

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. GENERAL LICENSING PROVISIONS
- 111. PEDDLERS AND SOLICITORS
- 112. LIQUOR REGULATIONS
- 113. RESERVED
- 114. GAMBLING REGULATIONS
- 115. AMUSEMENTS
- 116. ADULT USES AND SEXUALLY ORIENTED BUSINESSES
- 117. PAWN SHOP
- 118. REFUSE HAULERS

CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

110.01	Licenses required to engage in certain businesses
110.02	Application for license
110.03	Issuance of license
110.04	Date and duration of license
110.05	License not transferable
110.06	License certificate to be displayed
110.07	Revocation or suspension
110.08	Appeal and review

§ 110.01 LICENSES REQUIRED TO ENGAGE IN CERTAIN BUSINESSES.

No person shall engage in any of the trades, businesses, or professions for which licenses are required by Title XI of this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk-Treasurer or other duly authorized issuing authority.

Penalty, see § 10.99

§ 110.02 APPLICATION FOR LICENSE.

(A) All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk-Treasurer or other authorized official in writing upon forms to be furnished by him or her and shall contain:

- (1) The applicant's full name, address, and telephone number, and the full name of each officer, partner or business associate, if applicable;
- (2) His or her present occupation and principal place of business;
- (3) His or her place of residence for the preceding 5 years;
- (4) The nature and location of the intended business or enterprise;

Business Regulations

(5) The period of time for which the license is desired;

(6) A description of the merchandise, goods or services to be sold;

(7) If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle.

(8) Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

(B) Any change in the information required by division (A) of this section must be reported to the City Clerk-Treasurer or other authorized official within 14 days of that change.

(C) Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk-Treasurer or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

(D) With each original or renewal application, the applicant shall deposit the fee required for the license requested.

(E) It shall be unlawful to knowingly make any false statement or representation in the license application.

Penalty, see § 10.99

§ 110.03 ISSUANCE OF LICENSE.

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk-Treasurer, shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk-Treasurer.

§ 110.04 DATE AND DURATION OF LICENSE.

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

Business Regulations

§ 110.05 LICENSE NOT TRANSFERABLE.

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.

Penalty, see § 10.99

§ 110.06 LICENSE CERTIFICATE TO BE DISPLAYED.

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.

Penalty, see § 10.99

§ 110.07 REVOCATION OR SUSPENSION.

(A) Any license may be suspended or revoked by the City Clerk-Treasurer or City Council at any time for the following reasons:

(1) For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;

(2) For any misrepresentation of a material fact in the application discovered after issuance of the license;

(3) For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;

(4) For violation of any provision of this chapter or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or

(5) Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

(B) The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

Business Regulations

§ 110.08 APPEAL AND REVIEW.

In case any applicant has been denied a license by the City Clerk-Treasurer, or if his or her license has been suspended or revoked by the City Clerk-Treasurer, the applicant or licensee shall within 10 business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City-Treasurer or other authorized official. Notice of appeal shall be filed in writing with the City Clerk-Treasurer. Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

CHAPTER 111: PEDDLERS AND SOLICITORS

Section

111.01	Definitions
111.02	Exceptions to definitions
111.03	Licensing; exemptions
111.04	License ineligibility
111.05	License suspension and revocation
111.06	License transferability
111.07	Registration
111.08	Prohibited activities
111.09	Exclusion by placard

§ 111.01 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*.

Business Regulations

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 shall mean the same as the term *CANVASSER*.

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 and who does not remain or intend to remain in any 1 location for more than 14 consecutive days.

§ 111.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms *PEDDLER*, *SOLICITOR*, 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*, 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.

§ 111.03 LICENSING; EXEMPTIONS.

(A) *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler 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 § 111.07 of this code.

FE Repl.

Business Regulations

(B) *Application.* Application for a city license to conduct business as a peddler 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 Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which the applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) The full address of the applicant's permanent residence;
- (5) The telephone number of the applicant's permanent residence;
- (6) The full legal name of any and all business operations owned, managed, or operated by the applicant, or for which the applicant is an employee or agent;
- (7) The full address of the applicant's regular place of business (if any);
- (8) Any and all business-related telephone numbers of the applicant;
- (9) The type of business for which the applicant is applying for a license;
- (10) Whether the applicant is applying for an annual or daily license;
- (11) 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);
- (12) 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;

FE Repl.

Business Regulations

(13) A statement as to whether or not the applicant has been convicted within the last 5 years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

(14) A list of the 3 most recent locations where the applicant has conducted business as a peddler or transient merchant;

(15) Proof of any requested county license;

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

(17) A general description of the items to be sold or services to be provided;

(18) All additional information deemed necessary by the City Council;

(19) The applicant's driver's license number or other acceptable form of identification; and

(20) 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.

(C) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established by the City Council from time to time.

(D) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk-Treasurer, within 2 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 Clerk-Treasurer determines that the application is incomplete, the Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the Clerk-Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application the Clerk-Treasurer must issue the license unless there exist grounds for denying the license under §111.04 of this code, in which case the Clerk-Treasurer must deny the license. If the Clerk-Treasurer 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 State Court of Appeals for a writ of certiorari.

(E) *Duration.* An annual license granted under this chapter shall be valid for 1 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.

FE Repl.

Business Regulations

(F) *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 fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
Penalty, see § 10.99

§ 111.04 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 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 5 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 5 years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant; or

(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 3 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 3 complaints filed against the applicant within the preceding 5 years.

FE Repl.

Business Regulations

§ 111.05 LICENSE SUSPENSION AND REVOCATION.

(A) *Generally.* Any license issued under this chapter 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 § 111.04 of this code; or
- (4) Violation of any provision of this chapter.

(B) *Multiple persons under 1 license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants 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.

(C) *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.

(D) *Public hearing.* Upon receiving the notice provided in division (C) 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 Clerk-Treasurer within 10 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 3 regular business days of the hearing, the City Council shall notify the licensee of its decision.

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

(F) *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.
Penalty, see § 10.99

Business Regulations

§ 111.06 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 § 10.99

§ 111.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements of this chapter under § 111.03 of this code, shall be required to register with the city. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.

Penalty, see § 10.99

§ 111.08 PROHIBITED ACTIVITIES.

No peddler, solicitor, 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 so 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, or transient merchant 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; or

(G) Remaining on the property of another when requested to leave, or otherwise conducting business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

Penalty, see § 10.99

Business Regulations

§ 111.09 EXCLUSION BY PLACARD.

No peddler, solicitor, or transient merchant, 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, or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors, or Transient Merchants," or "Peddlers, Solicitors, 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 § 10.99

CHAPTER 112: LIQUOR REGULATIONS

Section

Off-Sale Licensing and Regulations

- 112.01 State statutes adopted
- 112.02 License required
- 112.03 License application
- 112.04 Fees; term
- 112.05 License issuance; transfer
- 112.06 Ineligible persons and places
- 112.07 Conditions of license
- 112.08 Suspension and revocation
- 112.09 Violations

On-Sale Establishments; Regulations

- 112.20 State statutes adopted
- 112.21 Definitions
- 112.22 Minors; unlawful acts
- 112.23 Hours of sale
- 112.24 Hours of consumption
- 112.25 Alcoholic beverages in public places prohibited; exceptions
- 112.26 Tampering with original package content prohibited
- 112.27 Sales to intoxicated persons prohibited
- 112.28 Licensee responsibility; order and sales
- 112.29 Violations

On-Sale Licensing

- 112.40 License application and issuance
- 112.41 Number of licenses available
- 112.42 Temporary on-sale license
- 112.43 City officials; eligibility restricted
- 112.44 Investigation and hearing
- 112.45 License revocation and suspension
- 112.46 Sunday license
- 112.47 Malt liquor sales
- 112.48 License terms and conditions
- 112.49 Multiple licenses restricted
- 112.50 License effective in specified space
- 112.51 License expiration; renewal; prorating
- 112.52 Fees; refund
- 112.53 Issuance
- 112.54 Corporations
- 112.55 Transfer; change of address; expansion
- 112.56 Ineligible locations

Liquor Regulations

- 112.57 Social Host
- 112.58 Wine

- 112.99 Penalties

Business Regulations

§ 112.01 STATE STATUTES ADOPTED.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licenses, hours of sale, all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor, are adopted and made part of this subchapter as if set out in full.

(Ord. 170, passed 5-20-1999)

§ 112.02 LICENSE REQUIRED.

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

(B) Off-sale licenses shall be issued only to exclusive liquor stores and shall permit off-sale only. License shall be limited to 1 for the period of 5 years from the date of this subchapter, which period shall end 5-20-2004, at which time the allowed number of licenses may be issued according to population as stated by law.

(Ord. 170, passed 5-20-1999) Penalty, see § 112.99

§ 112.03 LICENSE APPLICATION.

Every application for a license to sell liquor shall be in the form prescribed by the State Department of Public Safety Alcohol and Gambling Enforcement Division and filed with the City Clerk-Treasurer. No person shall make a false statement in an application.

(Ord. 170, passed 5-20-1999) Penalty, see § 112.99

§ 112.04 FEES; TERM.

(A) *Fees.* The fee for an off-sale license is set by state law and will be billed as such. Each application for a license shall be accompanied by a check for that amount and this check for a license shall be returned if a license is not granted. All fees shall be placed into the general fund.

(B) *Term.* Each license shall be issued for a period of 1 year unless application is made during the license year; a license may be issued for the remainder of the year for a prorated fee, with an unexpired fraction of a month being counted as 1 month. Every license shall expire on the last day of December.

(C) *Refunds.* No refunds of any fee shall be made except as authorized by statute.

(Ord. 170, passed 5-20-1999)

§ 112.05 LICENSE ISSUANCE; TRANSFER.

(A) *Approval.* No off-sale license shall become effective until it has been approved by the Alcohol and Gambling Director, Department of Public Safety.

Business Regulations

(B) *Persons and premises licensed; transfer.* Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock without prior Council approval is a ground for revocation of the license.

(Ord. 170, passed 5-20-1999) Penalty, see § 112.99

§ 112.06 INELIGIBLE PERSONS AND PLACES.

(A) *Persons ineligible for license.* No license shall be granted to any person made ineligible for this type of license by state law. No more than 1 intoxicating liquor license shall be directly or indirectly issued within the city to any 1 person.

(B) *Places ineligible for license.*

(1) No license shall be issued for any place or any business ineligible for this type of license under state law.

(2) No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims for the city are delinquent and unpaid.

(Ord. 170, passed 5-20-1999)

§ 112.07 CONDITIONS OF LICENSE.

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

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

(C) *Licensee responsibility.* Every licensee is responsible for the conduct of his or her place of business and the conditions in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this subchapter and the law equally with the employee.

(D) *Inspections.* Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

(Ord. 170, passed 5-20-1999) Penalty, see § 112.99

§ 112.08 SUSPENSION AND REVOCATION.

(A) The Council may either suspend for a period not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. Ch. 14, as it may be amended from time to time.

