP.**

(A) Any change in ownership involving a license requires the submission of an application to transfer that license. A change of ownership requiring official transfer of a license occurs as follows:

(1) If the licensee is a natural person, upon the sale of the business requiring the license or upon the death of the licensee.

(2) If the licensee is a corporation, upon change in ownership of more than 10% of its stock.

(3) If the licensee is a natural person or a partnership, upon the addition of a new partner.

(B) An application to transfer a license shall be treated the same as an application for a new license. If the change in ownership is caused by the death of a licensee, then the personal representative is authorized to continue to operate the business for up to 90 days, but must submit the application within 30 days of the date of death. In all other cases, the application must be submitted and approved by the Council before the sale of any alcoholic beverages can occur under the new ownership. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)  
*Penalty, see § 10.990*

### **§ 110.190 LICENSE CONDITIONS.**

(A) *Posting of licenses.* All licensees shall conspicuously post their liquor license or permit in their places of business.

(B) *Resident agent.* Before a liquor license or set-up permit will be issued, the applicant shall appoint in writing a natural person who is a resident of the city to act as its agent for service of notices or other process



relating to the license. The agent must be a person who could qualify individually as a licensee.

(C) *Additional restrictions on licenses.* The Council may place upon a license such conditions or restrictions as it may deem necessary and justified.

(D) *Police access.* All licensed premises shall be open to inspection by any police officer. As a condition of receiving a liquor license, all licensees consent to inspection, without a warrant.

(E) *Payment of delinquent taxes or charges.* No liquor license shall be granted for any premises upon which taxes, assessments or other financial charges of the city are delinquent and unpaid.

(F) *Duplicate license.* Duplicates of original licenses may be issued by the City Administrator without action of the Council, upon the licensees affidavit that the original has been lost and upon payment of the duplicate license fee. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

#### **§ 110.200 REQUIRED NOTICE.**

This section has been repealed by State Statute. (*Ord. 2020-B, passed 11-09-2020*)

#### **§ 110.210 REPORTING OF ILLEGAL CONDUCT.**

Licensees and their employees shall report to the police all illegal conduct committed by customers occurring within the licensed premises. The report must be made within 24 hours of the occurrence and shall include the identity of the customer(s) and a description of the conduct. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

#### **§ 110.220 MANAGEMENT OF PREMISES.**

All licensees are required to have on the premises at all times during business hours, a person who is at least 21 years of age who is responsible for enforcing the requirements of this chapter and other applicable laws. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

#### **§ 110.230 LICENSE REVOCATION OR SUSPENSION.**

(A) *Responsible officer.* The Chief of Police shall be responsible for investigating any violations of law or license limitations by any license holder. If the Chief of Police determines that a violation may warrant immediate disciplinary action, then the information concerning the violations shall be provided to the Council in a timely fashion. In all other situations, the Chief of Police shall coordinate with the City Administrator to provide the information to the Council at the time the City Administrator submits the application for renewal of licenses to the Council for consideration.

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(B) *Council action.* If the Council determines that disciplinary action may be warranted due to the information provided by the Chief of Police, then a formal hearing conducted as provided for by the Administrative Procedures Act, M.S. §§ 14.57 to 14.69, as they may be amended from time to time before the Council shall be scheduled. This does not require the hearing to be conducted by an employee of the state office of administrative hearings. Notice of this hearing shall be given to the license holder at least 30 days prior to the hearing. The notice shall contain information adequate to advise the license holder concerning the allegations. The license holder shall have the right to appear at the Council meeting and to contest the claims. Upon the finding that the license holder has failed to comply with the law or a license restriction, the Council may suspend the license for up to 60 days or revoke the license or impose civil penalties not to exceed \$2,000 for each violation as authorized by M.S. § 340A.415, as it may be amended from time to time. The Council may by resolution establish a schedule of minimum civil penalties.

(C) *Civil and criminal penalties.* The imposition of a suspension or revocation of a license as a civil penalty shall not impair the ability of lawful authority from filing criminal charges and seeking criminal penalties for any violation of law.

(D) *Inspections, searches and compliance checks.* As a condition of any license issued under the provisions of this chapter, any employee of the city authorized to do so by the Council and any licensed police officer has the right to enter, inspect, and search the licensed premises without a search warrant during the hours in which the licensed premises are open for the sale of alcoholic beverages. As a condition of any license issued under the provisions of this chapter, the city also has the right to conduct compliance checks, or contract for the conducting of compliance checks with other law enforcement agencies, without notice to the licensee. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

### *LICENSES*

#### **§ 110.350 KINDS OF LICENSES.**

The following kinds of licenses may be issued within the city.

- (A) 3.2% malt liquor, off-sale.
- (B) 3.2% malt liquor, on-sale.
- (C) Temporary 3.2% malt liquor, on-sale, for special events.
- (D) Intoxicating liquor, on-sale.
- (E) Intoxicating liquor, off-sale.
- (F) Temporary intoxicating liquor, on-sale, for special events.
- (G) Wine, on-sale.
- (H) Temporary vintage wine auctions, off-sale.
- (I) Set-up permits.

(J) Sunday liquor licenses may be issued to establishments that are eligible for Sunday licenses pursuant to Minnesota State Statute. It is unlawful to sell, directly or indirectly, intoxicating liquor on Sunday without a Sunday license issued by the city. Establishments licensed may begin serving alcoholic beverages at 10:00 a.m. on Sundays. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

### **§ 110.360 LICENSE FOR 3.2% MALT LIQUOR.**

(A) *On-sale.* An on-sale 3.2% malt liquor license may be issued to drug stores, restaurants, hotels/motels, clubs, bowling centers or establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco products and soft drinks.

(B) *Off-sale.* An off-sale 3.2% malt liquor license may be issued to any person who qualifies for it under the laws of the state or this code.

(C) *Liability insurance.* Liability insurance shall ordinarily be required, providing coverage in an amount no less than that set by this chapter. However, liability insurance is not required of a licensee who, at the time of submission of their application for renewal, provides to the City Administrator an affidavit and such additional supporting financial records as may be required by the City Administrator which establish the following:

(1) For an on-sale 3.2% malt liquor license, that they had sales of less than \$25,000 of 3.2% malt liquor for the preceding year. (*M.S. § 340A.409*)

(2) For an off-sale 3.2% malt liquor license, that they had sales of less than \$50,000 of 3.2% malt liquor for the preceding year. (*M.S. § 340A.409*)

(3) For an on-sale wine license, that they had less than \$25,000 for wine for the preceding year. (*Ord. 2020-B, passed 11-09-2020*)

(4) For a temporary wine license issued under law. (*Ord. 2020-B, passed 11-09-2020*)

(D) In combination with an intoxicating liquor license. A person licensed to sell intoxicating liquor at on-sale is not required to obtain an on-sale license to sell 3.2% malt liquor at on-sale. A person licensed to sell intoxicating liquor at off-sale is not required to obtain an off-sale license to sell 3.2% malt liquor at off-sale.

(E) Temporary 3.2% malt liquor license, on-sale, for special events. A club or charitable, religious or nonprofit organization may be issued a temporary on-sale 3.2% malt liquor license for special events. The temporary license may authorize sale in a school building. No applicant shall qualify for a temporary license for more than ten days in any calendar year. The Council may impose other restrictions. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

### **§ 110.370 LICENSE FOR INTOXICATING LIQUOR, ON-SALE.**

(A) *Eligible licensees.* The city may issue an on-sale intoxicating liquor license to a hotel/motel, restaurant, bowling center, club, congressionally chartered veterans organization or exclusive liquor store.

(B) *Sales by clubs.* Liquor sales made by a club or veterans organization must be made only to its members and bona fide guests. A guest must be in the company of a host member. A club shall keep a daily register showing the name of a guest and the name of the host member. The register shall be open to inspection by police officers.

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(C) *Investigation fee.* At the time of submitting an initial application for an on-sale license or on application for transfer of an existing license, the applicant shall pay the investigation fee set forth in the City's Fee Schedule as it may be amended from time to time. (*Ord. 2020-B, passed 11-09-2020*)

(D) *Liability insurance.* Liability insurance is required, providing coverage in an amount no less than that set by this chapter.

(E) *Temporary on-sale license.* A temporary on-sale license for intoxicating liquor may be issued to a club or charitable, religious or other nonprofit organization in existence for at least three years. The license may authorize the sale of intoxicating liquor for not more than three consecutive days in connection with a social event within the city sponsored by the applicant. No investigation fee shall be paid. Liability insurance is required.

