

# **CHAPTER 13**

## **BUSINESS REGULATIONS AND LICENSING**

<b>Section 13.010</b>	<b>Definitions</b>
<b>Section 13.020</b>	<b>Applications</b>
<b>Section 13.030</b>	<b>Licenses; General Provisions</b>
<b>Section 13.040</b>	<b>Liquor and Beer Licenses Generally</b>
<b>Section 13.050</b>	<b>Drive-up Facilities</b>
<b>Section 13.060</b>	<b>Identification &amp; Sign Regulations</b>
<b>Section 13.070</b>	<b>Non-Intoxicating Malt Liquor</b>
<b>Section 13.080</b>	<b>Liquor Licenses</b>
<b>Section 13.090</b>	<b>Liquor Compliance Checks and Violations</b>
<b>Section 13.100</b>	<b>Public Dances</b>
<b>Section 13.110</b>	<b>Liquor Establishment Dances</b>
<b>Section 13.120</b>	<b>Tobacco</b>
<b>Section 13.125</b>	<b>Electronic Delivery Devices</b>
<b>Section 13.130</b>	<b>Peddlers</b>
<b>Section 13.140</b>	<b>Regulations Regarding Lawful Gambling Activities</b>

## SECTION 13.010 DEFINITIONS

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

**Subd. 1. Business.** The term business means any activity, occupation, sale, or transaction which is licensed or regulated by the provisions of this chapter.

**Subd. 2. Sales.** The terms sale, sell and sold mean all forms of barter and all manner or means of furnishing.

## SECTION 13.020 APPLICATIONS

**Subd. 1. Form.** Each application for a license required by this chapter shall be made at the office of the City Clerk upon such form as may be prescribed by the City Council, and shall be executed by the applicant.

**Subd. 2. Information Required.** Each application for a license required by the provisions of this chapter shall include the following:

- A. The name and date of birth of the applicant;
- B. The present address of the applicant;
- C. The present occupation of the applicant;
- D. The address(s) of the applicant for the three (3) years prior to the date of application;
- E. The occupation(s) of the applicant for the three (3) years prior to the date of application;
- F. Whether or not the applicant has ever been convicted of a criminal offense; and
- G. The type of license and the proposed location of the establishment or business for which such license application is made.
- H. Proof that the applicant has a valid seller's permit issued pursuant to Minnesota Statutes Section 297A.04 (as the same may be amended or recreated from time to time) or a written statement by the seller indicating that the sales to be made by the seller are exempt from the imposition of sales tax with a specific statement as to the provision of law required upon by the seller for his/her exemption from the requirement to obtain a valid seller's permit.

**Subd. 3. False Statements.** It is unlawful for any person to intentionally make any false statement or to intentionally omit any required information in the completion of any application form. Any such false statement or omission shall render such application, or

any license issued pursuant thereto, invalid and of no effect.

**Subd. 4. Submission Deadlines for Applications.** In order to allow sufficient time for staff review prior to Council action on license and permit applications, any application for the following licenses and permits must be submitted no less than thirty (30) days prior to the City Council meeting at which the City Council is scheduled to take action upon such application: On-Sale Intoxicating Liquor License, Off-Sale Intoxicating Liquor License, On-Sale Club Intoxicating Liquor License, On-Sale Non-Intoxicating Malt Liquor License, Off-Sale Non-Intoxicating Malt Liquor License, Temporary On-Sale Non-Intoxicating Malt Liquor License, License to Sell Liquor in a Contiguous Area to a Licensed Premises, Temporary License to Sell Liquor in a Contiguous Area to a Licensed Premises, Public Dance License, Liquor Establishment Dance License, Gambling License. (Adopted 09-09-1996)

### **SECTION 13.030 LICENSES; GENERAL PROVISIONS**

**Subd. 1. Issuance.** Except as to the following licenses: liquor licenses, non-intoxicating malt liquor licenses, public dance licenses, liquor establishment dance licenses or as specifically set forth in a particular section of this chapter of the City Code, all licenses issued pursuant to this chapter of the City Code shall be issued by the City Clerk upon a determination by the City Clerk that all conditions precedent to the issuance or renewal of the license have been met including the payment of the applicable fees and proof of insurance if applicable. Such issuance of a license by the City Clerk shall include any conditions recommended by other city departments if the license has been referred to such department prior to issuance.

**Subd. 2. Appeal.** A person aggrieved by the denial of a license by the City Clerk or the imposition of terms in connection with the granting of a license may appeal such action of the City Clerk to the City Council. In order to appeal the decision of the City Clerk, the applicant for the license must file a written notice of appeal with the City Clerk within five (5) days of being informed of the City Clerk's decision to deny the issuance of a license or the terms upon which the license will be issued.

The City Council will then review the decision of the City Clerk to determine whether or not such action was correct. The City Council may, in connection with its review of the action of the City Clerk, either affirms, reserve or modify the actions of the City Clerk. That applicant shall be advised by mail of the date and time that the Council will hear the applicant appeal.