(B) Lapse of required dram shop insurance shall effect an immediate suspension of any license issued pursuant to this subchapter without further action of the City Council. Notice of cancellation or

Business Regulations

lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance may request a hearing thereon, and if such a request is made in writing to the Clerk-Treasurer a hearing shall be granted within 10 days or a longer period as may be requested. Any suspension under this division shall continue until the City Council determines that the financial responsibility requirements of this subchapter have again been met.

(Ord. 170, passed 5-20-1999) Penalty, see § 112.99

§ 112.09 VIOLATIONS.

Any person violating any provision of this subchapter is guilty of a misdemeanor.

(Ord. 170, passed 5-20-1999) Penalty, see § 112.99

ON-SALE ESTABLISHMENTS; REGULATIONS

§ 112.20 STATE STATUTES ADOPTED.

The provisions of M.S. Ch. 340A, as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, conditions of bonds and licensees, hours of sale, and all other matters pertaining to the retail sale and distribution of intoxicating liquor, shall be adopted and made a part of this subchapter as if set out in full.

(Ord. 173, passed 6-11-2002)

§ 112.21 DEFINITIONS.

For the purpose of this subchapter and §§ 112.40 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGES. Distilled, fermented, spirituous, vinous, and malt beverages containing 0.5% or more of ethyl alcohol by weight which are potable for consumption by human beings.

ON-SALE. For use of consumption by the purchaser on the licensed premises.

(Ord. 173, passed 6-11-2002)

§ 112.22 UNDERAGE DRINKING; ENTRY INTO AND EMPLOYMENT BY A DRINKING ESTABLISHMENT

It is unlawful for a person under 21 to consume, purchase or possess any alcoholic beverage. It is unlawful for anyone under 21 to enter a liquor establishment with the intent of being served alcohol.

1. A person who is 18, 19 or 20 may enter an establishment for the following purposes:
 - A. To perform work for the establishment, including the serving of alcoholic beverages.

B. To consume meals.

C. To attend social functions that are held in a portion of the establishment where liquor is not sold.

No person under 18 may serve or sell intoxicating liquor in a retail intoxicating establishment. The employment of persons under 18 in rooms or areas in which intoxicating liquor or 3.2 malt liquor is sold or consumed is prohibited. Lawful work by minors may be performed elsewhere on the premises of a liquor licensee, provided that the minor does not enter or work in a room in which liquor is sold or consumed. Minors who have reached the age of 16 may be employed to provide musical entertainment or perform bussing, dishwashing or hosting services in rooms or areas of a restaurant, hotel, motel or resort where the presence of intoxicating liquor or 3.2 malt liquor is incidental to food service or preparation. [Revised 4/14/2015]

Penalty, see § 112.45

§ 112.23 HOURS OF SALE.

(A) *Intoxicating liquor.*

(1) No on-premises sale of intoxicating liquor shall be made between the hours of 12:30 a.m. and 8:00 a.m. on any weekday, Monday through Thursday inclusively and 1:30am and 8:00am on Friday and Saturday only. Establishment must be closed by 2:00am on Friday and Saturday. [Revised 5/12/2015]

(2) On-premises sale of intoxicating liquor shall be permitted on any Sunday between the hours of 11:00am and 12:00 midnight, in conjunction with serving of food. [Am. Ord. 173, published 10-26-2017]

(B) *3.2% malt liquor.*

(1) No on-premises sale of 3.2% malt liquor shall be made between the hours of 12:30 a.m. and 8:00 a.m. on any weekday, Monday through Thursday inclusively and 1:30am and 8:00am on Friday and Saturday only. Establishment must be closed by 2:00am on Friday and Saturday. [Revised 5/12/2015]

(2) On-premises sale of 3.2% malt liquor shall be permitted on any Sunday between the hours of 11:00am and 12:00 midnight, in conjunction with the serving of food. [Ord. 173, passed 6-11-2002; Am. Ord. 173, amendment, published 11-28-2002; Am. Ord. 173, published 10-26-2017] Penalty, see § 112.99

§ 112.24 HOURS OF CONSUMPTION.

(A) On any licensed on-sale premises, no person shall consume any alcoholic beverage in that period from ½ hour after sales of alcoholic beverages on the premises are required by law to cease until the time at which sales of alcoholic beverages on the premises are next allowed by law to begin.

(B) No licensee, manager, or employee of any place for which any on-sale license has been issued, shall allow any patron to consume any alcoholic beverages on the premises in that period from ½ hour

Business Regulations

after sales of alcoholic beverages on the premises are required by law to cease until the time at which sale of alcoholic beverages on the premises are next allowed by law to begin.

(C) No licensee, manager, or employee of any place for which any on-sale license has been issued shall allow any patron to leave the licensed premises with any drink or open container of alcoholic beverages. (Ord. 173, passed 6-11-2002; Am. Ord. 173, amendment, published 11-28-2002) Penalty, see § 112.99

§ 112.25 ALCOHOLIC BEVERAGES IN PUBLIC PLACES PROHIBITED; EXCEPTIONS.

(A) No owner, manager, or person having control of any public place shall serve, permit to be served, or permit any person to drink alcoholic beverages in that place unless the place has been duly issued an on-sale or temporary on-sale license.

(B) No person shall mix, prepare, serve, or consume alcoholic beverages in any public place except a club, restaurant, or other place licensed to sell on the premises; provided, however, that the City Council may permit the serving and consumption of alcoholic beverages in public places in connection with special events and convention functions subject to whatever conditions it deems desirable to impose.

(C) No person shall consume or have alcoholic beverages in his or her possession in any public place holding an on-sale license unless those alcoholic beverages have been served to him or her by the manager, licensee, or any employee of the licensee. (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.26 TAMPERING WITH ORIGINAL PACKAGE CONTENT PROHIBITED.

No person holding any license issued under this subchapter and §§ 112.40 *et seq.*, directly or through any agent, employee, or other person, shall dilute, fill, refill, or in any manner tamper with the contents of any original package or bottle so as to change its composition or alcoholic content while in the original package or bottle. Possession on the licensed premises by any licensee of any alcoholic beverage in the original package or bottle differing in composition or alcoholic content from the alcoholic beverage when received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package or bottle have been diluted, changed, or tampered with. (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.27 SALES TO INTOXICATED PERSONS PROHIBITED.

(A) No person shall sell, give, barter, furnish, or dispose of in any manner, directly or indirectly, any alcoholic beverages in any quantity, for any purpose whatsoever, to any obviously intoxicated person. The City Council may revoke the license of any licensee convicted of selling any alcoholic beverages to any obviously intoxicated person.

(B) No obviously intoxicated person shall be permitted to remain on any premises licensed under this subchapter and §§ 112.40 *et seq.* (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

Business Regulations

§ 112.28 LICENSEE RESPONSIBILITY; ORDER AND SALES.

(A) *Maintaining order on premises.* Every licensee shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order therein. Any violation of this subchapter or

§§ 112.40 *et seq.* committed on the licensed premises by an employee of the licensee shall be deemed the act of the licensee as well as the employee.

(B) *Unauthorized sales.* Any sale of alcoholic beverages in or from any place licensed under this subchapter and §§ 112.40 *et seq.* by any clerk, barkeeper, or other employee in that place shall be deemed the act of the employer as well as that of the person actually making the sale. The employer shall be liable for all the penalties provided by this chapter for that sale equally with the person actually making the sale. (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.29 VIOLATIONS.

Any person violating any provision of this subchapter or of §§ 112.40 *et seq.* of this code is guilty of a misdemeanor. (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

ON-SALE LICENSING

§ 112.40 LICENSE APPLICATION AND ISSUANCE.

(A) Applications for intoxicating liquor licenses shall be made to and filed with the City Clerk-Treasurer. On-sale applications shall be made on forms prescribed by the City Council. All forms shall be supplied by the Clerk-Treasurer. The Council may require applicants to furnish information in addition to that contained in the written forms. If required under the provisions of M.S. Ch. 340A, as it may be amended from time to time, a liquor liability insurance policy shall accompany each application for a license.

(B) Whenever there shall be filed with the Clerk-Treasurer an application for the issuance of an alcoholic beverage license or for a transfer thereof, the Building Inspector shall proceed to inspect and examine the premises and make a report to the City Council as to whether the premises show substantial compliance with the requirements of this subchapter and other applicable laws. The Police Department shall investigate the applicant and report whether the applicant is a proper person to receive this type of license. In the event these reports and any supplement assurances indicate the building will comply with the requirements of laws relating to on-sale alcoholic beverage licenses, including building, fire, and health codes, a license may be provisionally granted, which shall be held by the Clerk-Treasurer until completion of the proposed premises. Thereafter, a final inspection and report shall be made by the Building Inspector and Police Department, and if their reports indicate that the premises meet the requirements of all applicable laws and are otherwise suitable for the operation of the business permitted by the license, then the Clerk-Treasurer shall send by certified mail the license to the applicant. In the event that the construction of the proposed premises is not prosecuted by the applicant with reasonable diligence, or in the event the building, when completed, does not comply with the requirements above set forth, the City Council may revoke the license as provided for in this subchapter.

Business Regulations

(C) Every application for a license to sell intoxicating liquor shall state the name of the applicant, his or her age, representations as to his or her character, with references as the City Council may require, the type of license applied for, the business in connection with which the proposed license will operate, its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place, and other information as the City Council may require from time to time. In addition to containing this information, the application shall be in the form prescribed by the Department of Public Safety and shall be verified and filed with the City Clerk-Treasurer. No person shall make a false statement in an application. The City Council and its committee shall have at least 30 days from and after receipt of the application and surety bond for review and examination of the application and surety bond prior to granting or denying issuance of a license. No license shall be valid until approved, where necessary, by the State Department of Public Safety.

(D) Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in M.S. Ch. 340A, as it may be amended from time to time, and the proof shall be filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. Ch. 340A, as it may be amended from time to time. Operation of a facility without having on file with the city at all times effective proof of financial responsibility is cause for revocation of license.
(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.41 NUMBER OF LICENSES AVAILABLE.

The number of on-sale intoxicating liquor licenses shall be limited to 4 according to the population figures at the time of this subchapter. No further licenses shall be available until the population totals over 2,500.
(Ord. 173, passed 6-11-2002)

§ 112.42 TEMPORARY ON-SALE LICENSE.

(A) Temporary on-sale licenses may be issued to existing license holders, clubs, charitable organizations, and other nonprofit organizations (in existence for 3 years or more) permitting those entities to sell intoxicating beverages on-sale. This license shall be issued for a limited length of time, not to exceed 3 days, and the license shall state on its face the specific dates on which it is valid. The license application shall be accompanied by insurance if insurance is required under the provisions of M.S. Ch. 340A, as it may be amended from time to time. The fee for this type of license shall be \$100 and may be waived at the Council's discretion.

(B) Before any temporary license is approved, the licensee shall make application, accompanied by the appropriate fee and including a diagram of the proposed areas, the times and dates of the event, provision for insurance, and description of fencing and security measures. This application will be made to the City Clerk-Treasurer.
(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

Business Regulations

§ 112.43 CITY OFFICIALS; ELIGIBILITY RESTRICTED.