(F) *In combination with intoxicating liquor, off-sale.* An on-sale intoxicating liquor license may not be issued or transferred to a licensee who already possesses an off-sale intoxicating liquor license. However, those licensees who possess both an intoxicating liquor off-sale and an intoxicating liquor on-sale license effective January 1, 1991, may continue to renew such a combination of licenses. This renewal privilege terminates if either license is revoked or upon transfer of either license due to change of ownership. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) Penalty, see § 10.990

### § 110.380 LICENSE FOR INTOXICATING LIQUOR, OFF-SALE.

(A) *Eligible licensees.* The city may issue an off-sale intoxicating liquor license to a hotel/motel, restaurant, bowling center, club, congressionally chartered veterans organization, exclusive liquor store or to a drug store.

(B) *Drug store.* No intoxicating liquor license may be issued to a person operating a drug store unless the person has operated it for at least two years or has purchased a drug store that has been in continuous operation for two or more years.

(C) *May not be combined with 3.2% malt liquor, on-sale.* An off-sale intoxicating liquor license may not be issued for premises where 3.2% malt liquor is sold on-sale.

(D) *Liability insurance.* Liability insurance is required, providing coverage in an amount no less than that set by this chapter.

(E) *Liquor samples.* A licensee with an off-sale intoxicating liquor license may provide samples of malt liquor, wine, liqueurs, or cordials, which the licensee has in stock, and is offering for sale to the general public. The samples must be dispensed at no charge and are to be consumed in the licensed premises during permitted hours of off-sale in a quantity of less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer, and 25 milliliters of liqueur or cordials per variety per customer.

(F) *Limitations on issuance of licenses to one person or place.* No more than one off-sale intoxicating liquor license may be directly or indirectly issued to the same person or for the same place in the city.

(G) *In combination with intoxicating liquor, on-sale.* An off-sale intoxicating liquor license may not be issued or transferred to a licensee who already possesses an on-sale intoxicating liquor license. However, those licensees who possess both an intoxicating liquor on-sale and an intoxicating liquor off-sale license effective January 1, 1991, may continue to renew such a combination of licenses. This renewal privilege terminates if

either license is revoked or upon transfer of either license due to change of ownership. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

#### **§ 110.390 WINE LICENSES, ON-SALE.**

(A) *Eligible licensees.* An on-sale wine license may be issued to a restaurant having facilities for seating at least 30 guests at one time.

(B) *Combination with intoxicating malt liquor.* A restaurant holding an on-sale wine license and an on-sale 3.2% malt liquor license may sell intoxicating malt liquor at on-sale but only if the gross receipts of the restaurant are at least 60% attributable to the sale of food. Prior to selling any intoxicating malt liquor, the licensee shall file with the City Administrator an affidavit setting forth the claim and providing the City Administrator with such additional financial records as are required. Upon adequate showing of compliance with these requirements, the City Administrator shall issue written authorization allowing the combination sale.

(C) *Investigation fee.* At the time of submitting an initial application for an on-sale license or an application for transfer of an existing license, the applicant shall pay the investigation fee set forth in the City's Fee Schedule as it may be amended from time to time. (*Ord. 2020-B, passed 11-09-2020*)

(D) *Liability insurance.* Liability insurance is required, providing coverage in an amount no less than that set by this chapter. However, liability insurance is not required for a licensee who, at the time of submission of their application for renewal, provides to the City Administrator an affidavit and such supporting financial records as may be required by the City Administrator which establish that the sales of wine plus sales of all other alcoholic beverages for the preceding year were less than \$25,000.

(E) *Restrictions.* A licensee may serve wine for consumption on the licensed premises only in conjunction with the sale of food. This section shall not apply to the sale of wine exclusively for sacramental purposes. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

#### **§ 110.400 LICENSE FOR TEMPORARY VINTAGE WINE AUCTIONS, OFF-SALE.**

A temporary license may be issued for the off-sale of vintage wine at an auction. The term **VINTAGE WINE** means bottled wine which is at least five years old. The license is to be effective for no more than three consecutive days and the auction shall not sell more than 600 cases of wine. The requirements for liability insurance shall not be applicable and no investigation fee is required. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

#### **§ 110.410 SET-UP PERMITS.**

(A) *Eligible licensees.* A consumption and display permit by the commissioner of public safety may be issued to a restaurant, hotel/motel, an establishment licensed for the on-sale of 3.2% malt liquor, or a club. A permit issued by the commissioner is not effective until approved by the City Council.

(B) *Limitations on licensing.* A permit authorizes the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

(C) *Expiration date.* All permits expire on June 30 of each year.

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(D) *Club lockers.* A club issued a permit under this section may allow members to bring and to keep a personal supply of intoxicating liquor in lockers on the club's premises. A bottle kept on the premises must have attached to it a label signed by the member. No person under 21 years of age may keep a supply of intoxicating liquor on club premises.

(E) *Liability insurance.* No liability insurance is required.

(F) *One-day set up permits.* A one-day permit for the consumption and display of intoxicating liquor may be issued to a nonprofit organization in conjunction with a social activity sponsored by the organization. No more than ten permits in total may be issued in any one year by the city pursuant to this provision. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*) *Penalty, see § 10.990*

### ***FEES***

#### **§ 110.550 INVESTIGATION FEE.**

Investigation fees shall be charged for on-sale licenses to sell intoxicating liquor or wine either for an initial application or on application for transfer of an existing license. The fee shall be set forth in the City's Fee Schedule as it may be amended from time to time. (*Ord. 2020-B, passed 11-09-2020*)

#### **§ 110.560 ANNUAL LICENSE FEES.**

The annual license fees for alcoholic beverage licenses, as defined and stipulated by M.S. § 340A.408, as it may be amended, shall be set forth in the City's Fee Schedule as it may be amended from time to time. (*Ord. 2020-B, passed 11-09-2020*)

#### **§ 110.570 FEE INCREASE PROCEDURE.**

The annual license fee may not be increased until a public hearing is conducted on the issue. Notice of the proposed increase of fees must be mailed to all affected licensees at least 30 days before the date of the hearing. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

#### **§ 110.580 PRORATING ANNUAL LICENSE FEES.**

The annual license fee shall be prorated for the initial issuance or transfer of a license or permit. Upon approval by the council, the City Administrator shall determine the proportion of the year remaining for the license and that proportion of the license fee shall be charged to the applicant. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

#### **§ 110.590 REFUNDING FEES.**

If a licensee stops doing business or desires to transfer the license, then written notice must be provided by the licensee to the City Administrator. The City Administrator shall determine the proportion of the year remaining for the license. Upon approval by the Council, that proportion of the license fee shall be refunded. However, there shall be no refund if the license is revoked. (*Ord. 223, passed 3-10-1992; Ord. 2017-B, passed 6-12-2017*)

## ***OUTDOOR SEATING AND SERVING AREAS***

### **§ 110.700 ALCOHOL, SMOKING, AND SERVING PATIOS.**

Minn. Rules 7515.0430 requires that construction of a new patio addition where alcohol is served and/or consumed requires the license holder to seek an amendment to their existing liquor license. This amendment shall contain a specific description of the premises where liquor will be served, and that it shall be filed with the Minnesota Department of Public Safety Alcohol Enforcement Division after final approval from the City Council. Furthermore, the city has determined to ensure the public health, safety, and welfare, that the amendment contains the following:

(A) A specific description of the premises where liquor will be served, containing all of the following: A site plan, drawn to scale, that accurately identifies all of the existing requirements of this chapter including, but not limited to, property dimensions, existing structures, on-site parking facilities, easements, fencing, lighting, enclosed and unenclosed seating and serving areas, landscaping, all means of ingress and egress including principle structure, staff and delivery entrances, handicap accessibility and emergency exits, retaining walls, and any other information the City Administrator or his or her designee deems necessary for license review.

(B) A seating plan shall be filed with the City Administrator or his or her designee for preliminary approval before submission to the City Council. The seating plan shall be reviewed for compliance with all applicable regulations for seating capacity and safety.

(1) The seating plan must show the arrangement of all tables, chairs, and other items of either a permanent or temporary status that may obstruct any means of ingress/egress.

(2) For the purposes of calculating capacity for this section, estimates may be calculated for standard-sized furniture at 15 square feet for tables, seven square feet for chairs, and five square feet for standing-room. The Building Official may revise the maximum occupancy for outdoor serving and seating areas upon the installation of any patio furniture.

(3) The seating must be arranged to permit unobstructed movement of patrons to any exit. All pedestrian walkways within the patio area must be no less than four feet in width. No items of a permanent or temporary status shall be placed within six feet of any means of egress/ingress.

(4) Any change to the seating plan must be approved by the City Administrator and shall require an amended license.

(C) Additional regulated physical design elements, that shall be shown on the submitted plans for City Council and staff review, include the following:

(1) (a) All outdoor seating areas must be contained by fencing, walls, or retaining walls with landscaping no less than six feet in height. Fencing may not consist of chain link or similar material, and have no gap or opening between the ground and fence greater than three inches. The finished side of the fence must face outwards and be maintained for aesthetic appearance and nuisance weeds and tall grasses. If a decorative or retaining wall is utilized in lieu of fencing, the first four feet, as measured from ground level, must consist solely of block or brick consistent and complimentary to the primary structure design.