**Subd. 3. Term of License.** Except as is otherwise specifically provided, each license issued pursuant to the provision of this chapter shall expire on the 31st day of December immediately following such issuance.

**Subd. 4. Transfer.** No license issued pursuant to this chapter shall be transferable by the licensee to another person, firm or corporation. No such license shall be transferable to a different location except with the prior consent of the City Council, or the City Clerk in

the case of the transfer of a license issuable by the City Clerk without City Council action and upon payment of the fee for a duplicate license as provided herein.

**Subd. 5. License Posting.** Each license issued pursuant to this chapter shall be posted on the premises for which the license is issued.

**Subd. 6. Duplicate License.** The City Clerk shall, without the City Council action, issue a duplicate for any license issued pursuant to this chapter, upon the filing of an affidavit of the licensee stating that the original license was lost or destroyed, and upon payment of a duplicate license fee. Each duplicate license shall be clearly marked as a duplicate. The duplicate license fee may be set from time by resolution of the City Council.

**Subd. 7. Refusal.** The City Council may, in the sole discretion of the Council and for any reasonable cause, refuse to grant any application for any license.

**Subd. 8. Revocation.** The City Council may either suspend, not to exceed sixty (60) days, or revoke any license issued pursuant to this chapter, for good cause, including a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to the operation of the licensee. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the provisions of Minnesota Statutes, Sections 14.57 to 14.69.

**Subd. 9. Automatic Non-renewal or Revocation.** No license issued or renewed pursuant to this chapter shall be deemed valid until all license fees have been fully paid and any required insurance provided. Any license issued or renewed upon payment by a check shall be deemed conditionally issued until the City has received final credit to its bank account in the full amount of such license fees. In the event the check tendered by the licensee is dishonored or refused by any financial institution, such provisionally issued license shall be deemed void as of the date of the check's dishonor or refusal by a financial institution.

**Subd. 10. Penalty.** Any person who shall violate any provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine and/or imprisonment equal to, but not to exceed the state limitations for a misdemeanor.

## **SECTION 13.040 LIQUOR AND BEER LICENSES GENERALLY**

**Subd. 1. Definitions.** Any term used in this section and defined in Minnesota Statutes, Section 340A.101 or in Minnesota Statutes, Section 340A.101, has the meaning given by that section of the Minnesota statutes.

### **Subd 2. Applications.**

A. Each application for a license by this chapter shall be made at the office of the City Clerk upon such form as may be prescribed by the commissioner of Public Safety for the State of Minnesota, with such additional information as the Council shall require,

and shall be verified by the applicant.

- B. It is unlawful for any person to intentionally make any false statement or to intentionally omit any required information in the completion of any liquor or non-intoxicating malt liquor application form. Any such false statement or omission shall render such application, or any license issued pursuant thereto, invalid and of no effect.
- C. Each application for a license required by this chapter shall be accompanied by a certified check or money order constituting payment in full of the license fee set forth herein.

**Subd. 3. Insurance.**

- A. Every applicant for or holder of on-sale or an off-sale license required by this chapter for the sale of intoxicating liquor, or non-intoxicating malt liquor, shall file with the City Clerk, and shall maintain for the effective period of such license, evidence of a liability insurance policy or policies providing coverage in the amount of fifty thousand dollars (\$50,000.00) for damages to one (1) person, and one hundred thousand dollars (\$100,000.00) to two (2) or more persons and ten thousand dollars (\$10,000.00) because of injury to or destruction of property to others arising out of a single incident, which policy shall specifically provide for the payment by the insurance company on behalf of the insured of such amounts which the insured shall become obligated to pay by reason of liability imposed upon the insured by law for injury or damage to persons, other than employees of the insured, including the liability imposed upon the insured by reason of Minnesota Statutes, Section 340.95 provided this subdivision does not apply to licensees who by affidavit establish that they are on-sale non-intoxicating malt liquor licensees with sales of less than ten thousand dollars (\$10,000) of non-intoxicating malt liquor for the preceding year, or off-sale non-intoxicating malt liquor licensees with sales of less than twenty thousand dollars (\$20,000) of non-intoxicating malt liquor. Such policy shall provide that no cancellation of such policy for any cause maybe made either of such cancellation to the City Clerk at least ten (10) days before such cancellation.
- B. The operation of any establishment for which an on-sale or off-sale license has been issued pursuant to this chapter without having such evidence on file and such insurance in effect shall be sufficient cause for the immediate revocation of such license, provided that in the event such insurance policy or policies shall expire or be canceled, and the licensee is unable to obtain the insurance coverage required by this Subdivision, the licensee may continue to operate the establishment so licensed for a period of, not to exceed ninety (90) days from the date on which such policy or policies shall have expired or been canceled, upon the deposit by the licensee with the City Clerk of a bond or cash security in the amount equal to the maximum bond or cash security amount recited in Minnesota Statutes, Section 340A.409, which bond or cash security shall, in all respects, comply with the requirements pertaining to such bond or cash security set forth in Minnesota Statutes, Section 340.12.