No alcoholic beverage license of any type shall be granted to any elective, executive, or administrative officer of the city, nor to any employee of the city, nor shall any such officer or employee engage in the business, with the exception of the Fire Department which may be granted a 3.2% malt liquor license, and except that employees may work in any licensed establishment if they do not participate in the management of the business.

(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.44 INVESTIGATION AND HEARING.

(A) *Investigation.* On initial application for an on-sale license and upon application for a transfer of any existing on-sale license, the applicant shall be responsible for the costs incurred with investigation and the city shall conduct a preliminary background and financial investigation of the applicant. The application in these cases shall be made on a form prescribed by the State Bureau of Criminal Apprehension and contain additional information as the City Council may require. If the City Council determines that a comprehensive background and financial investigation is necessary, it may conduct that investigation itself or by contract. The applicant shall be charged with the cost of the investigation, not to exceed \$10,000.

(B) *Hearing.* The City Council shall investigate all facts set out in the application and specifically facts not covered by the preliminary background and financial investigation that may be conducted by others. Opportunities shall be given to any person to be heard for or against the granting of a license. After investigation and hearing, the Council shall, in its discretion, grant or refuse an application. No on-sale license shall become effective until, in addition to security requirements, it has been approved by the Commissioner of Public Safety. Each license shall be issued only to the specific applicant and for the specific premises described in the application. No license may be transferred to another person or entity, or another location or premises without City Council approval. Any transfer of stock or ownership without prior Council approval is a ground for revocation of a license.

(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.45 SUSPENSION AND REVOCATION, REVIEW AND APPEAL

1. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this Chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the City Council.

2. The minimum periods of suspension or revocation shall occur within 60 days following a violation for which the revocation is imposed by the Council for violations of the provisions of this Chapter or Chapter 340A of the Minnesota Statutes, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time:

A. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, or sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, the license shall be revoked.

B. The license shall be suspended by the Council after a finding under subdivision (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(1). For the first violation within any three year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed. Civil penalty of \$250.00.

(2). For a second violation within any three year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed. Civil penalty of \$500.00.

(3). For the third violation within any three year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed. Civil penalty of \$750.00.

(4). For a fourth violation within any three year period, the license shall be revoked. Civil penalty of \$1,000.00.

C. The council shall select the day or days during which the license will be suspended.

3. Lapse of required proof of financial responsibility shall affect an immediate suspension of any license issued pursuant to this Chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this paragraph shall continue until the Council determines that the financial responsibility requirements of state law and this Chapter have again been met.

4. The provisions of this Chapter pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this Chapter. [Revised 4/14/2015]

LICENSE REVOCATION AND SUSPENSION.

The City Council may either suspend or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or this chapter relating to intoxicating liquor. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing. Lapse of required liquor liability insurance or surety bond withdrawal of required deposit for security shall effect an immediate suspension of any license, without need for action by the City Council. Notice of cancellation or lapse of current liquor liability policy or surety bond, or withdrawal of cash or securities that insure such protection, shall also constitute notice to licensee of suspension of license. Any suspension under this section shall continue until the City Council determines that the financial responsibility requirements of the subchapter have again been met.

(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.46 SUNDAY LICENSE.

At the time of this section, Sunday liquor is allowed as provided in §§ 112.23 and 112.52 of this code. (Ord. 173, passed 6-11-2002; Am. Ord. 173, amendment, published 11-28-2002) Penalty, see § 112.99

§ 112.47 MALT LIQUOR SALES.

Licenses holding on-sale licenses, including on-sale wine license, may make sales of 3.2% malt liquor and malt liquor which does not exceed 7% alcohol by weight. (Ord. 173, passed 6-11-2002)

§ 112.48 LICENSE TERMS AND CONDITIONS.

On-sale intoxicating liquor and 3.2% malt liquor licenses shall be issued subject to the following terms and conditions. No on-sale license shall be granted to any applicant or for any premises if, in the judgment of the City Council, the operations of the proposed establishment are likely to become a public nuisance or detrimental to public morals. (Ord. 173, passed 6-11-2002)

§ 112.49 MULTIPLE LICENSES RESTRICTED.

(A) No more than the license or licenses for 1 on-sale liquor establishment under this subchapter shall be granted to any person, partnership, corporation, or other ownership entity.

(B) No person, partnership, or corporation shall have or possess a direct or indirect interest in more than 1 on-sale liquor establishment in the city.

(C) No more than the license or licenses for 1 liquor establishment will be granted for a single physical location or premises. (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.50 LICENSE EFFECTIVE IN SPECIFIED SPACE.

(A) No license shall be effective beyond the compact and contiguous space on the location or premises specifically named and described and for which the license was granted. Exceptions for addition or change must be set forth in annual application for renewal, or specifically approved by the City Council. Licensed premises shall include the entire parcel of land on which the establishment is located; provided, however, that no sales or service shall take place outside the designated serving areas approved by the City Council in the licensing procedure unless those sales and service are authorized on a temporary basis for a special event, and shall be subject to any conditions and limitations the City Council deems appropriate.

(B) Licensees holding off-sale and on-sale licenses on the same location or premises must display and sell all off-sale merchandise in an area that is clearly separated from the on-sale part of the premises (by solid wall or partition) with separate entrance and exit. (Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.51 LICENSE EXPIRATION; RENEWAL; PRORATING.

(A) All licenses shall be for 1 year and shall commence on January 1, and shall expire on December 31.

(B) All applications, including renewals for annual licenses, shall be submitted, along with payment of annual fee, to the City Clerk-Treasurer no later than November 15.

(C) The City Council may, as it determines under appropriate circumstances, prorate annual fees for a partial year.

(Ord. 173, passed 6-11-2002)

§ 112.52 FEES; REFUND.

(A) *Fees.*

(1) The annual fees for on-sale intoxicating liquor licenses are as follows:

(a) On-sale licenses: \$1,500;

(b) Club, Legion: \$101;

(c) On-sale wine: \$55;

(d) On-sale Sunday; restaurants, clubs, bowling centers, and hotels: \$200; and

(e) Temporary: \$100.

(2) In any case where any payment for any alcoholic beverage license is not made when due, a 10% penalty shall be added to the fee.

(3) Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

(B) *Refund of fees in certain cases.* If, during the term of an annual liquor license, the place of business of any licensee shall be destroyed or so damaged by fire or otherwise that the licensee shall cease to carry on the licensed business; or if the business of the licensee shall cease by reason of illness or death; or if it shall become unlawful for the licensee to carry on the licensed business under his or her license, through no fault of the licensee, the City Council may refund to the licensee, or to the estate, that part of the license fee paid as corresponds to the time the license had yet to run.

(Ord. 173, passed 6-11-2002; Am. Ord. 173, amendment, published 11-28-2002) Penalty, see § 112.99

§ 112.53 ISSUANCE.

(A) The City Clerk-Treasurer shall not issue any annual license under this subchapter unless directed to do so by resolution duly adopted by the City Council. Any resolution granting a license may be conditioned on final department or commission approvals, payment of taxes, or any other condition the Council deems appropriate. The Clerk-Treasurer shall not issue any license until all conditions are met.

Business Regulations

(B) The city shall cause an investigation to be made of all the representations set forth in the

application. Opportunity shall be given at a regular or special meeting of the City Council or Planning and Zoning Commission to any person to be heard for or against the granting of any license. After the investigation, the City Council shall grant or refuse the license in its discretion; provided, that no off-sale intoxicating or on-sale wine liquor license shall become effective until it, together with any required insurance policy, has the approval of the State Department of Public Safety.

(C) The licensed premises shall have the current license posted in a clearly visible location.
(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.54 CORPORATIONS.

(A) Alcoholic beverage licenses may be issued to any corporation authorized to do business in this state if an officer or a managing agent of the corporation is a resident of this state residing within 20 miles of this city.

(B) No corporation shall be granted a license to sell alcoholic beverages if any of its officers, directors, shareholders, local managers, or local managing agents have been convicted within 5 years prior to the application for the license for violation of any law relating to the manufacture, sale, distribution, or possession of alcoholic beverages, or have had an interest in a license to sell alcoholic beverages which was revoked within the last 5 years for violation of any such law.

(C) A corporation shall state in its application for an alcoholic beverage license the names of its shareholders, directors, officers, local managers, and local managing agents. The transfer, sale, pledge, or assignment of the record or equitable ownership of any stock of a corporate license holder to new or different shareholders, or the election or appointment of any new or different directors or officers, shall be deemed a transfer of all alcoholic beverage licenses held by the corporation. The failure of any corporate license holder to comply with the provisions of this division shall be grounds for the revocation of all alcoholic beverage licenses held by that corporation.
(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.55 TRANSFER; CHANGE OF ADDRESS; EXPANSION.

(A) No license issued under the provisions of this subchapter shall be assigned or transferred by the licensee, nor shall a change of address in the location of the licensed premises be permitted, unless a resolution authorizing that assignment, transfer, or change of address shall have been first duly passed by the City Council. A request for an assignment, transfer, or change of address shall be treated in the same manner as an application for a new license under the provisions of this subchapter.

(B) No licensee shall permanently expand its licensed premises or designated serving area, unless the expansion is approved by the City Council.
(Ord. 173, passed 6-11-2002) Penalty, see § 112.99

§ 112.56 INELIGIBLE LOCATIONS. (Repealed 6-18-2013)

No licenses shall be granted to authorize the sale of alcoholic beverages in any establishment, the main entrance of which is located within 500 feet of the main entrance of any church or of the grounds of any public school; that distance to be measured by the shortest route along or across the public way.
(Ord. 173, passed 6-11-2002)

Business Regulations

§112.57 SOCIAL HOST.

ORDINANCE NO. 2010-01
SOCIAL HOST ORDINANCE

This ordinance prohibits any person or persons from hosting an event where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age. This ordinance also establishes penalties for any person or persons hosting such an event.

Be it enacted by the Pine River City Council, as follows:

Chapter 340A.503 Subd. 1 (2) and Subd 2 (3) Subd. 3. Purpose and Findings. The City of Pine River intends to discourage events and gatherings where persons possess and consume alcohol, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Pine River City Council finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (d) Events or gatherings involving underage possession and consumption can occur when the parent(s) is/are present regardless of who provided the alcohol.
- (e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by imposing a criminal penalty upon those responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 2. Authority. This ordinance is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

Subd. 3. Definitions. For purposes of this ordinance, the following terms have the following meanings:

- (a) Alcohol. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) Alcoholic beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for
Business Regulations
beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (c) Event or gathering. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- (e) Parent. "Parent" means any person having legal custody of a juvenile:
Business Regulations

- (1) As natural, adoptive parent, or step-parent;
- (2) As a legal guardian; or

- (3) As a person to whom legal custody has been given by order of the court.
- (f) Person. "Person" means any individual, whether acting as a partnership, co-partnership, corporation, or any association of one or more individuals.
- (g) Residence or Premises. "Residence" or "premises" means any home, yard, field, land, apartment, condominium, hotel or hotel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation in the City of Pine River.
- (h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

Subd. 4. Prohibited Acts.