(b) The remaining area to meet the minimum six foot height standard may consist of decorative landscaping or vegetative plantings with no less than 50% opacity and no opening larger than six inches. All

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walls and fencing must comply with zoning district and building code regulations.

(2) The floor surface shall consist of poured cement, paver stones or brick, asphalt, treated wood, or other fabricated construction material.

(3) No seating shall be permitted on public property such as sidewalks.

(4) Exterior lighting must be directed inwards and downwards and may not have direct or indirect glare visible from outside of the patio area.

(5) The outdoor seating area may have an awning, partial walls, or other similar partial enclosure, but may not be equal to or greater than 50% enclosed as defined in state statute and Minn. Rules (the Freedom to Breathe Act).

(6) The maximum size of a permissible patio, notwithstanding other limitations or restrictions in this ordinance or other applicable chapters of the city code of ordinances, shall not exceed 50% of the square footage of the ground floor of the principal business.

(7) Including the principal structure and designated outdoor seating area, no more than 80% of a lot in the Central Business District may be hard-surfaced as shown on the application site plan. No more than 75 % of a lot in the General Business District or Highway Business District may be hard-surfaced as shown on the application site plan. If these requirements conflict at any time with established zoning regulations in any business district, the lesser of the two permitted lot coverage percentages shall prevail.

(D) Regulated access design elements, that shall be shown on the submitted plans for City Council and staff review, include the following:

(1) Means of ingress to the outdoor serving area must come from the primary structure only. For emergency and safety purposes, egress must be provided from the patio to the abutting street, sidewalk, or alley. An employee shall be assigned to monitor the means of egress and/or emergency exits during all hours of operation.

(2) If the normal means of ingress to the patio is not plausible to be converted to comply with the Americans with Disabilities Act, then the egress must be A.D.A. compliant and peoples with physical disabilities may be permitted ingress via the emergency exit.

(3) Additional parking spaces that may be required to accommodate the seating area are referenced in the city parking regulations and this chapter. No parking in a public alley is permitted.

(E) Additional regulated business activities on outdoor serving areas include the following:

(1) Service for minors within outdoor serving areas shall comply with all provisions of § 110.050 of this chapter.

(2) No beverages may leave the lot from the outdoor seating area. No food or beverages may be served to anyone outside of the outdoor seating area. Signs must be posted that clearly restricts the consumption of alcohol outside of the seating area.

(3) All outdoor seating areas where food and beverages are served are subject to regulation and



approval by the Waseca County Department of Health.

(4) The business owner shall regularly clean the outdoor seating area and all exterior portions of the lot so that it is free of litter and refuse. Appropriate receptacles for rubbish, garbage, recycling, and cigarette paraphernalia must be provided within the seating area.

(5) No noise levels above seventy decibels shall be reasonably measured at a distance of 50 feet from any point of the outdoor seating area. Seventy decibels are described herein as normal conversation noise levels.

(6) Live entertainment, music and noise amplification equipment may be allowed within the outdoor seating area as long as the noise level remains in compliance with division (E)(5). Outdoor music events may be permitted by the City Council as described in Chapter 116: Outdoor Music Events Regulations.

(7) Sunday liquor license regulations shall extend to the outdoor seating area.

(8) The hours of operation for the outdoor seating area shall be as follows:

(a) *Sunday through Thursday*. Service times shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.

(b) *Friday and Saturday*. Service times shall be no earlier than 7:00 a.m. and no later than 12:00 a.m.

(c) At no time may the hours of operation of the outdoor seating area supersede other restricted days or time of operation as otherwise referenced in this chapter. Permissible hours of sale for alcoholic beverages must be followed at all times regardless of the hours of operation of the outdoor seating area. (Ord. 2017-B, passed 6-12-2017) *Penalty, § 10.990*

TITLE XI: BUSINESS REGULATIONS

CHAPTER 111: AMUSEMENTS

Section

*Lawful Gambling*

- 111.010 Application
- 111.020 Eligibility; exclusions
- 111.030 Gambling premises; approval of permit
- 111.040 Records
- 111.050 Investigation fee
- 111.060 Distribution of proceeds
- 111.070 Age requirements
- 111.080 Hours of operation
- 111.090 Gambling employees

**LAWFUL GAMBLING**

**§ 111.010 APPLICATION.**

This subchapter shall apply to all transactions involving lawful gambling within the city. Furthermore, this subchapter is intended to act as a localized supplement to M.S. Chapter 349, as it may be amended from time to time. (2002 Code, § 111.01) (Ord. 224, passed 2-25-1992)

**§ 111.020 ELIGIBILITY; EXCLUSIONS.**

(A) *Licensed organizations.* Only organizations or persons properly licensed by the state may conduct lawful gambling within the city.

(B) *Exclusions.* The lawful gambling permitted by M.S. § 349.166, as it may be amended from time to time, which does not require licensing shall not be subject to local regulation. (2002 Code, § 111.02) (Ord. 224, passed 2-25-1992) Penalty, see § 10.990

**§ 111.030 GAMBLING PREMISES; APPROVAL OF PERMIT.**

(A) *Gambling premises.*

(1) Lawful gambling, except for bingo, may be conducted by a licensed organization exclusively within the following premises:

(a) Premises owned by the licensee; or

(b) Premises leased by the licensee from an establishment within the city possessing an on-sale or off-sale intoxicating liquor license, wine license, or an on-sale 3.2% malt liquor license and/or set-up permit. (Ord. 2020-B, passed 11-09-2020)

(2) Bingo may be conducted by an organization or person possessing a bingo hall license upon premises either owned or leased by the licensee within the city.

(B) *Approval of premises permit.* No organization or person licensed to conduct lawful gambling may do so within the city without first obtaining the approval of the City Council for a premises permit or bingo hall license. The licensee must submit an application for approval on forms provided by the City Administrator. If the City Council determines to approve the original issuance or renewal of either a premises permit or bingo hall license, then it must adopt a resolution of approval within 60 days of the date of submission of the application. If the resolution is not so adopted, the application shall be deemed denied. (2002 Code, § 111.03) (Ord. 224, passed 2-25-1992; Ord. 238, passed 3-25-1997) *Penalty, see § 10.990*

#### **§ 111.040 RECORDS.**

Organizations or persons licensed by the state to conduct lawful gambling within the city shall provide to the City Administrator copies of all records and documentation provided by the licensee to the Gambling Control Board for the state. The records shall be provided to the City Administrator within seven days after the information is sent to the Board. Failure to provide these records to the City Administrator shall constitute a basis for refusal of the City Council to approve the issuance or renewal of a premises permit or bingo hall license. (2002 Code, § 111.04) (Ord. 224, passed 2-25-1992)

#### **§ 111.050 INVESTIGATION FEE.**

The city shall assess an investigation fee on organizations or persons applying for or renewing a premises permit or bingo hall license. The investigation fee shall be \$100 and it shall be paid at the time that the licensee applies for approval of the premises permit or bingo hall license from the city. No action shall be taken by the City Council until the fee has been paid. (2002 Code, § 111.05) (Ord. 224, passed 2-25-1992)

#### **§ 111.060 DISTRIBUTION OF PROCEEDS.**

(A) The proceeds from licensed lawful gambling conducted within the city shall be expended on lawful purposes conducted or located within the trade area of the city.

(B) The **TRADE AREA** is defined as the area within the corporate limits of the city, and 100% of lawful purpose expenditures must be expended within this trade area. (2002 Code, § 111.06) (Ord. 224, passed 2-25-1992) *Penalty, see § 10.990*

#### **§ 111.070 AGE REQUIREMENTS.**

Those who participate in lawful gambling located within the city must be at least 18 years of age. (2002 Code, § 111.07) (Ord. 224, passed 2-25-1992) *Penalty, see § 10.990*

#### **§ 111.080 HOURS OF OPERATION.**

Lawful gambling may be conducted only between the hours of 6:00 a.m. and 1:00 a.m., except that raffle tickets may be sold at any time. (2002 Code, § 111.08) (Ord. 224, passed 2-25-1992, amended 7-12-2010) *Penalty, see § 10.990*

#### **§ 111.090 GAMBLING EMPLOYEES.**

Only those who are properly registered with the State Gambling Control Board may receive compensation for participating in the conduct of lawful gambling as an employee of a licensee. All the employees must wear an identification card provided by the Board at all times while conducting lawful gambling. Compensation to

## TITLE XI: BUSINESS REGULATIONS

persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary or the spouse or surviving spouse of an active member. However, if the person conducting lawful gambling is also the owner or the employee of the establishment from which space has been leased for conducting lawful gambling, then that person may not participate in the conduct of lawful gambling if that person is then working or on duty with the lessor. (2002 Code, § 111.09) (Ord. 224, passed 2-25-1992) *Penalty, see § 10.990*

### CHAPTER 112: TOBACCO REGULATIONS

#### Section

- 112.010 Purpose and Findings
- 112.020 Definitions
- 112.030 License Required
- 112.040 Exceptions
- 112.050 Ineligibility
- 112.060 License Applications
- 112.070 Conditions, Restrictions, and Regulations
- 112.080 Administrative, Penalties, Suspension, and Revocation
- 112.090 Violations

#### § 112.010 PURPOSE AND FINDINGS

The Council of the City of Janesville finds that substantial scientific evidence exists that the use of tobacco-related products causes cancer, heart disease and various other medical disorders, and that initiation of the use of tobacco-related products occurs primarily in adolescence. The City desires to prevent young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air. The City Council further concludes that the prohibition of the sale of tobacco-related products by persons under twenty-one (21) years of age will promote the health, safety, and welfare of the residents of the City. (Ord. 2020-B, passed 11-09-2020)

#### § 112.020 DEFINITIONS

***CHILD-RESISTANT PACKAGING*** is defined as set forth in Code of Federal Regulations, title 16, section 1700.15(b)(1), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015, and as amended from time to time.