**Subd. 4. Investigation Fee.** Each application for an intoxicating liquor or non-intoxicating malt liquor license required by the provisions of this chapter submitted by an applicant to whom no such license has been previously issued shall be accompanied by payment, by means of a certified check or money order, or a license application investigation fee in the amount set forth below.

- A. On-Sale Intoxicating Liquor. The investigation fee for an application for an on-sale intoxicating liquor license shall be set from time to time by resolution of the City Council.
- B. Off-Sale Intoxicating Liquor. The investigation fee for an application for an off-sale intoxicating liquor license shall be set from time to time by resolution of the City Council.
- C. On-Sale Club Intoxicating Liquor. The investigation fee for an application for an on-sale club intoxicating license shall be set from time to time by resolution of the City Council.
- D. On-Sale non-intoxicating Malt Liquor. The investigation fee for an on-sale non-intoxicating malt liquor license shall be set from time to time by resolution of the City Council.
- E. Off-Sale non-intoxicating Malt Liquor. The investigation fee for an off-sale non-intoxicating malt liquor license shall be set from time to time by resolution of the City Council.
- F. Temporary. The investigation fee for a temporary on-sale non-intoxicating malt liquor license shall be set from time to time by resolution of the City Council. There shall be no investigation fee for the second and each subsequent temporary on-sale non-intoxicating malt liquor license issued to a given corporation during a given calendar year.

The investigation fee shall not be applicable towards payment of the license for which application is made in the event the license application is granted, and shall not be refunded in the event the license application is granted, denied or withdrawn.

**Subd. 5. Issuance.** In the event an application for a license required by this chapter is granted by the City Council, the City Clerk and Mayor shall, upon payment of the license fee, issue such license.

**Subd 6. Premises Licensed.**

- A. The application for any license granted hereunder shall contain a detailed description of the premises upon which intoxicating or non-intoxicating liquor shall be sold. Accompanying that description on the application shall be a drawing which

designates the area to be licensed, which drawing shall be deemed a part of the application.

- B. Except as otherwise provided in this subdivision, no premises shall be licensed unless contained wholly within a completely enclosed building and all activities related to the sale and/or consumption of intoxicating liquor and/or non-intoxicating liquor shall be strictly limited to the completely enclosed building or portion thereof as have been licensed.
- C. An applicant may make application to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of intoxicating and/or non-intoxicating liquor in such contiguous area that is not wholly within a completely enclosed building. Such application shall be accompanied by an investigation and review fee, which fee shall be nonrefundable and in addition to any other investigation fee required. Such fee shall be set from time to time by resolution of the City Council.
- D. Each application pursuant to paragraph C shall contain a description of the non-enclosed area that is proposed to be licensed and shall be accompanied by a drawing of the proposed area to be licensed. Such application shall also include a detailed scale description of the barriers that will be used, method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements and lighting. The drawings required hereunder shall include the dimensions of the area, barriers, tables, aisles and equipment and shall be drawn proportionately to scale.
- E. The application pursuant to paragraph C shall be submitted to the City Clerk for review and comment before submission to the City Council. City staff shall review the suitability of the proposed non-enclosed premises in light of the applicable fire, building, and life safety codes, zoning ordinances, past performance of the licensee in maintaining order or the licensed premises and obeying applicable laws, the adequacy of the proposal to provide for the safety of persons on the proposed premises, impact on the surrounding land, adequacy of lighting, appropriateness of noise level, suitability of ingress and egress arrangements including control of persons entering and leaving for purposes of preventing consumption by minors and safety of seating arrangements.
- F. Any application granted for the inclusion of non-enclosed premises in the licensed premises shall be granted upon such terms and conditions as the council may specify in granting such application relating to the limits of such use including provisions relating to:
  - 1. Hours of operation in the unenclosed area;
  - 2. Barriers to be maintained delineating the unenclosed area such as requiring planters, walls or fences;

3. Minimum lighting requirements;
4. Type of chairs and/or tables used and/or their anchoring;
5. Days of the week or months unenclosed premises may be used;
6. Personnel required supervising the unenclosed area;
7. Items required by applicable fire, building and life safety codes;
8. Maximum number of persons who may be present at any one time;
9. Means and methods used to restrict consumption to licensed area and prevent removal or consumption of beverages outside licensed area;
10. The type of beverage contained used;
11. Sanitary facilities provided their location and number.

G. Any licensing of unenclosed premises shall be deemed experimental and as such, no expectation shall be had by the licensee that the licensing of the unenclosed premises will be renewed even though no misconduct occurred on the unenclosed premises in the event the City Council determines to repeal the general authorization for unenclosed areas to be included in the licensed premises of establishments.