- (a) It is unlawful for any person(s) to host an event or gathering at any residence, premises, or any other private or public property in the City of Pine River under the following circumstances;
 - (1) where alcohol or alcoholic beverages are present; and
 - (2) the person knows or reasonably should know that an underage person will or does:
 - (i) consume any alcohol or alcoholic beverage; or
 - (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and

(3) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

- (b) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- (c) A person who knowingly hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd. 5. Exceptions.

- (a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This ordinance does not apply to legally protected religious observances.
- (c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd. 1(a)(1).
- (d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Subd. 6. Enforcement. This ordinance can be enforced by any police officer or sheriff's deputy in the City of Pine River.

Subd. 7. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity

Business Regulations

shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Subd. 8. Penalty. Violation of Subdivision 4 is a misdemeanor.

Subd. 9. Effective Date. This ordinance shall take effect thirty (30) days following its final passage and adoption.

Passed by the Pine River City Council this 12 day of October, 2010

County of Cass, Minnesota

All voted aye. Ordinance adopted.

§ 112.58 WINE.

ORDINANCE NO 160

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF WINE, REPEALING INCONSISTENT ORDINANCE, AND PROVIDING A PENALTY FOR VIOLATION.

The Council of the City of Pine River, Minnesota does ordain:

Section 1. Provisions of State Law Adopted.

The provisions of Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor insofar as they are applicable to wine licenses authorizing the sale of wine not exceeding 14 percent alcohol by volume for consumption on the licensed premises only, in conjunction with the sale of food, are adopted and made a part of this ordinance as if set out in full.

Section 2. Wine Licenses.

No person, except a wholesaler or manufacturer to the extent authorized under state license, and the municipal liquor dispensary, shall directly or indirectly deal in, sell, or keep for sale in the city any wine not exceeding 14 percent alcohol by volume with out and on-sale wine license. An on-sale wine license authorizes the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licenses premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. For the purposes of this ordinance, a restaurant means an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests.

Section 3.

The application shall be in the form prescribed by the liquor control director and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

SUBD 2. Bond

Each application for a license shall be accompanied by a surety bond as provided in State Statute if the wine sales exceed \$10,000 a year. Statement to that effect from the licensee must accompany application.

Business Regulations

Section 4. License Fee.

SUBD 1. Amount

The annual fee for a wine license is \$55.00

SUBD 2. Payment

Each application for a wine license shall be accompanied by a receipt from the City Clerk/Treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application is rejected, the treasurer shall refund the amount paid.

SUBD 3. Term; prorated fee.

Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a prorated fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

SUBD 4. Refunds.

No refund of any fee shall be made except as authorized by statute.

Section 5. Granting of Licenses

SUBD 1. Investigation and Issuance.

The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After investigation the council shall, in its discretion, grant or refuse the application. No wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the state liquor control director.

SUBD 2. Persons and Premises Licenses; Transfer.

Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock without prior council approval is a ground for revocation of the license.

Section 6. Persons Ineligible for License.

No wine license shall be granted to any person made ineligible for such a license by state law.

Section 7. Places ineligible for License.

SUBD 1. General Prohibition.

No wine license shall be issued for a restaurant ineligible for such a license under state law.

SUBD 2. Delinquent Taxes and Charges.

No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city of delinquent and unpaid.

Section 8. Conditions of License

SUBD 1. In General.

Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

SUBD 2. Licensee's Responsibility.

Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensee's premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

SUBD 3. Inspections.

Every licensee shall allow any peace officers, health officers, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

SUBD 4. Display during prohibited hours.

No licensee shall display wine to the public during hours when the sale of wine is prohibited.

SUBD 5. Federal Stamps.

Business Regulations

No licensee shall possess a federal wholesale liquor dealers special tax stamp or a federal gambling stamp.

Section 9. Suspension and Revocation.

The council may either suspend or revoke any on-sale wine license upon finding that the licensee has failed to comply with any applicable statute regulation or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 15.0418 to 15.0426

Section 10. Penalty.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$750.00 or imprisonment for not more than 90 days, plus the cost of prosecution in any case.

Section 11. Effective Date.

This ordinance becomes effective upon its passage and publication according to law.

(passed 2-9-1993)

§ 112.99 PENALTIES.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:

- (1) For the first violation within any 3-year period, \$500.
- (2) For the second violation within any 3-year period, \$1,000.
- (3) For the third and subsequent violations within any 3-year period, \$2,000.

(C) The term *VIOLATION* as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding 3-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

CHAPTER 113: RESERVED

FE Repl.

Pine River - Business Regulations

[Text continues on following page]

FE Repl.

CHAPTER 114: GAMBLING REGULATIONS

Section

114.01	Adoption of state law by reference
114.02	City may be more restrictive than state law
114.03	Purpose
114.04	Definitions
114.05	Applicability
114.06	Lawful gambling permitted
114.07	Council approval
114.08	Application and local approval of premises permits
114.09	License and permit display
114.10	Notification of material changes to application
114.11	Hours of operation
114.12	Severability
114.99	Penalty

§ 114.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling, are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the Council that all future amendments of M.S. Ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this chapter was adopted.

§ 114.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. § 349.213, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on gambling within its limits beyond those contained in M.S. Ch. 349, as it may be amended from time to time.

FE Repl.

Business Regulations

§ 114.03 PURPOSE.

The purpose of this chapter is to regulate lawful gambling within the city, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

§ 114.04 DEFINITIONS.

In addition to the definitions contained in M.S. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

BOARD. The State of Minnesota Gambling Control Board.

LICENSED ORGANIZATION. An organization licensed by the Board.

LOCAL PERMIT. A permit issued by the city.

TRADE AREA. This city and each city and township contiguous to this city.

§ 114.05 APPLICABILITY.

This chapter shall be construed to regulate all forms of lawful gambling within the city.

§ 114.06 LAWFUL GAMBLING PERMITTED.

Lawful gambling is permitted within the city if the Council, by resolution adopted by a majority of its members authorizes lawful gambling to occur, provided it is conducted in accordance with M.S. §§ 609.75 to 609.763, inclusive, as they may be amended from time to time; M.S. §§ 349.11 to 349.23, inclusive, as they may be amended from time to time, and this chapter.

§ 114.07 COUNCIL APPROVAL.

Lawful gambling authorized by M.S. §§ 349.11 to 349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this chapter and state law.

Penalty, see § 114.99

FE Repl.

Business Regulations

§ 114.08 APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS.

(A) Any organization seeking to obtain a premises permit or bingo hall license or renewal of a premises permit or bingo hall license from the Board shall file with the City Clerk-Treasurer an executed, complete duplicate application together with all exhibits and documents accompanying the application as filed with the Board. The application and accompanying exhibits and documents shall be filed not later than 3 days after they have been filed with the Board.

(B) The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

(C) The Council shall consider the application within 45 days of the date the application was submitted to the City Clerk-Treasurer.

(D) The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.

(E) The Council shall disapprove an application for issuance or renewal of a premises permit for any of the following reasons:

(1) Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last 3 years.

(2) Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last 3 years.

(3) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.

(4) Lawful gambling would be conducted at more than 1 premises within the city. The city may limit the number of premises where lawful gambling may be conducted.

(5) An organization would be permitted to conduct lawful gambling activities at more than 1 premises in the city.

(6) More than 1 licensed organization would be permitted to conduct lawful gambling activities at 1 premises.

(7) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the Council shall pass a resolution approving the application.

FE Repl.

Business Regulations

§ 114.09 LICENSE AND PERMIT DISPLAY.

All permits issued under state law or this chapter shall be prominently displayed during the permit year at the premises where gambling is conducted.

Penalty, see § 114.99

§ 114.10 NOTIFICATION OF MATERIAL CHANGES TO APPLICATION.

An organization holding a state-issued premises permit or a local permit shall notify the city in writing whenever any material change in the information submitted in the application occurs within 10 days of the change.

Penalty, see § 114.99

§ 114.11 HOURS OF OPERATION.

Lawful gambling shall not be conducted between 1:00 a.m. and 8:00 a.m. on any day of the week.

Penalty, see § 114.99

§ 114.12 SEVERABILITY.

If any provision of this chapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

§ 114.99 PENALTY.

Any person who violates:

(A) Any provision of this chapter;

(B) M.S. §§ 609.75 to 609.763, inclusive, as they may be amended from time to time; or

(C) M.S. §§ 349.11 to 349.21, as they may be amended from time to time, or any rules promulgated under those sections, as they may be amended from time to time;

shall be guilty of a misdemeanor and shall be punished as provided in § 10.99.

FE Repl.

CHAPTER 115: AMUSEMENTS

Section

115.01	Billiards and pool
115.02	Circuses, carnivals, shows and other entertainment
115.03	Amusement devices
115.04	Deposit required
115.05	License fee for public entertainment or exhibition

§ 115.01 BILLIARDS AND POOL.

Each proprietor of a billiard or pool table shall pay an annual license fee in an amount established by the city.

Penalty, see § 10.99

§ 115.02 CIRCUSES, CARNIVALS, SHOWS AND OTHER ENTERTAINMENT.

(A) (1) Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the city.

(2) Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this section; provided, that the entertainment is not for profit.

(B) In addition to any other requirements, the applicant for a license shall give at least 1-weeks' notice in writing to the City Clerk-Treasurer or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk-Treasurer shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the Police Department or the Fire Department.

FE Repl.

Business Regulations

(C) No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than 2 consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

Penalty, see § 10.99

§ 115.03 AMUSEMENT DEVICES.

(A) The term *COIN-OPERATED MECHANICAL AMUSEMENT DEVICE* means any machine, which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It includes such devices as marble machines, pinball machines, skill ball, mechanical grab machines, mechanical rides intended for use by children, such as merry-go-rounds, horses, ferris wheels, and the like; carnival, fair, and/or festival rides, and all similar games, operations or transactions under whatever name they may be indicated.

(B) A person, firm, corporation or association must not display for public use any coin-operated mechanical amusement device without obtaining a license for it and paying the fee established by the city. Applications for a license must be made to the City Clerk-Treasurer.

(C) The license or licenses obtained must be posted permanently and conspicuously at the location of the machine in the premises where the machine is to be operated.

Penalty, see § 10.99

§ 115.04 DEPOSIT REQUIRED.

(A) At the time application for a license is made, where use of municipal grounds is contemplated, the applicant shall deposit with the City Clerk-Treasurer or other designated municipal official a cash bond in an amount to be determined by the City Council, conditioned upon the restoration and cleaning up of the grounds in a manner satisfactory to the Mayor. In the event the grounds are restored and cleaned up properly following the exhibition, the deposit shall be returned; otherwise the same shall be forfeited to the city to the extent of actual costs to the city for restoration and cleaning up of the grounds.

(B) No licensee shall fail to restore or clean up the grounds upon which the circus, carnival or other entertainment has taken place.

Penalty, see § 10.99

§ 115.05 LICENSE FEE FOR PUBLIC ENTERTAINMENT OR EXHIBITION.

The fee for the license shall be in an amount as established by the city.