***ELECTRONIC DELIVERY DEVICE*** means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately.

***LICENSING AUTHORITY*** means the unit of Government that authorizes and issues a tobacco license.

***MOVABLE PLACE OF BUSINESS*** means a business whose physical location is not permanent or is capable of being moved or changed, including, but not limited to, any business that is operated from

a kiosk, other transportable structure, or a motorized or non-motorized vehicle.

***NICOTINE OR LOBELIA DELIVERY PRODUCT*** means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined by this Section.

***SELF-SERVICE MERCHANDISING*** means open displays of tobacco-related products in any manner where any person shall have access to the tobacco products without the assistance or intervention of the licensee or licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco products between the customer and the licensee or employee.

***TOBACCO-RELATED PRODUCTS*** means tobacco, tobacco-related devices, vaping machines, vaping devices, electronic delivery devices, and nicotine or lobelia delivery products as defined in this subdivision.

***TOBACCO*** means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, vaped or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco.

***TOBACCO-RELATED DEVICES*** means cigarette papers or pipes or devices or machines, or the like, for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, vaping, ingestion or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

***VENDING MACHINE*** means any mechanical, electric or electronic, self-service device which, upon inserting money, tokens or any other form of payment, dispenses tobacco products and including vending machines equipped with manual, electric or electronic locking devices.

#### **§ 112.030 LICENSE REQUIRED**

No persons shall keep for retail sale, sell at retail or otherwise dispose of any tobacco-related product at any place in the City without first obtaining a license therefore from the licensing authority.

#### **§ 112.040 EXCEPTIONS**

#### **§ 112.050 INELIGIBILITY**

No license shall be issued for the sale of tobacco-related products at a movable place of business.

#### **§ 112.060 LICENSE APPLICATIONS**

(A) Application. All applications for licenses issued under this Chapter shall be made on forms supplied by the licensing authority. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

(B) False Statements. It is unlawful for any applicant to intentionally make a false statement or

## TITLE XI: BUSINESS REGULATIONS

omission upon any application. Any false statement in such application or any willful omission to state any information called for on such application will, upon discovery of such falsehood, be grounds for denial or, if already issued, for revocation of the license.

(C) License, Application, and Investigation Fees. Upon submission of the application, applicants for a license shall pay a fee to the licensing authority which shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. Upon approval of an application, whether initial or renewal, the license will not be effective until the license fee is paid. All license, application, and investigation fees provided for in this Chapter shall be fixed and determined by the licensing authority. Such fees, may, from time to time, be amended by the licensing authority.

(D) Manager or Agent. If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application shall include the name of the natural person who will serve as the manager or agent of the licensed premises. Such manager or agent shall, by the terms of his or her written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. A licensee shall notify the licensing authority in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

(E) Investigation. The licensing authority is empowered to conduct any and all investigations to verify the information on applications and renewal applications submitted under this Chapter, including but not limited to ordering a criminal history check and conducting an inspection of any premises proposed to be licensed. Failure of an applicant to allow an inspection is grounds for denial of the license.

(F) Consideration and Issuance. After the information on the application has been verified as correct by the licensing authority pursuant to subsection E above, an initial application for a license under this Chapter shall be presented to the licensing authority for issuance or denial.

1. Issuance. Upon the licensing authority's approval of an application and the applicant's payment of the license fee, the licensing authority shall issue and mail a license to the applicant at the address noted in the application.

2. Denial. The licensing authority may deny a license on the grounds set forth in Section 112.050 of this Chapter and/or on the same grounds for which a license may be suspended or revoked as set forth in Section 112.080 of this Chapter. A denial of an application shall be communicated to the applicant in writing. The notice of denial shall be mailed by regular mail to the applicant at the address listed on the application.

(G) Term of License. Licenses issued under this Chapter will expire on the date determined by the licensing authority.

(H) Renewal of License. Applications for renewal of all licenses issued under this Chapter shall be made in accordance with the rules and procedures set forth by the licensing authority.

1. Issuance. Upon approval of a renewal application and the applicant's payment of the renewal fee, the licensing authority shall issue and deliver a license certificate to the applicant at the address noted in the renewal application.

2. Denial. The licensing authority may deny renewal of a license on the grounds set forth

in Section 112.050 of this Chapter and/or on the same grounds for which a license may be suspended or revoked as set forth in Section 112.080 of this Chapter. A denial of a renewal application shall be communicated to the applicant in writing, including findings and conclusions supporting the decision. The notice of denial shall be mailed by regular mail to the licensee at address listed on the renewal application. A licensee may appeal a non-renewal by submitting a hearing request to the licensing authority within ten (10) days of the date of the City's notice of non-renewal. If a hearing request is not received by the City within ten (10) days of the date contained in the notice, the licensee's right to a hearing shall be deemed waived. If requested, the hearing shall be held.

(I) *Change of Information.* A licensee must promptly notify the licensing authority of a change in the information or facts required to be furnished on the application for a license, even after the license has been issued. Failure to comply with this subsection is cause for suspension or revocation of the license.

### **§ 112.070 CONDITIONS, RESTRICTIONS, AND REGULATIONS**

(A) A license is subject to the conditions, restrictions, and regulations in this Chapter, all other provisions of City Code, and all provisions of other applicable federal, state, and local laws, regulations, and ordinances.

(B) A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this City Code equally with the employee.

(C) The license must be posted in a conspicuous place in the premises for which it is used and must be exhibited to any person upon request.

(D) No person shall sell, offer for sale, give away, furnish, or deliver any tobacco-related product, tobacco-related devices, tobacco electronic delivery device, or nicotine, or lobelia delivery product to any person under twenty-one (21) years of age.

(E) A licensee may sell tobacco-related products only in a direct face-to-face exchange between the licensee or the licensee's employee and the consumer. No person shall sell or dispense any tobacco-related product through the use of vending machines or self-service merchandising.

(F) No person under eighteen (18) years of age shall sell a tobacco-related product, tobacco-related device, tobacco electronic delivery device, or nicotine, or lobelia delivery product.

(G) Smoking for the purposes of sampling tobacco-related products is prohibited. It shall be unlawful for any person to light, inhale, or exhale tobacco-related products within the products within the indoor area of any establishment licensed under this Chapter, or for any person to allow the same.

(H) The sale of any liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device that is not contained in child-resistant packaging is prohibited.

(I) Notice of the legal sales age shall be posted at each location where tobacco-related products are offered for sale. The required signage shall be posted in a manner so that it is clearly visible to anyone who is considering or making a purchase.

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### § 112.080 ADMINISTRATIVE PENALTIES, SUSPENSION, AND REVOCATION

#### (A) *Administrative Penalties*

1. If a licensee or employee of a licensee sells tobacco-related products, tobacco-related devices, tobacco electronic delivery device, or nicotine, or lobelia delivery product to a person under the age of 21 years, or violates any other provision of Minnesota Statutes, Chapter 461, the licensee will be charged an administrative penalty of \$150. An administrative penalty of \$500 will be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months, the licensee's authority to sell tobacco-related products at that location will be suspended for not less than thirty (30) days. For a fourth violation at the same location within twenty-four (24) months after the initial violation, the licensee's authority to sell tobacco-related products at that location may be revoked.

2. No suspension or penalty may be imposed until the licensee or individual sought to be charged pursuant to subsection A (1) or A (2) of this Section has received written notice, served personally or by mail, of the alleged violation and an opportunity for a hearing in accordance with the procedures in subsection C of this Section.