H. An applicant may make application to have an area that is contiguous to the licensed completely enclosed premises temporarily included in the area licensed to permit the sale and/or consumption of intoxicating and/or non-intoxicating liquor in such contiguous area that is not wholly within completely enclosed building. Such application for temporary use of contiguous non-enclosed premises shall comply with all the requirements set forth in paragraphs D through F in terms of the requirements and standards for its issuance and the terms of its licensure provided, however, that only plastic cups may be used to serve beverages and no glass beverage containers or beverage cans may be used or present in the unenclosed temporarily licensed premises. Such temporary use shall not exceed one consecutive three (3) day period.

**Subd. 7. Refusal.** The City Council may, in the sole discretion of the council and for any reasonable cause, refuse to grant any application for any license.

A. No license shall be granted to a person other than a citizen of the United States, of at least twenty-one (21) years of age, who shall be of good moral character and repute, not to any person who, within five (5) years prior to the application for such license has been convicted of any willful violation of any law pertaining to the manufacture, sale, distribution or possession for sale or distribution of non-intoxicating malt liquor or intoxicating liquor.



- B. No license shall be granted, or renewed, for operation on any premises, on which taxes, assessments or other financial claims of the City or of the state are delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of Minnesota Statutes, Chapter 278, questioning the amount or validity of taxes, the Council may, upon request of the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

**Subd. 8. Refund of Renewal License Fees.**

- A. In the event an applicant for renewal of a license granted under this chapter withdraws such renewal application prior to Council approval of such renewal, the renewal license fee shall be refunded to such applicant less a service charge of twenty-five dollars (\$25) or ten percent (10%) of the renewal license fee, whichever is greater.
- B. No renewal license fees shall be refunded in whole or in part, after Council approval of the renewal application.

**SECTION 13.050 DRIVE-UP FACILITIES**

**Subd. 1.** No licensee licensed to sell intoxicating liquor shall operate from premises which contain a drive-up facility as part of the licensed premises or as a part of a facility operated by the license holder.

**Subd. 2.** It shall be unlawful for any person to sell any intoxicating or non-intoxicating alcoholic beverages to a person while such person is within a motor vehicle.

**Subd. 3.** It shall be unlawful for any licensee to sell or deliver or transfer alcoholic beverages from the licensed premises through any opening or window to any person outside the licensed premises.

**SECTION 13.060 IDENTIFICATION & SIGN REGULATIONS**

**Subd. 1. On Sale Identification.** It shall be unlawful for a person, except a person under the age of eighteen who is accompanied by his/her parent or legal guardian, (which parent or legal guardian is 21 years of age or older), to enter or attempt to enter premises licensed for on-sale of intoxicating liquor or non-intoxicating malt beverages, without having on their person a valid, unaltered, driver's license or picture identification card issued by a State or the United States government identifying such person and their date of birth or, in the case of a foreign national, a valid passport.

**Subd. 2. Misrepresenting Age.** It shall be unlawful for a person, under the age of 21 years, to represent themselves as being 21 years of age or older for purposes of gaining admission to premises licensed for the sale of intoxicating liquor or non-intoxicating malt beverages.

**Subd 3. Off-Sale Identification.** It shall be unlawful for a person to purchase or attempt to purchase intoxicating liquor or non-intoxicating malt liquor at off-sale without such person having on their person a valid, unaltered, driver's license or picture identification card issued by a State or the United States government identifying such person and their date of birth or, in the case of a foreign national, a valid passport.

**Subd. 4. Persons Under Age 18.**

- A. It shall be unlawful for any licensee, to permit any person under the age of eighteen (18) to loiter or remain in any room where intoxicating liquor is being sold or served, unless that person is accompanied by his/her parent or legal guardian, which parent or guardian is 21 years or older.
- B. It shall be unlawful for any person under the age of eighteen (18) to loiter or remain in any room where intoxicating liquor is being sold or served, unless that person is accompanied by his/her parent or legal guardian, which parent or guardian is twenty-one (21) years or older.
- C. Nothing herein shall prohibit attendance by persons under the age of eighteen at private parties where alcoholic beverages are sold and or served. A "private party", for purposes of this paragraph shall mean an event held in licensed premises that is not open to the public and attendance is limited to a discreet and identifiable group of persons invited by a host, which group any include persons under the age of eighteen unaccompanied by a parent or guardian. A "host", for purposes of this paragraph is a person, at least 21 years of age, who has rented a discreet portion or all of the licensed premises, which person is financially responsible for the rental of the premises. The general public may not be allowed into or invited to the private party. The license holder shall remain responsible for the premises and shall take appropriate measures to insure that all applicable laws relating to the consumption of alcoholic beverages are followed.

**Subd. 5. Right to Limit Age of Entry.** Nothing herein shall be deemed to restrict the ability or rights of a license holder to restrict admittance to a licensed establishment to only those persons who are of legal drinking age.