CHAPTER 116: ADULT USES AND SEXUALLY ORIENTED BUSINESSES

Section

116.01	Purpose
116.02	Findings
116.03	Definitions
116.04	Permitting or licenses
116.05	Sign restrictions
116.99	Penalty

§ 116.01 PURPOSE.

(A) In the development and adoption of the ordinance codified in this chapter, it is recognized that:

(1) There are some adult business uses which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods, public parks, churches, public buildings, schools, and other facilities;

(2) These businesses uses have a deleterious impact upon property values;

(3) These businesses uses frequently become places of criminality.

(B) It is the further purpose of this chapter to protect the well-being of the youth of the community from objectionable operational characteristics of these adult uses by regulating and restricting their close proximity to established facilities such as, but not limited to, churches, parks, schools, and residential areas.

(C) It is the belief of the city that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied and encourages criminal sexual behavior.

(D) In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is **neither the intent nor** effect of this chapter to inhibit freedom of speech or the press. The provisions herein have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is **not the intent nor** effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This chapter represents a balancing of the legitimate ends of the city by imposing an incidental, content-neutral place, time, and manner regulation of sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the business to carry its share of financial law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.

(Ord. 174-2, passed 7-9-2002)

§ 116.02 FINDINGS.

(A) The City Council makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the city's neighborhoods. In making the findings, the City Council accepts the recommendations of staff that has studied the experiences of other areas about such businesses: City of St. Cloud, MN., The Minnesota Attorney General, the City of Los Angeles, CA., the City of St Paul, MN., the City of Austin, TX., Adams County, CO., St. Croix County, WS., the City of New York, NY., and various other cities throughout the Country have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods.

(B) Based on these studies the City Council concludes:

(1) Adult uses and sexually oriented business can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the city's crime prevention programs and law enforcement services.

(2) Adult uses and sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are. This situation could lessen the amount of desirable housing for residents.

(3) The concentration of adult uses and sexually oriented businesses in 1 area can greatly affect the area where such businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity and residents flee from area. Lower property values that can result from the concentration of such businesses erode the city's tax base and contribute to blight.

(4) Adult uses and sexually oriented businesses have adverse secondary impacts of the type discussed above.

(5) It is necessary to provide for the special and express regulations of businesses; establishments or commercial enterprises that operate as adult body painting, studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas, and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.

(6) The commercial enterprises such as the types described in division (B)(5) above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training are susceptible to operations contravening, subverting, or endangering the morals or the city by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, and thus requiring close inspection, permitting and regulations.

(7) Control and regulation of commercial establishments of these types, in view of the abuses

Business Regulations

often perpetrated, require intensive efforts by the Pine River Police Department or the Cass County Sheriff's department and other departments of the city or county. It is necessary for the city to provide services to all of the City residents without concentrating the public services in 1 area. The concentrated use of city services detracts from and reduces the level of services available to the rest of city. Thus, these types of establishments can diminish the ability of the city to protect and promote the general health, welfare, morals and safety of Pine River.

(8) The City Council adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the city's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of the city.

(Ord. 174-2, passed 7-9-2002)

§ 116.03 DEFINITIONS.

The following words shall have the following meanings:

ADMINISTRATOR. The Council for the City of Pine River shall act as executive officer to the City of Pine River.

ADULT USES. Adult body painting studios, adult bookstores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of specified sexual activities or specified anatomical areas which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by state licensed or registered persons. Activities classified as obscene are defined by M. S. § 617.241, as it may be amended from time to time, are not lawful and are not included in the definitions of *ADULT USES*.

ADULT USE - ACCESSORY. The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

ADULT USES - PRINCIPAL. The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

ADULT BODY PAINTING STUDIO. An establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

ADULT BOOK STORE. An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to 1 or more classes of the public, excluding any minor because of age, if more than 20% of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to specified sexual activities or specified anatomical

Business Regulations

areas.

ADULT CABARET. An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of specified sexual activities or specified anatomical areas.

ADULT CAR WASH. A wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of specified anatomical areas.

ADULT COMPANIONSHIP ESTABLISHMENTS. An establishment of business, if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT FACILITY. A building or space in which an admission is charged for the entrance, or food or none-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas .

ADULT ESTABLISHMENT.

(a) An establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices, either:

I. Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage thereat either by law or by the operator of such business; or

ii. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.

(b) Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

ADULT HOTEL or MOTEL. A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT MASSAGE PARLOR, HEALTH/SPORT CLUB. A *MASSAGE PARLOR* or *HEALTH/SPORT CLUB* that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

ADULT MINI-MOTION PICTURE THEATER. A business, building or establishment in an enclosed building with a capacity for less than 50 persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is

distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patron.

ADULT MODELING STUDIO. An establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in specified sexual activities or specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

ADULT MOTION PICTURE ARCADE. Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to give or fewer persons per machine at once, and characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER. A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

ADULT NOVELTY BUSINESS. A business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to specified sexual activities or specified anatomical areas.

ADULT SAUNA/STEAM ROOM/BATHHOUSE. A business that excludes minors because of age, or which provided a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

LICENSED FAMILY DAY CARE, LICENSED GROUP FAMILY DAY CARE, LICENSED CHILD CARE CENTER. A facility holding a license from the City of Pine River or the County of Cass or the State of Minnesota pursuant to M. S. Ch. 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as they may be amended from time to time.

MINOR. Any person under the age of 18 years.

NUDITY. The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.

OPEN SPACE. Any parcel of land or portion thereof designated as an integral part of a residential development, plat, or planned unit development as required by the Ordinance for the Management of Shoreland Areas, or the Land Use Ordinance for Non-Shoreland Areas, City of Pine River, Cass County, Minnesota.

Business Regulations

PUBLIC LIBRARY. Any library that provides free access to all residents of a city or county without discrimination and is organized under M. S. Ch. 134, as it may be amended from time to time.

PUBLIC PARK. A park, reservation, playground, beach, or recreation or community center in the city owned, leased, or used wholly or in part by a city, county, state, school district, or federal government for recreational purposes.

PLACE OF WORSHIP. A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

SCHOOL. A building or space that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this chapter.

SEXUALLY ORIENTED BUSINESS. An adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of specified sexual activities or specified anatomical areas which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by state licensed or registered persons. Activities classified as obscene as defined by M. S. § 617.241 are not lawful and are not included in the definitions of adult uses.

SPECIFIED ANATOMICAL AREAS. Anatomical areas consist of:

(1) Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and

(2) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Activities consisting of the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zoerasty; or

Business Regulations

(2) Human genitals in the state of sexual stimulation, arousal, or tumescence; or

(3) Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or

(4) Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts; or

(5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or

(6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation; or

(8) Any combination of the above.

(Ord. 174-2, passed 7-9-2002)

§ 116.04 PERMITTING OR LICENSES.

(A) *License required.* No person, firm or corporation shall own or operate an adult use or sexually oriented business in the city without having first secured a license as provided herein. The license shall be 1 of 2 types:

(1) Adult use Principal;

(2) Adult use Accessory.

B. *Applications.*

(1) The city shall provide an application for an Adult Use Principal or sexually oriented business license.

(2) This application shall include:

(a) The name, residence, phone number and birth date of the applicant, if any individual; and if any corporation, partnership, LLC, or similar entity, the names, residences, phone numbers and birth dates of those owners holding more than 5% of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.

Business Regulations

(b) The name, address, phone number and birth date of the operator and manager of such operation, if different from the owners.

(c) The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.

(d) A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, for a corporation, the owners of more than 5% of the issued and outstanding stock of the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other counties or cities.

(e) The activities and type of business to be conducted.

(f) The hours of operation.

(g) The provisions made to restrict access by minors.

(h) A building plan of the premises detailing internal operations and activities.

(i) A description or building plan that details all proposed interior and exterior changes to an existing building or structure.

(C) *License fees.*

(1) Each application for a license shall be accompanied by a fee, as set by the resolution of the City Council, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application. License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.

(2) All permits/licenses shall expire on the last day of December in each year. The city shall issue each license for 1 year, except if part of the license year has elapsed when the application is made, the city may issue a license for the remainder of the year for a prorated fee. In computing such fee, the city shall count any unexpired fraction of a month as 1 month.

(3) The annual fee, investigative fee, and late fees for the Adult Use or Sexually Oriented business license shall be established by resolution of the City Council.

(4) No part of any annual fee, investigative fee, and late fee paid as required by this chapter shall be refunded.

Business Regulations

(5) Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be reported to the City Council by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the Council in writing. Failure to report said changes by the applicant(s) or the licensee may result in the denial or revocation of a license.

(D) *Granting of license.*

(1) The city shall investigate all facts set out in the application, including comments from the affected area. After the city finishes the investigation, the city shall grant approval of the application if all requirements of this ordinance are met.

(2) The city shall only issue the license to the applicant. The license shall not be transferred to another holder. The city shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the City Council.

(E) *Persons ineligible for license.* The city shall not grant a license to nor may one be held by any person who:

(1) Is under 21 years of age;

(2) Has been convicted of a felony,

(3) Is not the proprietor of the establishment for which the license is issued;

(4) Has not paid the license and investigative fees required by this chapter;

(5) Is not a citizen of the United States;

(6) Has had an adult use or similar permit or license revoked under and ordinance or statute similar to this chapter.

(F) *Places ineligible for license.*

(1) No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this chapter, or where any license hereunder has been revoked for cause until 1 year has elapsed after such conviction or revocation.

(2) Except uses lawfully existing at the time of this chapter, no license shall be granted for any adult use or sexually oriented business that does not meet all city ordinance requirements, all building and fire codes requirements, and all provisions of state and federal law.

Business Regulations

(G) *Non-conforming uses.* Any adult use or sexually oriented business existing on the effective date of the adoption of this chapter may be continued subject to the following provisions:

(1) No such adult use or sexually oriented business shall be expanded or enlarged except in conformity with the provisions of this chapter;

(2) A non-conforming adult use or sexually oriented business shall be required to apply for and receive an adult use license from the city. The city does not require a public hearing before issuing a license for the non-conforming adult use or sexually oriented business.

(H) *Conditions of license generally.*

(1) Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this chapter and of any applicable city, county, state and federal law.

(2) All licensed premises shall have the license posted in a conspicuous place.

(3) No minor shall be allowed in or on the premises of an adult use or sexually oriented business.

(4) Any designated inspection officer or law enforcement officer of the city or the County of Cass shall have the right to enter, inspect, and search the premises of a licensee during business hours.

(5) Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this chapter and city's code of ordinances generally.

(6) No adult goods, materials or services shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.

(I) *Conditions of license - adult principal.* The city permits adult use principal and sexually oriented businesses only in the industrial zoning district, subject to the following conditions:

(1) No adult use principal or sexually oriented business shall be located closer than 1,320 feet from any other adult use principal or sexually oriented business in the city. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.