(B) *Grounds for Suspension or Revocation.* In addition to the penalties described in subsection A of this section, the licensing authority may suspend or revoke a license issued under this Chapter. The following are grounds for suspension or revocation of a license:

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

2. Failure to comply with any applicable statute, regulation, or ordinance, including this Chapter, relating to the sale or use of tobacco-related products.

3. Failure to pay the amount of any penalty imposed pursuant to this Section of this Chapter within ten (10) days after notice in writing from the licensing authority of the decision to impose a penalty.

#### (C) *Procedure*

1. Notice. A suspension or revocation shall be preceded by written notice from the licensing authority to the licensee and an opportunity for a hearing. The notice shall state the nature of the violation(s) or grounds for suspension or revocation and shall inform the licensee of the licensee's right to request a hearing within ten (10) days of the date contained in the notice to dispute the suspension or revocation. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application. If a hearing request is not received by the licensing authority within ten (10) days of the date contained in the notice, the licensee's right to a hearing shall be deemed waived. No suspension or revocation of a license under this Chapter shall take effect until (a) the licensee's time to request a hearing expires; or (b) if a hearing is requested, after the licensee is informed of the decision of the licensing authority.

2. Hearing. If a hearing is requested, the licensing authority or his/her designee shall provide written notice to the licensee of the date, time and place of the hearing to be conducted before the licensing authority. The notice shall be served in the same manner as the initial notice. The notice shall be served no less than fifteen (15) days and no more than thirty (30) days prior to the hearing. The hearing shall be held the licensing authority. Upon conclusion of the hearing, the licensing authority shall, within ten (10) days, make



his or her recommendation to the licensing authority in writing.

### § 112.090 VIOLATIONS

(A) *Violation a Misdemeanor.* Any violation of this chapter is a misdemeanor, punishable by up to 90 days jail and/or a fine of \$1,000, or both.

(B) *False Identification.* A person under twenty-one (21) years of age who, in connection with the purchase or attempted purchase of tobacco-related products, tobacco-related devices, tobacco electronic delivery device, or nicotine, or lobelia delivery product attempts 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, is guilty of a misdemeanor.

## CHAPTER 113: JUNK DEALERS

### Section

- 113.010 License required
- 113.020 License application
- 113.030 Surety bond required
- 113.040 Inspection of premises; requirements
- 113.050 License issuance
- 113.060 License fee
- 113.070 Posting of license required
- 113.080 Permit required to move business
- 113.090 Additional requirements
- 113.100 Regulations set by City Administrator
- 113.110 Prohibited items
- 113.120 Reports to police
- 113.130 Notice of complaint; license revocation
- 113.140 Penalty

### § 113.010 LICENSE REQUIRED.

No person or persons, association, partnership, firm or corporation shall hereafter in the city keep, conduct, or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying or selling at retail or wholesale, or dealing in any old, used, or secondhand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or any other article which, from its worn condition, renders it practically useless for the purpose for which it was made and which is commonly classed as junk, whether with a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred to herein as a "junk dealer." (2002 Code, § 113.01) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990

### § 113.020 LICENSE APPLICATION.

(A) Every applicant for a license to engage in the business of junk dealer shall file with the City Administrator a written application upon a form prepared and provided by the city, signed by the applicant or applicants. The application shall provide the following information:

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(1) The names and residences of the applicants, if an individual, partnership or firm, or the names of the principal officers and their residences if the applicant is an association or corporation;

(2) The length of time the applicant or applicants, if an individual, firm or partnership, or the manager or person in charge, if the applicant is a firm or corporation, has or have resided in the city;

(3) Whether the applicant or applicants or officers or manager of applicant had been employed by a junk dealer or had been a junk dealer;

(4) The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold or otherwise handled; and

(5) The premises where the business is to be located or carried on.

(B) Each application shall contain an agreement that the applicant accepts the license, if granted, upon the condition that it may be suspended for cause at any time by the City Council. *(2002 Code, § 113.02) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

### **§ 113.030 SURETY BOND REQUIRED.**

Every application for a license to engage in the business of junk dealer shall be signed and acknowledged before a notary public or other officer authorized to administer oaths in the city, approved as to form by the City Attorney, and be accompanied by a corporate surety bond in the penal sum of \$1,000, approved by the City Attorney, conditioned for the due observance during the term of the license of all laws, ordinances, rules and regulations which are now in force or may hereafter be adopted by duly constituted authorities applicable to junk dealing. *(2002 Code, § 113.03) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

### **§ 113.040 INSPECTION OF PREMISES; REQUIREMENTS.**

(A) (1) The City Administrator shall report the application to the Chief of Police, Fire Chief and Building Inspector, who shall inspect or cause to be inspected the premises to determine whether it complies with laws, ordinances, rules and regulations. The premises and all structures thereon shall be so situated and constructed that the business of junk dealer may be carried on in a sanitary manner. An inspection may be made at any time by the proper health, fire, building, and police authorities.

(2) No building shall be used for the business of junk dealing unless it shall be of fireproof construction.

(3) Each of the premises upon which the business of junk dealer is to be carried on shall be enclosed by a proper fence or other structure not less than seven feet in height, constructed so that no dust or other material may pass through. This enclosure shall be maintained in good condition and painted at all times. No signs may be posted thereon. No article shall be piled so as to protrude above the enclosure.

(B) No premises shall be used for carrying on the business of junk dealing when more than one building situated within a distance of 120 feet is used solely for residence purposes. Any junk dealer using premises for the business of junk dealing at the time of the passage of this chapter which does not comply with this section may be granted a license for two months, upon the payment of \$5, but the license shall not be renewed. *(2002 Code, § 113.04) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

**§ 113.050 LICENSE ISSUANCE.**

Upon the filing of the application and the bond, as provided in § 113.040, the City Administrator shall, upon approval of the application, after investigation and the payment to the city of the license fee hereinafter provided, issue to the applicant a license to engage in business as provided in § 113.010. No license shall be refused except for a specified reason. All licenses shall be numbered in the order in which they are issued, and shall clearly state the location of the junk business, the date of issuance and expiration of the license and the name and address of the licensee. No applicant to whom a license has been refused shall make further application until a period of at least 12 months shall have elapsed since the last previous rejection, unless that person can show the reason for rejection no longer exists. *(2002 Code, § 113.05) (Ord. 143, passed 7-1-1969)*

**§ 113.060 LICENSE FEE.**

(A) Every junk dealer shall pay an annual license fee as set forth in the City's Fee Schedule as it may be amended from time to time. All licenses shall be issued as of August 1 and shall continue in force until July 31 next succeeding the date of issuance thereof, unless sooner revoked.

(B) Whenever a license shall be lost or destroyed without fault on the part of the holder or his or her agent or employee, a duplicate license in lieu thereof under the original application and bond shall be issued by the upon the filing of an affidavit setting forth circumstances of the loss or destruction and upon the payment of the sum as set forth in the City's Fee Schedule as it may be amended from time to time. *(2002 Code, § 113.06) (Ord. 143, passed 7-1-1969)*

**§ 113.070 POSTING OF LICENSE REQUIRED.**

(A) Every holder of a junk dealer's license shall at all times keep the license posted while in force in a conspicuous place on the premises described in the application for the license. It shall be unlawful for any person to post the license or to be permitted to post it upon the premises other than those mentioned in the application, or knowingly to deface or destroy any such license.

(B) Every licensed junk dealer shall have and keep a sign on the outside and in front of each place of business, on which shall be clearly set forth in conspicuous letters his or her name, the words "Junk Dealer," and the number corresponding to the number of his or its license. *(2002 Code, § 113.07) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

**§ 113.080 PERMIT REQUIRED TO MOVE BUSINESS.**

Every junk dealer's license shall designate the place of business in or from which the junk dealer receiving the license shall be authorized to carry on his or her business. No licensee shall remove his or her place of business from the place designated in the license until a written permit has been secured from the City Council, and the same shall have been endorsed upon the license. *(2002 Code, § 113.08) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

**§ 113.090 ADDITIONAL REQUIREMENTS.**

(A) No junk dealer shall carry on the business at or from any other place than the one designated in the license therefor, nor shall the business be carried on after the license has been revoked or has expired.

(B) No junk dealer shall purchase or acquire from any person under the age of 18 years any junk, other

## TITLE XI: BUSINESS REGULATIONS

than old rags or paper, without the written consent of a parent or guardian. No item shall be acquired from any intoxicated person.