**Subd. 6. Subsequent Proof of Age.** No person, twenty-one (21) years of age or older on the date of the offense who is charged with violating the driver's license, identification or passport possession requirements of Subdivision 1 or 3 of this Section shall be convicted if the person produces in court or the office of the arresting officer a valid, unaltered, driver's license or picture identification card previously issued to such person by a state or the United States government identifying such person and their date of birth or, in the case of a foreign national, a valid passport, which was validate the time of the person's arrest or charging.

## SECTION 13.070 NON-INTOXICATING MALT LIQUOR

**Subd. 1. License Required.** Except as provided in Minnesota Statutes, Chapter 340, it is unlawful for any person to sell, exchange, barter, or keep or offer for sale, any non-intoxicating malt liquor without first having obtained a license therefore from the City.

**Subd. 2. Temporary Non-intoxicating Malt Liquor License.** The City Council may issue to any charitable, religious or nonprofit corporation, which corporation is organized and existing under the laws of the State of Minnesota, a temporary on-sale license for the sale of non-intoxicating malt liquor at any compact and contiguous space, and in or out of buildings. Each such temporary non-intoxicating malt liquor license shall be issued for a specific event or incident names and described in the application for such license, which event shall not exceed four (4) consecutive days in duration.

**Subd. 3. License Fee.**

- A. On-Sale. The annual on-sale non-intoxicating malt liquor license fee shall be set from time to time by resolution of the City Council.
- B. Off-Sale. The annual off-sale non-intoxicating malt liquor license fee shall be set from time to time by resolution of the City Council.
- C. Temporary On-Sale. The temporary on-sale non-intoxicating malt liquor license fee shall be set from time to time by resolution of the City Council.

**Subd. 4. Hours of Sale.** No on-sale or off-sale of intoxicating malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday (Monday through Saturday). The sale of on-sale liquor shall not be made on any Sunday between the hours of 1:00 a.m. and 11:00 a.m., nor shall any off-sale liquor sales be made between the hours of 6:00 p.m. on Sunday and 11:00 a.m. Monday. (Amended 05-01-17)

**Subd. 5. Hours and Activities.**

- A. No person shall consume, and no licensee shall permit any person to consume non-intoxicating malt liquor on any premises licensed for the on-sale of non-intoxicating malt liquor after the hour for the termination of consumption as set forth in State Statute.
- B. No open container with an alcoholic beverage shall be allowed in an on-sale establishment between fifteen minutes after the hour of termination of sale and the hour when sale of non-intoxicating malt beverages may commence under State law. For purposes of this paragraph, an open container shall mean a bottle, can or glass designed or used for individual consumption of beverages and/or a pitcher and shall not refer to a large container not delivered for use by the retail consumer or a container kept in a bar area accessed only by employees of the establishment.

## SECTION 13.080 LIQUOR LICENSES

**Subd. 1. Required.** Except as provided in Minnesota Statutes, Chapter 340A, it is unlawful for any person, directly or indirectly, upon any pretense or by any device, to sell, exchange, barter or keep for sale any intoxicating liquor without first having obtained a license therefore from the City.

### **Subd. 2. License Fee.**

- A. On-Sale. The annual on-sale intoxicating liquor license fee shall be set from time to time by resolution of the City Council.
- B. Off-Sale. The annual off-sale intoxicating liquor license fee shall be set from time to time by resolution of the City Council.
- C. On-Sale Sunday. The annual on-Sale Sunday intoxicating liquor license fee shall be set from time to time by resolution of the City Council.
- D. On Sale Club License. The annual on-sale club intoxicating liquor license fee shall be set from time to time by resolution of the City Council.

### **Subd. 3. Regulations.**

- A. Maintenance of Order. Each intoxicating liquor licensee shall be responsible for the conduct of the licensed place of business, and for the maintenance of sobriety and order therein.
- B. Persons Remaining After Closing. No open container with an alcoholic beverage shall be allowed in an on-sale establishment between fifteen minutes after the hour of termination of sale and the hour when sale of alcoholic beverages may commence under State law. For purposes of this Paragraph E., an open container shall mean a bottle, can or glass designed or used for individual consumption of beverages and/or a pitcher and shall not refer to a large container not delivered for use by the retail consumer or a container kept in a bar area accessed only by employees of the establishment.
- C. Persons Consuming After Closing. No person shall consume any intoxicating liquor on any premises licensed for the on-sale of intoxicating liquor after the required hour of termination or sale as provided herein.
- D. Sale by Club. No club, or employee or member thereof, having a club on-sale intoxicating liquor license shall furnish or sell intoxicating liquor or any person other than a member or bona fide guest of the club.
- E. Sunday Liquor Sales. It is unlawful to sell, directly or indirectly, intoxicating liquor on Sunday without a Sunday license issued by the City. Sunday liquor licenses may

be issued to establishments that are eligible for Sunday licenses pursuant to State Statute.