(2) No adult use principal or sexually oriented business shall be located closer than 1,320 feet from any residential lot line, place of worship, school, public park, open space, licensed family day care home, public library, or licensed child care or day care center in the city. Measurements shall be made

Business Regulations

in a straight horizontal line, without regard to city boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

(3) No adult principal use or sexually oriented business shall be located closer than 1,320 feet from any residential lot line, any residential zoning district or any residential planned unit development (PUD) in the city. Measurements shall be in a straight horizontal line, without regard to city boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district or planned unit development (PUD).

(4) All adult uses and sexually oriented businesses must meet the requirements of all city's code of ordinances.

(5) The city prohibits any building owner or operator from having more than 1 of the following uses, tenants or activities in the same building structure:

- (a) Adult body painting studio;
- (b) Adult book store;
- (c) Adult cabaret;
- (d) Adult car wash;
- (e) Adult companionship establishment;
- (f) Adult entertainment facility;
- (g) Adult hotel or motel;
- (h) Adult modeling studio;
- (i) Adult sauna/steam room/bath house;
- (j) Adult motion picture theater;
- (k) Adult mini-motion picture theater;
- (l) Adult massage parlor;

Business Regulations

(m) Adult health/sports club;

(n) Adult novelty business;

(o) Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas that the public can see.

(6) An adult use principal and sexually oriented business shall not sell or dispense nonintoxicating or intoxicating liquors, nor shall it be located within 1,320 feet of a building that contains a business that sells or dispenses intoxicating or intoxicating liquors. An adult use principal and sexually oriented business shall not allow the consumption of nonintoxicating or intoxicating liquors anywhere on a parcel containing that use or business.

(7) No adult use principal and sexually oriented business' entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of the city, the laws of the State of Minnesota or the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

(8) No adult use principal or sexually oriented businesses shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or relating to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

(9) All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within 2 feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: THIS BUSINESS SELLS OR DISPLAYS MATERIAL CONTAINING ADULT THEMES. PERSONS UNDER EIGHTEEN (18) YEARS OF AGE SHALL NOT ENTER.

(10) Adult use principal and sexually oriented businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor at any time on Sundays.

Business Regulations

(I) *Conditions of license - adult use accessory.* The city may issue Adult Use Accessory licenses to businesses or establishments located in industrial zoning districts subject to the following requirements:

(1) No adult use accessory or sexually oriented business shall be located closer than 1,320 feet from any other adult use principal or sexually oriented business in the city. Measurements shall be made in a straight horizontal line, without regard to city boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.

(2) No adult use accessory or sexually oriented business shall be located closer than 1,320 feet from any residential lot line, place of worship, school, public park, open space, licensed family day care home, public library, or licensed child care or day care center in the City of Pine River. Measurements shall be made in a straight horizontal line, without regard to city boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

(3) No adult use accessory or sexually oriented business shall be located closer than 1,320 feet from any residential lot line, any residential zoning district or any residential planned unit development (PUD) in the city. Measurements shall be in a straight horizontal line, without regard to city boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district or planned unit development (PUD).

(4) All adult uses and sexually oriented businesses must meet the requirements of all city ordinances.

(5) The city prohibits any building owner or operator from having more than 1 of the following uses, tenants or activities in the same building structure:

- (a) Adult body painting studio;
- (b) Adult book store;
- (c) Adult cabaret;
- (d) Adult car wash;
- (e) Adult companionship establishment;

Business Regulations

- (f) Adult entertainment facility;
- (g) Adult hotel or motel;
- (h) Adult modeling studio;
- (I) Adult sauna/steam room/bath house;
- (j) Adult motion picture theater;
- (k) Adult mini-motion picture theater;
- (l) Adult massage parlor;
- (m) Adult health/sports club;
- (n) Adult novelty business;

(o) Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas that the public can see.

(6) The adult use accessory shall comprise no more than 20% of the floor area, or up to 500 square feet, whichever is smaller, of the establishment, space, structure or building in which it is located.

(7) Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

(J) *Revocation, suspension or non-renewal of license.*

(1) The Council of the city may revoke, suspend, or not renew a license upon recommendation of the Pine River Police Department or the Cass County Sheriff that shows that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

(a) Fraud, deception or misrepresentation about securing the license.

(b) Habitual drunkenness or intemperance in use of drugs defined in M. S. § 618.01, as it may be amended from time to time, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine or other sedatives, depressants, stimulants or tranquilizers.

Business Regulations

(c) Engaging in conduct involving moral turpitude or permitting or allowing other within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.

(d) Failure to follow any requirements of the ordinances of the city about sanitary and safety conditions, zoning requirements, or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this chapter.

(e) Conviction of an offense involving moral turpitude.

(f) Conviction of a felony.

(2) The license holder may appeal such suspension, revocation, or non-renewal to the Council. The City Council shall consider the appeal at a regularly scheduled public hearing within 30 days from the service of the notice of appeal to the City Council.

(3) At the conclusion of the hearing the City Council may order:

(a) The revocation, suspension or non-renewal be affirmed;

(b) That the revocation, suspension or non-renewal be lifted and that the license be returned to the certificate holder.

(4) An appeal must be accompanied by a letter of credit, cashier's check, or cash in the amount of \$500. If the decision of the Council of the city is upheld, the Council of the city is entitled to recover expenses and return any balance of the \$500 that may remain. If the decision is overturned, the full amount will be refunded to the license holder.

(Ord. 174-2, passed 7-9-2002)

§ 116.05 SIGN RESTRICTIONS.

The following sign regulations shall apply to all adult use sexually oriented businesses in the city. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and to preserve the value of property near adult use and sexually oriented businesses. These regulations are aside from any other provisions of the city's regulations.

(A) All signs shall be flat wall or freestanding signs. No sign shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages.

(B) The city's sign regulations outlined in the code of ordinances for the where the business is located shall regulate the number, size, and location of signs allowed for an adult use or sexually oriented business.

Business Regulations

(C) No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.

(D) No signs shall be placed in any window. A 2-foot square sign may be placed on the door to state hours of operation and admittance to adults only.
(Ord. 174-2, passed 7-9-2002)

§ 116.99 PENALTY.

Any person violating any provisions of this chapter is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.
(Ord. 174-2, passed 7-9-2002)

Business Regulations

CHAPTER 117: PAWN SHOPS

Section

117.01 Licensing of pawnbrokers

§ 117.01 LICENSING OF PAWNBROKERS

An Ordinance Establishing Regulations Relating
to the Licensing of Pawnbrokers

The Council of the City of Pine River does ordain:

SECTION ONE Ordinance 166 of the Pine River City Code is hereby adopted as follows:

Ordinance 166

SECTION TWO Statement of Policy. Pursuant to the provisions of Minnesota Statute 325J entitled "Pawnbroker Regulation," the City of Pine River has the power, for the purpose of promoting health, safety, morals and welfare, to adopt an ordinance to regulate "pawn transactions" and issue licenses to qualified applicants to enable said applicants to engage in business as a "pawnbroker."

SECTION THREE Definitions. As used in this Chapter, the following terms have the meanings given to them:

a. "Pawnbroker" means a person engaged, in whole or in part, in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

b. "Pawnshop" means the location at which, or premises in which, a pawnbroker regularly conducts business.

c. "Pawn transaction," means any loan on the security of pledged goods or any purchase of pledged goods and the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

d. "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

Business Regulations

e. "Pledged goods" means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

SECTION FOUR License Required

a. No person shall engage in the business of pawnbroker within the City without first obtaining a license from the City.

b. Any pawn transaction made without the benefit of a license is void.

c. Licenses shall be issued only upon approval by the city council.

d. More than one license may be issued to a person if all provisions of this Section and state law are complied with.

e. No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledger.

f. A licensee obtains no vested interest in a license issued under this Section and the City reserves the right to not renew the same.

SECTION FIVE License Terms

a. Each license shall be granted for a calendar year and shall expire at the conclusion of business on December 31 of the license year.

SECTION SIX Licensee Ineligibility.

a. No license shall be issued to a person if the applicant:

1. Is a minor at the time the application is filed.

2. Is not a citizen of the United States.

3. Is not of good moral character and repute,

4. Has been convicted of any crime directly related to the occupation licensed as prescribed by Section 354.03, Subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to

perform the duties of a licensee under Minnesota Chapter 325J, this Ordinance and as prescribed by Minnesota Statute 364.03, Subd. 3.

b. No license shall be granted to an applicant who fails to provide all information required or who provides false or misleading information in the application.

b. No license shall be granted for a location where a building is under construction

Business Regulations

or otherwise is not ready for occupancy.

d. No license shall be granted on any premises which, the Council determines is unsuitable for this type of business. This determination shall not be made by the council except after a public hearing following notice to the applicant.

e. No license shall be issued to an applicant that is a partnership if such applicant has any general partner or managing partner in violation of, or who is non-qualifying, under this Section.

f. No license will be issued to an applicant that is a corporation or other business organization if such business has a manager, proprietor or agent in charge of the organization/business to be licensed if said people or persons are in violation of, or are non-qualifying, under this Section.

SECTION SEVEN Changes in Ownership.

a. Licenses issued hereunder are not assignable and any change, directly or beneficially, in the ownership of any licensed pawnshop shall require the application for a new license, and the applicant must satisfy an eligibility requirement and pay all licensing fees.

SECTION EIGHT Application Content.

a. Any person desiring a pawnbroker's license shall file with the City Clerk an application in writing upon a form furnished by the City Clerk's office. Such applications shall require that any or all of the following information be set forth upon the application:

1. If the applicant is a natural person;
 - a) the name, place, and date of birth, resident street address, and telephone number of the applicant;
 - b) whether the applicant is a citizen of the United States;
 - c) whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used;
 - d) the name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a copy of the certificate as

required by Minn. Stat. 333.01;

e) the street addresses at which the applicant has lived during the preceding five (5) years;

f) the type, name, and location of every business or occupation in which the Business Regulations applicant has been engaged during the preceding five (5) years and the name (s) and address (es) of the applicant's employer (s) and partner (s), if any, for the preceding (5) years;

g) whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance or law other than traffic laws. If so, the applicant shall furnish information as to the time, place, and offense for which the convictions were had;

h) the physical description of the applicant;

2. If the applicant is a partnership:

a) the name(s) and addresses of all general and limited partners and all information concerning each general partner required in subpart (1) of this Section;

b) the name(s) of managing partners and the interest of each partner in the pawnbrokers' business;

c) a copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. 333.01, a copy of such certificate shall be attached to the application.

3. if the applicant is a corporation or other organization:

a) the name of the corporation or business form, and if incorporated, the State of incorporation;

b) a true copy of the Certificate of Incorporation, Articles of Incorporation, or Association Agreement, and Bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of Authority as required by Minn. Stat. 303.06, shall be attached;

c) the name of the manager(s), proprietor(s), other agent(s) in charge of the business, and all owners of 10% or more of the business, and all information concerning each manager, proprietor, agent or owner as required in subpart (1) of this Section.