(C) The contents of the premises of every junk dealer shall be arranged in an orderly manner, with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every junk dealer shall be subject to inspection by the proper municipal authorities at any time. *(2002 Code, § 113.09) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

### **§ 113.100 REGULATIONS SET BY CITY ADMINISTRATOR.**

The City Administrator shall formulate reasonable rules and regulations relating to the conduct of the business of junk dealing which shall protect the health and welfare of the community. No junk dealer shall violate any such rules or regulations. *(2002 Code, § 113.10) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

### **§ 113.110 PROHIBITED ITEMS.**

No person shall knowingly buy, sell, receive, dispose of, conceal or have in his or her possession any motor vehicle, part or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle, part or accessory. Every person to whom is offered for sale, storage or wreckage any motor vehicle, part or accessory from which has been removed, defaced, covered, altered or destroyed the manufacturer's serial number or any other number or identification mark shall immediately notify the Chief of Police of the offer. *(2002 Code, § 113.11) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

### **§ 113.12 REPORTS TO POLICE.**

Every junk dealer upon being served with a written notice to do so by a member of the Police Department, shall report to the Chief of Police, on blank forms to be furnished by the Police Department, an accurate description of all goods, articles or things purchased or received in the course of business of a junk dealer at the time and during the period of time specified in the notice, stating the amount paid for and the name, residence and general description of the person from whom the goods, articles or things were received. *(2002 Code, § 113.12) (Ord. 143, passed 7-1-1969) Penalty, see § 10.990*

### **§ 113.130 NOTICE OF COMPLAINT; LICENSE REVOCATION.**

(A) Upon complaint being made in writing by any municipal official or resident of the city to the City Administrator that any licensee has violated any of the provisions of this chapter, the Mayor shall summon the licensee to appear before the City Council at the time specified in the summons, which shall be not less than three days after the date of service thereof, to show cause why his or her license shall not be revoked. The City Council shall proceed to hear the matter, and if it finds the allegations of the complaint are correct, it shall revoke the junk dealer's license.

(B) Whenever any license shall be so revoked, no refund of any unearned portion of the fee therefor shall be made and no license shall be granted to any person, firm, partnership, association or corporation whose license has been so revoked within a period of one year from the date of revocation. Notice of revocation and the reason or reasons therefor in writing shall be served by the upon the person, firm, partnership, association or corporation named in the application by mailing the same to the address given in the application, and upon filing a copy of same with the City Council. *(2002 Code, § 113.13) (Ord. 143, passed 7-1-1969)*

**§ 113.140 PENALTY.**

Violation of any terms and provisions of this Chapter shall be deemed a misdemeanor and be punishable by up to 90 days in jail, a fine of up to \$1,000, or both. Each day shall constitute a separate violation.

**CHAPTER 114: PEDDLERS AND SOLICITORS**

Section

- 114.010 Definitions
- 114.020 Exceptions to definitions
- 114.030 Licensing; exemptions
- 114.040 License ineligibility
- 114.050 License suspension and revocation
- 114.060 License transferability
- 114.070 Registration
- 114.080 Mobile food vendor operations
- 114.090 Prohibited activities
- 114.100 Mobile food vendors prohibited locations
- 114.110 Exclusion by placard
- 114.120 Penalty

**§ 114.010 DEFINITIONS**

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

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

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

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

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

## TITLE XI: BUSINESS REGULATIONS

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

***MOBILE FOOD VENDOR.*** A self-contained food service operation located in a readily movable motorized wheeled or towed vehicle that is readily movable without disassembly and that is used to store, prepare, display, or serve food intended for individual portion service. The term MOBILE FOOD VENDOR shall mean the same as the terms “mobile food cart” and “mobile food vehicle”.

### § 114.020 EXCEPTIONS TO DEFINITIONS

(A) For the purpose of the requirements of this chapter, the terms PEDDLER, SOLICITOR, MOBILE FOOD VENDOR, and TRANSIENT MERCHANT shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

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

### § 114.030 LICENSING; EXEMPTIONS

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

(B) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler, mobile food vendor or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to § 114.030 (H).

(C) *Application.*

(1) Application for a city license to conduct business as a peddler, solicitor, mobile food vendor or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Administrator. All applications shall be signed by the applicant.

(2) All applications shall include the following information.

(a) Applicant’s full legal name.

(b) All other names under which the applicant conducts business or to which applicant officially answers.

(c) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).

(d) Full address of applicant's permanent residence.

(e) Telephone number of applicant's permanent residence.

(f) Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.

(g) Full address of applicant's regular place of business (if any).

(h) Any and all business related telephone numbers of the applicant.

(i) The type of business for which the applicant is applying for a license.

(j) Whether the applicant is applying for an annual or daily license.

(k) The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).

(l) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.

(m) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.

(n) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.

(o) Proof of any requested county license.

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

(q) A general description of the items to be sold or services to be provided.

(r) All additional information deemed necessary by the City Council.

(s) The applicant's driver's license number or other acceptable form of identification.

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

## TITLE XI: BUSINESS REGULATIONS

### (D) *Mobile Food Vendor Additional Requirements.*

- (1) Name and contact information of commercial food supply sources;
- (2) Proof of applicable licenses or permits required by the State of Minnesota, Waseca County, or this Code, including but not limited to MN Department of Health Mobile Food Unit Permit;
- (3) Brief physical description of the mobile food cart or mobile food vehicle, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight, license plate numbers, and vehicle identification numbers;
- (4) Information regarding water supply, fuel supply, and waste disposal;
- (5) Proposed location(s) of operations, including physical address of property where licensee will be conducting business in regards to this license with written permission from property owner.
- (6) Licensee must possess a commercial general liability insurance policy for its mobile food cart or vehicle operations in an amount not less than \$100,000 per individual, \$500,00 per single incident, and \$100,000 for property damage occurring in any year, with a signed endorsement satisfactory to the City Attorney. Licensee shall name and maintain the City of Janesville as an additional insured on the insurance policy. A valid copy of this policy shall be provided to City staff at the time of licensee application.

(E) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established by city resolution, as it may be amended from time to time.

(F) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Administrator, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Administrator determines that the application is incomplete, the Administrator must inform the applicant of the required necessary information that is missing. If the application is complete, the Administrator must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the Administrator must issue the license unless there exist grounds for denying the license under § 114.040, in which case the Administrator must deny the license. If the Administrator denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

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

### (H) *License exemptions.*

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



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

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter. *Penalty, see § 10.990*

#### **§ 114.040 LICENSE INELIGIBILITY**

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

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

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

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

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

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

#### **§ 114.050 LICENSE SUSPENSION AND REVOCATION**

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

- (1) Fraud, misrepresentation or incorrect statements on the application form.
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity.
- (3) Conviction of any offense for which granting of a license could have been denied under § 114.040.
- (4) Violation of any provision of this chapter.

## TITLE XI: BUSINESS REGULATIONS

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

- (1) The manner, or proposed manner, of operating the mobile food vehicle or cart violates any federal, state of Minnesota, Waseca County, or City law or regulation;
- (2) The manner of operating the mobile food vehicle or cart constitutes a public nuisance per Minnesota statutes 609.74 and 609.75, or their successors;
- (3) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food cart or vehicle;
- (4) Licensee or any employee or agent of the licensee made omissions, deceptive statements, and/or false statements of material fact to city staff;
- (5) Failure to timely pay license fee or pattern of operation without a license.

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

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

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

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

(G) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court. *Penalty, see § 10.990*

### **§ 114.060 LICENSE TRANSFERABILITY**

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued. *Penalty, see § 10.990*

**§ 114.070 REGISTRATION**

Upon completion of all requirements found in this Chapter, 114.03 (C), all peddlers, solicitors, mobile food vendors or transient merchants, and any person exempt from the licensing requirements of this chapter under § 114.030, shall be required to register with the city. Registration shall be made on a form provided by the City, but no fee shall be required. The City Administrator shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferable. *Penalty, see § 10.990*

**§ 114.080 MOBILE FOOD VENDOR OPERATIONS**

A mobile food cart or food vehicle, is by definition, a food establishment and must comply with the Minnesota Food Code, Minnesota Statutes Chapter 157 and Minnesota Rules Chapter 4626, or their successors. Additionally, it shall be unlawful to operate any mobile food cart or vehicle in the City unless it is licensed, operated, and conducted in accordance with the following requirements:

(A) Applicable license fees shall be paid;

(B) Prohibited from discharging waste, liquids, garbage, litter, or refuse on City sidewalks, streets, or lawn areas, or in City drains or trash receptacles. Licensees shall be responsible for all litter and garbage left by customers;

(C) Prohibited from using utilities from public property and right-of-ways without written permission from the City;

(D) Commercial private property parking areas are the preferred location for any mobile food units operating within City limits;

(E) Prohibited from using utilities or any adjacent private property without obtaining written permission from the private property owner or agent;

(F) Shall operate in strict compliance with the laws, rules, and regulations of the United States, State of Minnesota, Waseca County, and the City;

(G) Shall abide by all vehicular public parking regulations;

(H) Shall provide and maintain at least one clearly designated waste container for customer use per reach mobile food cart or vehicle;

(I) Food sold or served from mobile food carts or vehicles may not be prepared in a private residence;

(J) Licensee shall collect and remit applicable Minnesota and City sales tax;

(K) Licensee shall consent to mobile vehicle or cart inspection by City staff, Police, Fire, Building Official or City Administrator upon request.