### **SECTION 13.090 LIQUOR COMPLIANCE CHECKS AND VIOLATIONS (Adopted 11-05-2021)**

**Subd. 1. Compliance Checks.** The license holder will be subject to at least one compliance check each year. Law enforcement personnel or a person designated by law enforcement officials will conduct random, unannounced inspections at each location where alcohol products are sold to test compliance with age-of-sale laws. These inspections shall include, but not be limited to, surveillance including minors under the age of twenty-one (21) who attempt to purchase alcohol. A finding of non-compliance during such unannounced inspection shall constitute a violation of this subdivision. Additional compliance checks during the license year may be conducted following a violation by any licensed alcohol outlet.

**Subd. 2. Violations.** Penalty for Non-compliance. In addition to any criminal penalties which may be imposed by a court of law, the City Council may suspend or revoke a license on a finding that the license holder or its employees has failed to comply with this ordinance.

If a license holder violates any provision of this Ordinance once within twelve (12) months, the minimum penalty will be a two hundred fifty dollar (\$250) fine, a suspension, or both.

If a license holder violates any provision of this Ordinance twice within twenty-four (24) months, the minimum penalty will be a three hundred fifty dollar (\$350) fine, a suspension, or both.

If a license holder violates any provision of the Ordinance three (3) or more times within thirty-six (36) months, the minimum penalty will be a five hundred dollar (\$500) fine, a suspension, or both.

**Subd. 3. Notice.** Any correspondence concerning compliance with this Ordinance will be sent to the license holder's place of business by registered mail. The licensee shall be sent a written notice at least ten (10) days in advance informing the licensee of the specific ordinance or statutory violation upon which any suspension or revocation would be based and the licensee has the right to be represented by counsel and present evidence on it behalf.

### **SECTION 13.100 PUBLIC DANCES**

**Subd. 1. Definitions.** The following terms, as used in this section, shall have the meanings stated:

- A. Public Dance. The term "public dance" means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, or a fee for a membership in a club, and shall include any manner of holding a dance in which the public may participate through the payment, directly or indirectly, of money.
- B. Public Dancing Place. The term "public dancing place" means any room or place open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

**Subd. 2. License Required.** It is unlawful for any person to give, hold or conduct a public dance unless the owner or proprietor of the public dancing place, or the person giving the same or in charge thereof, shall first have produced a license therefore from the City.

**Subd. 3. License Fee.**

- A. Annual. The annual license fee for a public dancing place shall be set from time to time by resolution of the City Council.
- B. Single Dance. The license fee for a single public dance shall be set from time to time by resolution of the City Council.

**Subd. 4. Supervision.**

- A. It shall be incumbent upon any person to whom a liquor establishment dance license is issued to have, in the event any dance or dancing is conducted pursuant to such license wherein the public may participate only upon or after payment, directly, or indirectly, of an admission fee, price for dancing, fee for a membership in a club, or cover or admission charge for admission to the room or rooms wherein such dancing is permitted, to have an officer of the law, as contemplated by Minnesota statutes, Section 624.50, designated by the Chief of Police, present at each dance or dancing, such officer to be present during all the time that such dance or dancing is held. Pursuant to the provisions of Minnesota Statutes, Section 624.50, in the event a person not a public officer is designated by the chief of Police as such an officer of the law, the licensee shall be responsible for the acts and conduct of such designated officer of the law.
- B. The license holder shall provide liability insurance coverage for the acts of his employees and officers of the law in connection with dancing on the premises in an amount of at least three hundred thousand dollars (\$300,000.00) per person and five hundred thousand dollars (\$500,000.00) per occurrence. Such policy of insurance shall include the City of Eagle Lake and Chief of Police as named insured. Proof of such insurance shall be furnished to the City clerk before any license issued hereunder shall become effective.

- C. An employee of the license holder may be designated as an officer of the law for purposes of supervision when dancing is conducted. Such designated employee or employees shall not be discharged from employment by the license holder for any acts taken by the employee(s) to enforce the laws of the State of Minnesota or ordinances of the City or to maintain order unless such acts constituted the use of clearly excessive force.
- D. No person convicted of a misdemeanor involving theft, dishonesty, or physical harm, or of a felony shall be designated as a public officer to supervise dancing.

**Subd. 5. State Regulations.** It is unlawful for any public dance licensee, or any agent or employee of such licensee, to violate any of the provisions of Minnesota Statutes, Sections 624.42 to 624.54, which provisions pertain to or regulate public dancing places.

### **SECTION 13.110 LIQUOR ESTABLISHMENT DANCES**

**Subd. 1. License Required.** It is unlawful for any person to give, hold, conduct or permit any dancing wherein the public may participate, whether or not the payment of an admission fee is required, in any establishment licensed, by the City or the State of Minnesota, for the sale of intoxicating liquor or non-intoxicating malt liquor, as defined in Minnesota Statutes, Chapter 340A, without a license therefore from the City.

**Subd. 2. License Fee.** The annual license fee for a liquor establishment dance license shall be set from time to time by resolution of the City Council.