4. For all applicants:

a) whether the applicant holds a current pawnbroker license from any other governmental unit and whether the applicant is licensed under Minn. Stat. 471.924;

Business Regulations

b) whether the applicant has previously been denied a pawnbroker's license from any other governmental unit, or had a license revoked or canceled;

c) the names, resident street addresses, and business addresses of three references who are of good moral character and who are not related to the applicant and not holding any ownership in the premises or business, who may attest to the character of the applicant, or manager;

d) the location of the business premises and a diagram or blueprint of the premises to be licensed;

e) whether the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or designs are already on file with the City of Pine River, no plans need to be submitted;

f) such other information as the City Council or issuing authority may require.

SECTION NINE Bonds, Insurance, Renewals and Transfers.

a. Before a license will be issued, every applicant must submit to the City Clerk a bond with a corporate surety in the amount of \$5,000.00 for approval by the Council. All bonds shall be conditioned that the principal will observe all laws in relation to such licensed business, including, in particular, compliance with each and every requirement of this Ordinance; will pay, when due, all fees, taxes, penalties and other charges provided by law, and will account for the delivery to any person legally entitled thereto, any goods of that person, that have come into the principal's possession through the principal's business as a pawnbroker, or, in lieu thereof, will pay the reasonable value of the goods in money to the person. All bonds shall be for the period of the license year.

The amount specified in the bond required is declared to be a penalty; provided, however, that the surety thereof shall not be liable for any amount in excess of the penal amount of the bond. Such a bond shall run to the city, as obligee, and in the event of a forfeiture of any such bond for violation of the said conditions, the District Court of Cass County may forfeit the penal sum of the said bond to the City.

b. An application for renewal of a pawnbroker's license shall require the applicant to reverify or update all of the information contained on the original license application.

c. An applicant seeking to obtain approval for the transfer of a pawnbroker's license, which is currently held by another person or organization, shall complete and furnish an application form as

in the case of an original application for the same type and class of license to the City Clerk.

Business Regulations

In addition, the current license holder must sign the application form indicating its approval of the transfer.

SECTION TEN City Codes.

The licensed business shall at all times be located and operated in compliance with all existing requirements of the zoning, building, fire, health and all other applicable codes of the City of Pine River.

SECTION ELEVEN Execution of Application and Investigation of Applicant.

a. The application shall be signed, verified and sworn to at the City Clerk's Office. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof authorized to execute documents on behalf of the corporation; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

b. Each application shall be referred by the City Clerk to the Chief of Police, the Building Inspector and the Fire Chief for investigation and comment. Each such official shall conduct such investigation as the official deems necessary to determine whether the statements contained in the application accurately reflect the facts as discovered in the investigation, and whether or to what extent the proposed premises or the applicant appears to have violated any laws or regulations for which the agency has enforcement responsibility.

c. All applications with reports, as well as recommendations if deemed necessary, shall be returned to the City Clerk and shall thereafter be presented to the Council. The Council may order and conduct such additional investigation as it deems necessary.

SECTION TWELVE Application

a. An application for a pawnbroker's license shall be deemed completed when all of the information required on the application form has been provided to the City Clerk; all fees, bonds, insurance documents and other required documentary materials have been paid or filed; and all investigative reports have been submitted to the City Clerk.

b. At the first meeting of the Council following receipt of the afore described documents and fees, the City Clerk shall present the same to the Council. The Council, if it deems the applicant is suitable and proper, shall by motion approve the issuance of the license to the applicants.

SECTION THIRTEEN Application Fees.

a. The license fee shall be established by City Code.

b. The license fee shall be paid in full when the application is filed. Said fee shall be

refunded if the application is withdrawn before Council approval, or if the Council rejects the application except, however, in the instance where the rejection is for a willful misstatement in the license application.

c. The license fee shall be paid annually, the initial fee to be prorated from the date of issuance.

d. Commencing November 1, 1998, all applicants shall pay a non refundable investigative fee in the amount of \$50.00 to cover the costs involved in verifying the matters set forth in the license application and to cover the expense of any investigation needed to assure compliance with this Section and other applicable laws.

SECTION FOURTEEN Pawn Tickets.

a. At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Pine River Chief of Police:

1. a complete and accurate description of the property, including model and serial number if indicated on the property;
2. the full name, residence address, residence telephone number, and date of birth of the pledger or seller;
3. date and time of pawn or purchase transaction;
4. the identification number and State of issue from one of the following forms of identification of the seller or pledger, current valid Minnesota driver's license; current valid Minnesota identification card; current valid photo identification card.
5. description of the pledger including approximate height, sex, and race;
6. amount advanced or paid;
7. the maturity date of the pawn transaction and the amount due; and
8. the monthly and annual interest rates, including all pawn fees and charges.

b. Further, the following language shall be printed on all pawn tickets.

1. the name, street address, mailing address if different from the street address, and the phone number of the pawnbroker.
2. the statement that "Any personal property pledged to a pawnbroker

Business Regulations

within this State is subject to sale or disposal when there has been no payment made on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledger to redeem pledged goods.";

3. the statement that "The pledger of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledger has the right to sell or pawn the item.";

Business Regulations

4. the statement that "This item is redeemable only by the pledger to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger. Written authorization for release of property to a person other than the original pledger must be maintained along with the original transaction record."; and
 5. a blank line for the pledger's signature.
- c. The pledger shall sign the pawn ticket and receive an exact copy of the same.

SECTION FIFTEEN Redemption

- a. The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transaction. A Pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.
- b. The pawnbroker shall deliver to the Pine River Police Department, for review by the chief of the City Police Department, every business day before 12:00 noon a copy of the pawnbroker's records as to all transaction that occurred on the previous business day.

SECTION SIXTEEN Non-redemption

- a. A pledger shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal or extension shall automatically be forfeited to the pawnbroker, and qualified right, title, and interest in and to the goods shall automatically vest in the pawnbroker.
- b. The pawnbroker's right, title, and interest in the pledged goods under paragraph (a) is qualified only by the pledger's right, while the pledged goods remain in possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.

SECTION SEVENTEEN Permitted Charges

- a. The pawnbroker is entitled to contract for such charges as is permitted by Minnesota Statute 325J.07 and is subject to the terms and requirements therein contained as well as future amendments to same.

SECTION EIGHTEEN Police Order to Hold Property.

- a. Whenever the Pine River Police Department notifies the pawnbroker not to sell an item, the item shall not be sold or removed from the pawnbroker's premises until authorized to be released by the Police Department. This hold shall be reviewed by the Police Department every six months.

SECTION NINETEEN Hours of Operation.

- a. No pawnbroker shall keep the pawnbrokers' business open for the transaction of business on any day of the week before 9:00 a.m. or after 9:00 p.m. and shall not be open for the transaction of business on, New Year's Day, Fourth of July Day, Thanksgiving Day and Christmas Day.

Business Regulations

SECTION TWENTY Minors.

a. The pawnbroker will not purchase or receive personal property of any nature on deposit or pledge from a person under the age of 18 years.

SECTION TWENTY-ONE Inspection of Items.

a. The pawnbroker shall, at all times during the term of the license, allow the Pine River Police Department and other law enforcement authorities associated with the Pine River Police Department to enter the premises where the pawnbroker's business is located during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, and merchandise and records therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of.

SECTION TWENTY-TWO License-Display.

a. A license issued under this Chapter must be posted in a conspicuous place in the premises for which it is used. Also, the licensee must display a sign, in a conspicuous place in the premises and of a sufficient size, which informs all patrons that all transactions are reported to the Pine River Police Department.

SECTION TWENTY-THREE Prohibitions.

- a. A pawnbroker and the agents and employees of the pawnbroker shall not:
1. make any false entry in the records of pawn transactions or use any pawn ticket not meeting the requirements of this Chapter.
 2. falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions;
 3. refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties;
 4. fail to maintain a record of each pawn transaction for three years;
 5. accept a pledge or purchase property from a person under the age of 18;
 6. make any agreement requiring the personal liability of a pledger or seller, or waiving any provisions of this Chapter, or providing for a maturity date less than one month after the date of pawn;
 7. fail to return pledged goods to a pledger or seller, or provide compensation as set forth in this ordinance, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has legally sold the pledged goods or the pledged goods have been taken into custody by a court or a law enforcement officer or agency;

8. sell or lease, or agree to sell or lease, pledged or purchased goods back to the pledger or seller in the same, or a related, transaction;
9. sell or otherwise charge for insurance in connection with a pawn transaction;
10. sell pledged goods before the time to redeem has expired;
11. keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punch boards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash;
12. accept any item of property which contains an altered or obliterated serial number or "Operation Identification" number or any item of property whose serial number has been removed.
13. accept items of property without the seller or pledger providing a proper form of identification;

SECTION TWENTY-FOUR Redemption; Risk of Loss.

a. The date by which a pawned item of property must be redeemed by the pledger, without risk that the item will be sold, must be a day in which the pawnbroker is open for regular business.

b. Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledger at the time of the initial transaction and signed by the pledger shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledger, in cash or replacement goods acceptable to the pledger, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

SECTION TWENTY-FIVE Pawnshop Location

a. No pawnshop shall be located within ten driving miles of any gambling casino. No pawnshop lawfully operating as of November 1, 1998, shall be required to relocate or close as a result of this section.

SECTION TWENTY-SIX Suspension or Revocation.

a. The City Council may suspend or revoke a license issued under this Chapter upon a finding of a violation of:

1. any of the provisions of this chapter;
2. any state statute regulating pawnbrokers; or
3. any state or local law relating to moral character and repute; or
4. a conviction of the pawnbroker for theft or receiving stolen property

b. Whenever it appears to the Council that adequate grounds exist for the suspension or revocation of a specific pawnbroker's license, the Council shall by resolution specify the nature of the alleged grounds and order that a hearing on the matter be held as hereinafter provided.

c. A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a public hearing. The written notice shall be mailed to the address listed on the application at least ten days prior to the hearing and shall designate the time and place of hearing and shall state the nature of the charges against the pawnbroker.

d. Upon a finding that the licensee has violated any of the provisions of this chapter or any state statutes designated in this section, the council may suspend the license for up to the 60 days or revoke the license.

SECTION TWENTY-SEVEN Criminal Violation.

a. A violation of this chapter is a misdemeanor.

SECTION TWENTY-EIGHT Severability.

a. If any section or portion of any section of this Chapter is deemed invalid or unconstitutional by a Court, such invalidity or unconstitutionality shall not affect the validity of other sections or portions of sections of the Chapter.

SECTION TWENTY-NINE Transition.

This ordinance shall be effective one week from and after its publication except that all pawnbrokers operating and in business upon the effective date of this ordinance shall be permitted to remain in operation under the old ordinance until their ordinary license renewal date.