## TITLE XI: BUSINESS REGULATIONS

### § 114.090 PROHIBITED ACTIVITIES

No peddler, solicitor, mobile food vendor or transient merchant shall conduct business in any of the following manners.

- (A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- (B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.
- (C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.
- (D) Conducting business before 7:00 a.m. or after 9:00 p.m.
- (E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- (F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, transient merchant, or mobile food vendor shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
- (G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive. *Penalty, see § 10.990*

### § 114.100 MOBILE FOOD VENDORS PROHIBITED LOCATIONS

No mobile food vendors shall conduct business in any of the following locations:

- (A) Mobile food carts or vehicles may not operate through or on city trails or parks unless the licensee obtains specific permission from the City;
- (B) Mobile food carts or vehicles may not operate or travel on public (City) property or streets except as part of a Special Event as designated by the City Council;
- (C) Mobile food carts or vehicles may not operate in city-owned parking lots without prior approval from the City;
- (D) Mobile food carts and vehicles are prohibited from obstructing the ingress or egress from any business during the business's hours of operation;
- (E) Mobile food carts and vehicles may not operate or travel on private property unless the licensee obtains written permission from the property owner or agent;

(F) Licensed mobile food carts or vehicles may operate in conjunction with a community event or parade, if the licensee obtains written permission from the City and the permit holder of the event or parade.

#### **§ 114.110 EXCLUSION BY PLACARD**

No peddler, solicitor, transient merchant, or mobile food vendor, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, or mobile food vendor when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors, Mobile Food Vendors or Transient Merchants,” or “Peddlers, Solicitors, Mobile Food Vendors, and Transient Merchants Prohibited,” or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section. *Penalty, see § 10.990*

#### **§ 114.120 PENALTY**

Violation of this Chapter 114 shall be considered a misdemeanor punishable by up to 30 days imprisonment and a fine of up to \$1,000, or both.

### **CHAPTER 115: RENTAL HOUSING REGULATIONS**

#### Section

- 115.010 Definitions
- 115.020 Inspection and licensing
- 115.030 Application procedure
- 115.040 License terms and conditions; violations
- 115.050 Schedule of fees
- 115.060 Conduct on licensed premises
- 115.070 Violation, Enforcement Authority

#### **§ 115.010 DEFINITIONS**

***RENTAL HOUSING UNIT.*** Any building or structure, or portion thereof, which is designed, built, remodeled, rented, leased, let or hired out to be occupied, or which is occupied as a home or residence of a person or persons other than the owner or purchaser of record. This definition does not apply to dormitories owned and/or controlled by an established educational institution nor motel, hotel rooms, or bed and breakfast customarily rented on a daily basis, nor does it include nursing home facilities, health care facilities, or assisted-living facilities that are regularly licensed and inspected by state health agencies. (*Ord. 2020-B, passed 11-09-2020*)

#### **§ 115.020 INSPECTION AND LICENSING**

It shall be unlawful for any person to conduct or operate or cause to be operated either as owner, lessee, agent or in any other capacity within the city any rental housing, as defined in §115.010, without having first obtained a license to do so as hereafter provided. Inspection of a rental dwelling shall be done prior to issuance of an initial rental housing license, prior to rental housing license renewal, and upon a rental housing tenant’s filing of a complaint with the city of rental housing conditions that are subject to the standards herein.

## TITLE XI: BUSINESS REGULATIONS

### § 115.030 APPLICATION PROCEDURE

(A) (1) Owners of rental property must conduct a criminal history of every prospective tenant through the Janesville Police Department. The applicant shall pay an investigation fee as established by resolution of the City Council.

(2) Failure to conduct a criminal history of a prospective tenant as provided in this chapter shall be considered a violation of this chapter. The owner of the rental housing unit shall be subject to suspension or loss of rental license as determined by the City Council after hearing. The suspension or revocation may be for all units in a given building or complex of buildings. Notice of the intent to suspend a rental license shall be given by the city to the owner of the rental housing unit a minimum of ten days prior to a hearing to be held before the City Council.

(B) The owner of each rental housing unit shall make written application to the city for a license on a form to be supplied by the city and containing information as necessary to administer and enforce the provisions of and to insure compliance with the provisions of this chapter, and the minimum standards of the Uniform Housing Code. The legal owner of record of the rental housing unit shall make written application to the city for a license as herein provided prior to any initial occupancy, and, prior to license renewal. Every applicant for a license shall assist the city in making the inspection of the premises. This includes notifying the occupants of the building of the time when the inspection will be conducted and requesting their cooperation in the inspection.

### § 115.040 LICENSE TERMS AND CONDITIONS; VIOLATION

(A) (1) If upon completion of the inspection of the building and habitable portions thereof, it is found that the minimum requirements of the Uniform Housing Code have been met, and the property as a whole is in compliance with this code, a license shall be issued. If the Building Inspector finds code deficiencies, he or she shall list the deficiencies, note necessary corrections and give these findings to the building owner and no license shall be issued until the deficiencies are corrected. Upon re-inspection of licensed premises, if the inspector finds violations of the applicable codes, the owner shall be notified of the violations and ordered to correct them within a reasonable time. Failure to correct the violations as ordered shall be grounds for revocation of the license.

(2) The inspector may suspend the license if the inspector determines that a violation constitutes an immediate hazard to the public health or safety, the health or safety of the tenant. Upon suspension of the license, a public hearing shall be scheduled within 15 days, before the City Council which may revoke the license, rescind the suspension or set other conditions as may be deemed reasonable. The units within a structure which are in compliance with the Uniform Housing Code minimal requirements may continue on condition that units in other portions of the structure in noncompliance do not create an immediate hazard to the health and safety to the persons in the occupied units. The extended occupancy may continue until final actions of the City Council takes place.

(3) The suspended license may be revalidated upon meeting the requirements of the code with payment of 50% of the applicable license and inspection fee. Issuance of a new license after revocation shall be subject to a payment of the full amount of the applicable license and inspection fee.

(B) All licenses issued under this chapter shall be for a period of three years. The license period shall begin on February 1 and shall expire on January 31. The issuance of a temporary certificate preceding the actual issuance of a license shall not extend the expiration date of the license.

(C) (1) A license issued hereunder is transferable, for a fee in the amount of 50% of the application license and inspection fee, as stated in the City of Janesville fee schedule, to any person who has acquired ownership of a licensed building for the unexpired portions of the three-year term for which it was issued or reissued, provided that the application to transfer the license is filed with the city for change of ownership and the licensed building and dwelling units are in compliance with the Uniform Housing Code. The license shall terminate upon failure to apply for its transfer within 30 days of the date of sale or transfer of ownership of the building. (*Ord. 2019-B, passed 11-25-2019*)

(2) The suspended license may be revalidated upon meeting the requirements of the code with payment of 50% of the applicable license and inspection fee. Issuance of a new license after revocation shall be subject to a payment of the full amount of the applicable license and inspection fee.

(D) Licenses issued under this section shall be prominently and publicly displayed on the premises of the structure, wherever feasible, or produced on demand by a tenant or prospective tenant, and shall be available at reasonable times for inspection by an authorized inspector of the City.

(E) It shall be unlawful for any lessor to rent a housing unit to a tenant in violation of this section, whether the occupancy is for a tenancy at will or by written lease.

(F) The activities of the licensee or the failure to adequately maintain the property to comply with health, safety, building codes and section 115.060 shall result in suspension and/or revocation of license.

#### **§ 115.050 SCHEDULE OF FEES**

(A) At the time of application for the license or for license renewal required by this section, the City of Janesville shall collect the appropriate license fee and inspection fee in accordance with the annual fee schedule.