**Subd. 3. Hours.** It is unlawful for any liquor establishment dance licensee, or employee or agent thereof, to permit any dancing during any time during which the sale of intoxicating liquor or non-intoxicating malt liquor is prohibited.

**Subd. 4. Supervision.** It shall be incumbent upon any person to whom a liquor establishment dance license is issued to have, in the event any dance or dancing is conducted pursuant to such license wherein the public may participate only upon or after payment, directly or indirectly, of an admission fee, price for dancing, fee for a membership in a club, or cover or admission charge for admission to the room or rooms wherein such dancing is permitted, to have an officer of the law, as contemplated by Minnesota Statutes, Section 640.50, designated by the Chief of Police, present at each such dance or dancing, such officer to be present during all the time that such dance or dancing is held. Pursuant to the provisions of Minnesota Statutes, Section 640.50, in the event a person not a public officer is designated by the Chief of Police as such as officer of the law, the licensee shall be responsible for the acts and conduct of such designated officer of the law.

**Subd. 5. State Regulations.** It is unlawful for any liquor establishment dance licensee, in the event any dance or dancing is conducted pursuant to such license wherein the public may participate only upon or after payment, directly or indirectly, of an admission

fee, price for dancing, fee for a membership in a club, or cover or admission charge for admission to the room or rooms wherein such dancing is permitted, or any agent or employee of such licensee, to violate any of the provisions of Minnesota Statutes, Sections 624.42 to 624.54.

### SECTION 13.120 TOBACCO

**Subd. 1.** The City Council of the City of Eagle Lake resolves that they delegate the responsibility of enforcing tobacco license enforcement to Blue Earth County for sales within the City of Eagle Lake. (Amended by City Council April 7, 2014)

### SECTION 13.125 CLEAN INDOOR AIR - ELECTRONIC DELIVERY DEVICES

**Subd. 1. Purpose and Intent.** Unregulated electronic delivery devices, commonly referred to as electronic cigarettes, or e-cigarettes, closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine or other substances created by heat through an electronic ignition system.

**Subd. 2. 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:

- A. **Electronic Delivery Device.** 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 shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes and is being marketed and sold solely for that approved purpose.
- B. **Use.** The inhaling or exhaling of vapor from any electronic delivery device. Use shall also mean carrying an electronic delivery device that is turned on or otherwise activated.
- C. **Prohibition.** The use of any electronic delivery device is prohibited anywhere smoking is prohibited by the Minnesota Clean Indoor Act.
- D. **Other Applicable Laws.** This ordinance is intended to complement the Minnesota Clean Indoor Air Act, Minnesota Statute Sec. 144.411 to 144.417, as amended from time to time. Nothing in this ordinance authorizes smoking in any location where smoking is restricted by other applicable laws.

**Subd. 3. Violation and Penalties.**



- A. **Use Where Prohibited.** It is a violation of this Ordinance for any person to smoke in an area where smoking is prohibited by this Ordinance, or to smoke in an area where smoking is prohibited by a private policy established by the proprietor or other person in charge of the area, as authorized by Subd. 2.D. of this Ordinance.
- B. **Proprietors.** It is a violation of this Ordinance for the proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of an area in which smoking is prohibited under this Ordinance to knowingly fail to comply with the provisions of this Ordinance.
- C. **Penalties.** A person who violates any provision of this Ordinance shall be guilty of a petty misdemeanor. Each day of violation constitutes a separate offense.  
(Subd. 13.125 approved March 2, 2015)

### **SECTION 13.130 PEDDLERS**

**Subd. 1. Definitions.** The following terms, as used in this section, shall have the meanings stated:

- A. **Peddler.** Any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting any goods, wares or merchandise and selling or offering or exposing for sale such goods, wares or merchandise.
- B. **Solicitor.** Any person who goes from house to house, from place to place, or from street to street soliciting or attempting to take orders for any goods, wares or merchandise for future delivery, provided that the term "solicitor" shall not include any person taking or attempting to take any order to be filled by any goods, wares, or merchandise delivered to the purchaser or consumer from any other than the State of Minnesota.
- C. **Transient Merchant.** Any person who engages temporarily in the business of selling and delivering any goods, wares or merchandise within the city and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot or vehicle.

**Subd. 2. License Required.** No peddler, solicitor, or transient merchant shall sell or offer for sale any goods, wares or merchandise within the City without first having obtained a license for such sale or offer from the City.

**Subd. 3. License Fee.** The license fee for a peddler license shall be set from time to time by resolution of the City Council and shall be effective for one week.

**Subd. 4. Separate License.** Each peddler, solicitor or transient merchant shall secure a separate license.

**Subd. 5. Display of License.** Each peddler license shall be carried by the licensee while engaged in the licensed activity, and shall display such license to any party upon request.

**Subd. 6. Practices Prohibited.** It is unlawful for any peddler, solicitor, or transient merchant to call attention to business or merchandise by crying out, blowing a horn, sounding a bell, or by any loud or amplified sound or noise.