Business Regulations

CHAPTER 118: Refuse Haulers Licensures

118: AN ORDINANCE REPLACING ANY PREVIOUS ORDINANCE(S) – LICENSE AND BUSINESS REGULATIONS OF CITY CODE RELATING TO TRASH HAULING, SOLID WASTE AND OR RECYCLABLES

The Council of the City of Pine River does ordain:

CHAPTER 118. Pine River City Code, Title 11 Business Regulations, is to read as follows:

ORDINANCE NO. 15-01

CHAPTER 118. RULES, REGULATIONS AND LICENSING RELATING TO SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION, HAULING AND DISPOSAL

Section

118.01	Definitions
118.02	License Required
118.03	Collection and transportation of recyclables
118.04	Service requirements for licensed haulers
118.05	Transportation of waste and recyclable materials
118.06	Required collection disposal
118.07	Solid waste storage
118.08	Enforcement

Section 118.01. DEFINITIONS

The following terms, as used in this Section, shall have the meanings stated:

1. *Collection* is the aggregation of mixed municipal solid waste, yard waste and/or separate waste streams from the place at which it is generated and includes all activities up to the time the mixed municipal solid waste, yard waste and/or separate waste stream is delivered to a waste facility.
2. *Compostable materials* include but are not limited to kitchen wastes, food wastes, paper wastes, and other clean organic wastes, but not including yard waste.
3. *Garbage* is discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
4. *Mixed municipal solid waste* shall mean garbage, refuse and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include recyclable materials, auto hulks, street sweepings, ash,

construction debris, mining waste, sludge, tires, lead acid batteries, used oil, infectious waste and other materials collected, processed and disposed of as separate waste streams.

5. *Recyclable materials* shall mean materials that are separated from mixed municipal solid waste for the purpose of recycling, including, but not limited to, paper, glass bottles, metal, plastic containers, and other materials.

6. *Recycling* is the process of collecting and preparing recyclable materials and reusing them in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

7. *Refuse* is putrescible and nonputrescible solid waste, except body wastes, and includes garbage and rubbish.

8. *Separate waste streams* are materials that are collected, processed or disposed of separately from mixed municipal solid waste, including, but not limited to, compostable materials, auto hulks, street sweepings, ash, earthen fill, boulders, rocks and other material normally handled in construction operations, mining waste, tree and agricultural wastes, yard waste, tires, lead acid batteries, used motor oil and major appliances.

9. *Yard waste* shall mean lawn cuttings, leaves, weeds, garden wastes and soft bodied plants.

Section 118.02. LICENSE REQUIRED

1. Haulers License Required. No person shall engage in the business of mixed municipal solid waste, garbage, refuse, compostable materials or recyclable materials collection or conveyance in the City of Pine River unless such person shall first secure from the City, annually, a haulers license to do so and pay the license fee pursuant to the provisions contained in this article.

2. Application for Haulers License. An applicant for a haulers license shall make application to the City Clerk-Treasurer on a form prepared by the City Clerk-Treasurer and in accordance with those procedures prescribed by the City Clerk-Treasurer. All applications shall be complete or shall be rejected. An applicant denied a license by the City Clerk-Treasurer may have the decision reviewed by the City Council. The applicant shall request review by the City Council in writing within ten days after denial of the license.

The application shall accurately state at a minimum:

- A. The name, telephone number and current address of the applicant;
- B. Assurance that equipment used on City streets remain at all times licensed and DOT Certified with proof available upon request; and
- C. Such other information as the City Clerk-Treasurer may require or as required by this article.
- D. Assurance that Company drivers possess all requirements to fulfill their duties such as; CDL & Health card.

3. Insurance. No license shall be issued until the applicant files with the City Clerk-Treasurer a valid certificate of insurance protecting the licensee from claims for damages and bodily injuries, including accidental death, as well as for claims for property damage which may arise from operations involving all phases of mixed municipal solid waste or disposal operations, as herein

defined and evidencing the following minimum insurance coverages:

- A. Commercial general liability insurance coverage in an amount of not less than \$1,000,000.00 for injury to any one or more persons or property damage resulting from any one accident;
- B. Automobile liability coverage with a combined single limit of \$1,000,000.00 covering all owned, hired and non-owned vehicles; and
- C. Statutory workers' compensation insurance.

All obligations and costs regarding required insurance shall be the responsibility of the applicant. Such insurance shall be kept in force during the term of the license. Any license issued under this Section shall automatically be revoked upon notice of termination or cancellation of such insurance.

4. Fee; Term. The annual license fee shall be duly set by the City Council by resolution. Such license shall expire December 31 of each year. The license fee will not be prorated. The license fee shall be paid at the time of application for such license. The licensee shall not be entitled to refund of any license fee upon suspension, revocation or voluntarily ceasing to carry on the license activity.

5. Indemnification. The licensed hauler shall hold the City harmless from all damages and claims of damages that may arise by reason of any negligence of the licensed hauler or the licensee's agents or employees while engaged in the performance of the work and services covered by the license and shall indemnify the City against all claims, liens, expenses and claims for liens for work, tools, machinery, materials or insurance premiums or equipment or supplies and against all loss by reason of failure of the licensee in any respect to fully perform all obligations outlined in the license, or by law, regulation, ordinance or contract regarding solid waste collection.

Section 118.03. COLLECTION AND TRANSPORTATION OF RECYCLABLES

1. All haulers licensed to do business in the City of Pine River must offer collection of recyclable materials to residential dwelling units.
2. Collection of recyclable materials shall be made at least bi-weekly and include, at a minimum; Tin and aluminum cans; Plastics #1 - #7; Unbroken Glass bottles and jars and Mixed Paper.
3. Residential recycling, being a free service attempting to conserve resources, shall be placed curbside in a conspicuous area mutually agreeable to the hauler and the customer for collection- usually at the end of the driveway.
4. Nothing herein shall be construed to prevent a licensee from offering curbside collection for other recyclable materials, in addition to those defined in this article.
5. The licensed hauler shall be deemed the owner of the recyclable materials upon collection and may market and sell the same.
6. The licensed hauler shall not impose a greater charge on residential customers who recycle than those who do not recycle.

7. A SCORE report must be submitted to the City of Pine River, as well as Cass County, indicating the weight of recyclable materials collected each month. Copies of weight slips or other means for verifying totals are required to accompany this report.

Section 118.04. SERVICE REQUIREMENTS FOR LICENSED HAULERS

1. Frequency of service. Licensed haulers must offer collection service at least once per week with the exception of recyclable materials collection which shall be offered at least bi-weekly.
2. Compliance with law. The licensed hauler shall comply with all state, county, local laws and regulations.

Section 118.05. TRANSPORTATION OF WASTE AND RECYCLABLE MATERIALS

1. A licensed hauler shall transport mixed municipal solid waste, recyclable materials, compostable materials, yard waste, garbage and refuse in the City only in a covered vehicle having a watertight body which prevents scattering, dripping or removal of the contents from the vehicle during collection and transportation of the same to a disposal facility. The body of each such vehicle shall be designed for complete emptying at the disposal site.
2. Each such vehicle shall be maintained in a reasonably clean condition. The city council may revoke or suspend the license of the hauler for failure to comply with this subsection. Permitting mixed municipal solid waste, recyclable materials, compostable materials, yard waste, garbage or refuse to scatter, drip, fall, spill, blow or otherwise be removed from the licensee's vehicle during transportation of its contents is prohibited and is declared a public nuisance.

Section 118.06. REQUIRED COLLECTION AND DISPOSAL

Duty Of Owners Or Occupants To Maintain Premises

1. It shall be the duty of every owner, occupant and person in charge of any premises within the City to maintain such premises free of any accumulation of garbage, rubbish or other refuse which constitutes a fire or health hazard, or which is dangerous to a person, or which otherwise constitutes a nuisance;
2. The owner and/or occupant of any premises, business establishment or industry in the City shall be responsible for the sanitary storage of all mixed municipal solid waste, garbage, refuse and/or separate waste streams accumulated or stored at that premises, business establishment or industry.
3. No person shall suffer or permit any refuse to accumulate and remain on any premises owned or occupied by him or her in his/her charge or custody, whether or not such refuse is in containers, for a period of more than one week in any case.
4. No commercial or industrial mixed municipal solid waste, garbage, refuse and/or separate waste streams shall be collected or disposed of except by a duly licensed hauler.

Penalty, see § 10.99

Storage Of Refuse Receptacle Containers

Unless stipulated in subd. B below, all refuse receptacles shall be stored inside of or next to a structure;

Time Limit On Accumulations

1. No person shall suffer or permit any garbage to accumulate and remain on the premises in containers, or otherwise, longer than a period of one (1) week in any event.

2. Any garbage refused for collection by a refuse provider, shall be removed from street side according to subd. 2 above and disposed up properly by the owner of said premises according to *DUTY OF OWNERS OR OCCUPANTS TO MAINTAIN PREMISES*, subd. 3.

Penalty, see § 10.99

Time Restrictions For Setting-Out Garbage, Trash, Recycling, and Other Materials For Collection

1. All residential garbage, trash, recycling, and yard waste collections will be normally made between the hours of 5:00 AM and 4:00 PM on the designated collection day. Refuse receptacles, and/or bulky waste recycling containers shall be set out at the refuse collection site, curbside or alley, as appropriate, no earlier than 3:00 PM the day prior to said collection;
2. Refuse containers, garbage cans, and/or recycling containers shall be removed from the refuse collection site no later than midnight following the day of collection;
3. The occupant of the property shall promptly clean up and remove any scattered solid waste, rejected items, recyclable material and/or yard waste from the property before midnight following the day of collection;

Penalty, see § 10.99

Unauthorized Accumulations

Any accumulation of refuse contrary to any provision of this chapter on any premises is hereby declared to be a nuisance and is prohibited.

Penalty, see § 10.99 (Amended 3/14/2023)

Section 118.07. SOLID WASTE STORAGE

1. The owner, occupant and/or the person in control of any residential property, business establishment or industry, shall be responsible for the satisfactory storage of all mixed municipal solid waste and separate waste streams accumulated at the premises, business establishment or industry.
2. Mixed municipal solid waste shall be stored in durable, rust-resistant, non-absorbent, watertight, rodent-proof and easily cleanable containers, with close-fitting, fly-tight covers and/or disposable plastic bags with tightly sealed openings.
3. All containers for the storage of mixed municipal solid waste shall be maintained in a manner as to prevent the creation of a nuisance or menace to public health. Containers that are broken or otherwise fail to meet requirements of this chapter shall be replaced with acceptable containers.

Section 118.08. ENFORCEMENT

1. Revocation or suspension of license. The city council may suspend or revoke any license when the licensed hauler neglects or fails to comply with the provisions of applicable law, regulations or ordinances.
2. Inspection. Inspection may be made of any premises, facilities or equipment in connection with the storage, collection, transportation, treatment, handling, utilization, processing and final disposal of mixed municipal solid waste and/or separate waste streams at any reasonable time upon showing proper identification. Inspection may be made by authorized personnel from Cass County, the state pollution control agency, as appropriate, or any peace officer.
3. Violations. Whenever it is found that a violation of the provisions of this article exists, the

department of public works, police department and/or the city clerk may take action to correct the conditions by serving a written order or notice upon the person responsible therefor directing him to discontinue the illegal action or correct the condition which is in violation of the provisions and regulations of this chapter. Any violation of this chapter is a misdemeanor, unless otherwise specified. The penalty provided herein may be imposed in addition to suspension or revocation of the license.

SECTION 2. This ordinance shall take effect following its passage and publication.