(B) The license and inspection fees shall be paid upon application on or before date of initial license issuance or license renewal. The license fee shall be subject to a 10% penalty per month, or any portion thereof, beyond the date due and payable. No refund of license and inspection fees shall be made to those discontinuing operation or who sell, transfer, give away or otherwise dispose of a licensed building to another person. In the event it is determined by the City Administrator that an application must be denied due to legal restrictions that prohibit the issuance of the license, the applicant's tendered fees will be returned. The City Administrator shall review the fee schedule annually and recommend changes as the Administrator deems appropriate to the City Council. ~~If the application is made after December 1, the fee shall be 50% of the fee otherwise due.~~

#### **§115.060 CONDUCT ON LICENSED PREMISES**

(A) The license holder shall be responsible to prevent repeat instances of disorderly conduct by tenants, members of a tenant's household and guests. In addition, the license holder shall be responsible for maintaining the dwelling unit in a manner that the property will not be defined as being a nuisance condition either under Janesville City Code or State Statute. For the purposes of this section, "disorderly conduct" means the following:

- (1) Violations of the city code;
- (2) M.S. § 609.72, as it may be amended from time to time;
- (3) Prostitution or prostitution-related activity committed within the building;

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- (4) Gambling or gambling-related activity committed within the building;
- (5) Keeping or permitting a disorderly house within the building;
- (6) Unlawful sale, possession, storage, delivery, giving, manufacture, cultivation or use of controlled substances committed within the building;
- (7) Unlicensed sales of alcoholic beverages committed within the building in violation of M.S. § 340A.401, as it may be amended from time to time;
- (8) Unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of M.S. § 340A.503 (2), as it may be amended from time to time; or
- (9) Unlawful use or possession of a firearm in violation of M.S. §§ 609.66 (1)(A), 609.67 or 624.713, as they may be amended from time to time, committed within the building. (*Ord. 2020-B, passed 11-09-2020*)

(B) *Strike One.* Upon determination by the Police Department, Health Inspector, or enforcement officer that the licensed premises were used in a disorderly manner, or that a nuisance condition exists, the City shall notify the license holder by mail of the violation and direct the license holder to take steps to prevent further violations.

(C) *Strike Two.* If a second instance of disorderly use of the premises or nuisance violation occurs within 12 months of an incident for which notice provided in division (B) above was given, the license holder shall be notified of the instance of disorderly use and shall also be required to submit a written report of actions taken by the landlord to eliminate future disorderly use of the premises or nuisance. This written report shall be submitted to the City within five days of the notice of disorderly use of the premises and shall detail all actions taken by the license holder in response to all notices of disorderly use of the premises within the preceding 12 months. The license holder shall also be notified by mail that one more violation can cause the license holder's license to rent to be revoked or suspended.

(D) (1) *Strike Three.* If a third instance of disorderly use of the premises or nuisance violation occurs within 12 months after receipt of notices as pursuant to divisions (B) and (C) above, the rental housing unit license may be revoked or suspended by the City Council for the dwelling unit. The City Council may determine whether to suspend the license for 30, 90, or 365 days. The suspension or revocation may be for all units in a given building or complex of buildings.

(2) After suspension or revocation, the City Council may reissue the license if substantial improvements are made to correct problems causing the suspension or revocation and a license holder shall pay to the city a reinstatement fee as outlined in § 115.040 (A) (3). A suspension may be stayed by the City Council subject to payment of the applicable reinstatement fees and no further violations of this section for a period of 12 months.

(3) If three strikes are issued to a dwelling unit and if the property owner does not comply with mitigating the situation, the property owner can be charged with being in violation of city code.



(E) No suspension or revocation shall be imposed where the instance of disorderly use of the premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days of notice given by the license holder to a tenant to vacate the premises where the disorderly use was related to the occurring in the unit for which eviction proceedings were undertaken or notice to vacate was given. Eviction proceedings shall not be a bar to sanctions, however, unless they are diligently pursued by the license holder. *(Ord. 2020-B, passed 11-09-2020)*

#### **§ 115.070 VIOLATION, ENFORCEMENT AUTHORITY**

(A) Violation of this Chapter 115 shall be considered a petty misdemeanor. Second or subsequent violations of Chapter 115 in a five (5) year period shall be a misdemeanor. *(Ord. 2020-B, passed 11-09-2020)*

(B) *Authority.* The City Administrator, or designee, is hereby authorized and directed to enforce all provisions of the Janesville City Code. For such purposes they shall be known and appointed as enforcement officers having the authority to issue notices of violation, issue administrative penalties as established, issue orders for occupants to vacate a dwelling unit found to be in violation of Janesville City Code.

(C) *Inspection Upon Complaint.* Any rental property within the City of Janesville is subject to investigation upon complaint. Complaints shall be investigated within seventy-two (72) hours of receipt by the City Administrator, or their designee, to verify the existence of conditions in violation of this ordinance or any other applicable statute, ordinance, code or regulation.

(1) Whenever necessary to make an inspection upon receipt of complaint if the Building Inspector or his or her authorized representative has reasonable cause to believe that there exists upon a premises a violation of this chapter, he or she may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that if such building or premises is occupied, official credentials will be presented to the occupant, and entry requested.

(D) *Failure to Allow Inspection.* Intentional failure, or failure without good cause; to appear for scheduled rental inspections or re-inspections or for intentional avoidance or delay in scheduling inspection(s) when requested shall be charged administrative fees as outlined in accordance with the annual fee schedule. Three (3) consecutive failures to allow inspection per initial request may result in suspension of rental license for a period not less than thirty (30) days or until such time that the dwelling or unit is made available for inspection.

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### CHAPTER 116: OUTDOOR MUSIC EVENTS REGULATIONS

#### Section

116.010 Outdoor music events

116.990 Penalty

#### § 116.010 OUTDOOR MUSIC EVENTS.

(A) *Outdoor live or recorded music events (events).* No event shall occur within the city without obtaining a permit approved and issued by the City Council at least 30 days prior to the event.

(B) *Application and issuance.*

(1) An application for an event permit shall be submitted to the City Administrator who shall submit it to the City Council for review. The application shall provide information and/or a plan(s) that demonstrates that the event will comply with the provisions of this section and shall be signed by the owner of the property where the event is being held evidencing the permission of the owner to hold the even on the property.

(2) The City Council shall review the application, and upon determination that it is complete, shall inform the applicant of the date and time at which the application shall be considered.

(3) The City Administrator shall provide written notice at expense of the applicant at least 30 days prior to the date on which the application will be considered to all owners and tenants of residential lots located within 350 feet of all stages, performers, speakers and amplifiers. Said notice shall include the date, time, and location at which the application shall be considered, the type, date and time of event, and contact information of the permit holder.

(C) *Conditions of permit.* The following conditions shall apply to all event permits:

(1) Events shall have adequate sanitary facilities.

(2) Events shall have sufficient off-street parking. The even parking shall not occupy required parking for the principal use of the site.

(3) Events shall have adequate security and fencing to control access.

(4) Events shall be allowed only between May 1 and October 31 and shall occur on the dates and during the hours designated by City Council.

(5) Events shall not interfere with other commercial and governmental activities or with the quiet enjoyment of residential property.

(6) The stage, performers, speakers, and amplifiers shall be arranged in a design and manner that does not directly broadcast music at or toward any residence or building in a Residential Zoning District.

(7) The volume of the event shall be reasonable and shall not exceed 70 decibels measured at the nearest dwelling unit in a residential dwelling district. The permit holder shall comply with all requests of the Police Department to reduce volumes to mitigate nuisance complaints.

(8) Permit holders shall provide written notice ten days in advance of the event to the city and to all owners and tenants of residential lots located within 350 feet of the stage, performers, speakers and amplifiers. Said notice shall include type of event, date and time of event, and contact information of the event holder.

(D) *Conditions of permit.* The following conditions shall apply to all event permits:

(1) Any person, organization, business, and/or entity shall be limited to a maximum of eight event permits from May 1 through October 17, 2017. An amendment to this chapter will be considered after this date. Each permit shall allow a single day event.

(2) Events shall not perform between 12:00 midnight and 11:00 a.m.

(3) Event permits may only be issued to commercial properties.

(E) *Conditions of permit, additional.* The City Council may, as a condition of approval of any event permit, impose additional conditions deemed necessary to mitigate nuisance complaints and protect adjoining properties and/or the quiet enjoyment of residential properties. Such conditions may include but not be limited to:

(1) Restrict the hours of the event beyond those stated in §116.010 (D).

(2) Limit the size of attendance.

(3) Limit the volume of music to a standard measured at the adjoining residential properties.

(4) Limit the days of the week.

(5) Limit amplification or type of instruments for major music events (i.e., prohibit percussion instruments or brass wind instruments.)

(6) Require insurance and proof of such insurance for the event and the property on which the event is being held.

(F) *Responsibility of owner and permit holder.* The property owner and/or permit holder of an event shall be responsible to ensure that the event activities and participants shall not violate the terms of the permit, or violate the city code.

(G) *Violations or complaints.* Permit violations, nuisance complaints, or code enforcement issues attributed to an event or property holding the event may be grounds for denial of future event permits for the permit holder and/or the property. (*Ord. 2017-C, passed 6-12-2017*) *Penalty, see § 116.990*

#### **§ 116.990 PENALTY.**

(A) Any violation of this chapter for which no penalty is set, shall be subject to § 10.990

(B) Any violation of § 116.010 or of a permit issued pursuant to § 116.010 is subject to enforcement as follows:

(1) If it is a violation that affects the public health, safety and welfare, it is hereby declared a public nuisance and is subject to all of the enforcement provisions of Chapter 91 of this City Code.

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(2) Any violation is grounds for revoking the permit.

(3) Any violation shall constitute a misdemeanor and may be prosecuted as such. (*Ord. 2017-C, passed 6-12-2017*)