**Subd 7. Exemptions.** This section shall not apply to any sale pursuant to any court order; to any auction sale; to any sale at wholesale to a retail dealer; or to the sale of farm or garden products; to any uninvited initiatory call made by any vendor of milk, groceries, bakery products, ice or other perishable commodities for the purpose of establishing a regular route delivery service to regular customers; nor to any solicitation for or any sale on behalf of any charitable, religious, fraternal or civic organization.

### **SECTION 13.140 REGULATIONS REGARDING LAWFUL GAMBLING ACTIVITIES**

**Subd. 1. Definitions.** For purposes of this section, the following terms, phrases, words and their derivatives shall have the meaning given herein.

- A. Activities shall mean lawful gambling and/or bingo.
- B. Premises shall mean the place where the activities are to take place.

**Subd. 2. Provisions of State Law Adopted.**

- A. The provisions of Minnesota Statutes, Chapter 349, as amended from time to time, relating to the definition of terms, licensing and restrictions of lawful gambling are adopted and made a part of this section as if set out in full.
- B. The City of Eagle Lake will not impose local regulation upon gambling exempt from licensing by the Charitable Gambling Board and as defined in Section 349.214 of Minnesota Statutes.

**Subd 3. Applications.** Any organization seeking licensing through the State of Minnesota to conduct lawful gambling activities shall submit the following information to the City Clerk:

- A. A copy of the lease and any addenda thereto for the premises where the lawful gambling and/or bingo activities are to be held if the premises where the activities are to be held are not owned by the organization conducting the lawful gambling;
- B. A drawing showing the dimensions and location of the area leased for conducting the activities;

- C. A copy of the articles of incorporation of the organization conducting the activities;
- D. Proof that the organization has been in existence for three or more years;
- E. The full name and date of birth of all officers involved in conducting the activities;
- F. A description of the internal controls to be used by the organization to comply with Minnesota Rules, Section 7860.0150, and

**Subd. 4. Age Restrictions.** No person under the age of eighteen (18) years shall be permitted to be present, enter or remain on the premises of an establishment where pull tabs, tip boards, or paddle wheels are being played and/or sold unless such minor is accompanied by his/her parent or guardian. This prohibition shall not apply to persons employed by or working as volunteers on the premises while under the supervision and control of a person eighteen (18) years of age or older. Nor shall this prohibition apply to persons coming on to the premises of a fraternal organization for the purpose of attending a function or meeting for an organization of which the person is a member such as a scout troop, youth group or auxiliary sponsored by the fraternal organization.

In reviewing an application for a gambling license, the Council shall review the provisions made by the applicant to restrict entry onto the premises by minors. The Council shall disapprove any license application for premises that do not effectively provide for preventing entry by minors.

**Subd. 5. Multiple Licenses.** Multiple license holders may operate lawful gambling activities at one premise if:

- A. All sales are made by employees or volunteers directly associated with the license holder and sales of lawful gambling devices are made from designated "booth" areas only, not over the bar or counter, or;
- B. Lawful Gambling is allowed under the license of only one license holder at a time. The license holders must provide a schedule of the dates and time that each license will be used. No license holder will be allowed to designate their license for use for less than a twenty-four (24) hour period.

**Subd. 6. Reports.** Licensed organizations must submit to the City a copy of the Monthly Lawful Gambling Activity Summary and Tax Return along with all schedules filed to the State of Minnesota

**Subd. 7. Responsible Parties.** The gambling manager or managers of a licensed gambling organization shall be exclusively responsible for the timely filing of all returns, reports, and other documents required by this section.

**Subd. 8. Eligible Local Organizations.** The City Council may, at its discretion, approve a license to operate charitable gambling for any eligible local organization. An

organization shall be considered an “eligible local organization” if it shows that it meets the following criteria:

- A. No less than seventy-five percent (75%) of its active membership is comprised of Eagle Lake residents.
- B. The organization maintains an Eagle Lake address.
- C. The granting of the license will not have a significant negative impact on any existing organization licensed to operate charitable gambling within the City of Eagle Lake. (Adopted 02-03-1997)

**Subd. 9. Other Eligible Organizations.** The City Council may, at its discretion approve a license to operate charitable gambling to organizations not classified as an eligible local organization under Subdivision 8 of this Section. Each organization that is not a local organization which conducts lawful gambling activities within the City of Eagle Lake shall expend no less than fifty percent (50%) of its lawful expenditures of funds derived from gambling activities for the direct benefit of citizens within the “local trade area”.

The “local trade area” for the purposes of this subdivision is defined to include the area within the corporate limits of the City of Eagle Lake. Any organization licensed under this subdivision shall, on a monthly basis, file with the City Clerk a report specifying the amount of funds expended in the “local trade area” and the benefits derived by the citizens of the “local trade area”. (Adopted 02-03-1997)