

TITLE XI: BUSINESS REGULATIONS

Chapter

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11.1: BUSINESS LICENSES

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GENERAL LICENSING AND PERMIT PROVISIONS

§ 11.1.01 GENERAL RULE.

Except as otherwise provided in this code, all licenses and permits granted by the City shall be governed by the provisions of this subchapter.

§ 11.1.02 ACTS PROHIBITED

No person shall conduct any activity or use any property for which a license or permit is required by law or this code without a currently valid license or permit for such activity or use.

§ 11.1.03 APPLICATION.

Every application for a license shall be made to the Clerk-Treasurer on a form the Clerk-Treasurer provides. It shall be accompanied by payment to the Clerk-Treasurer of the prescribed fee. If, after investigation, the Clerk-Treasurer is satisfied that all requirements of law and this code have been met, he or she shall present the application to the City Council for action, or, if the license or permit does not require City Council approval, the Clerk-Treasurer shall issue the license or permit.

§ 11.1.04 NOT TRANSFERABLE.

No license issued by the city may be transferred from one person to another without permission of the City Council. When the City Council permits the transfer of a license, it may waive any residency requirement, but only for the required term of the license.

§ 11.1.05 REVOCATION.

Any license may be revoked by the City Council for a violation of the section or chapter under which it is issued. However, the revocation must follow any procedure provided in the section or chapter in question.

§ 11.1.06 APPEAL.

Any person who has made application that has been denied or not acted upon within 30 days after the application may apply directly to the City Council for a license. The application to the City Council shall contain the same information required in the original application, plus any additional information that the City Council may require or that the applicant may feel is pertinent. The City Council may grant the license, after hearing, if the requirements of this code are substantially complied with, and in the opinion of the City Council granting the license would be in the best interests of the public.

CONTRACTORS

§ 11.1.07 LICENSE REQUIRED.

No residential contractor who is required to be licensed by the state under the provisions of M.S. §§ 326.83 to 326.991, as they may be amended from time to time, and no person employing a residential contractor, who is required to be licensed, shall be issued a building, zoning, or land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license but who does not have a state license shall be reported to the State Commissioner of Commerce who may begin an action against the person.

§ 11.1.08 VIOLATIONS AND PENALTY.

Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to penalty as a misdemeanor.

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11.2: ALCOHOLIC BEVERAGES AND TOBACCO

§ 11.2.01 ESTABLISHMENT OF A LIQUOR DISPENSARY (ON-SALE, OFF-SALE)

A municipal liquor dispensary is hereby established to be operated within this municipality for the sale of liquor potable as a beverage and containing more than 3.2% of alcohol by weight, both for consumption at such dispensary and on such premises by the drink and in the sealed or closed receptacle or retainer for removal from the premises. The said dispensary shall be at such a location as the council shall determine by motion and may be either leased or owned by the municipality.

It shall be in charge of a person known as the Operator, whom shall be selected by the village Council and compensated according to what the council shall determine, which may be reevaluated from time to time. All other employees shall hold their position at the Operator's disposal. Said Operator shall have full charge of the operation of such dispensary, and shall have authority to purchase supplies as are necessary and employ such additional help as he may need at a rate of compensation to be approved by the council under rules to be determined by the council. No minor person shall be employed in the municipal dispensary.

§ 11.2.02 DISPENSARY FUND

A liquor dispensary fund is hereby created into which all revenues received from the operation of the dispensary shall be paid; and from which all operating expenses shall be paid. Any surplus accumulating in this fund may be transferred to the general fund by resolution of the Council and expended for any municipal purpose.

§ 11.2.03 HOURS OF SALE

The municipal liquor dispensary will generally be open Mondays through Sundays between the hours of 8:00 a.m. to 1:00 a.m. However, there will be no sale of intoxicating liquor shall be made on Sunday before 12:00 o'clock p.m. (noon) or on any Memorial Day, nor before eight o'clock p.m. on any Election Day. No "on sale" shall be made before eight o'clock a.m. or after 1 a.m. of any day. No "off sale" shall be made before eight o'clock a.m. or after ten o'clock p.m. of any day Monday through Saturday. No "off sale" shall be made on New Year's Day (January 1); Independence Day (July 4); Thanksgiving Day; Christmas Day (December 25); but on the evening preceding such days, if the sales of liquor is not otherwise prohibited on such evenings "off sale" may be made until ten o'clock p.m., except that no "off sale" shall be made on December 24 after eight o'clock p.m.

§ 11.2.04 CONDITIONS OF OPERATION

No other business than the sale of liquors shall be carried on by the dispensary or by any person employed therein during the time so employed.

The premises occupied by the dispensary shall be duly inspected by the city at least once a month and as many other times as is necessary to see that said premises are in a sanitary condition.

No person shall be permitted to loaf or loiter about the dispensary habitually.

§ 11.2.05 ENFORCEMENT AND PENALTY

It shall be the duty of all law enforcement authorities of the county to enforce the provisions of this code and to search premises, seize evidence of law violation, preserve the same as evidence against any person alleged to be violating this code, and to prepare the necessary processes and papers therefore.

Any person violating any provision of this code shall be guilty of a misdemeanor.

SALE OF NON-INTOXICATING LIQUOR

OFF-SALE; 3.2 MALT LIQUOR.

§ 11.2.14 DEFINITIONS

For purposes of this chapter, the following terms have the meanings given them in this section.

A. “Alcoholic beverage” shall mean any beverage containing more than 0.5% alcohol by volume.

B. “3.2% Malt liquor” shall mean any beer, ale or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume, nor more than 3.2% alcohol by weight.

§ 11.2.15 LICENSES OF OFF-SALE; 3.2 MALT LIQUOR

The City Council shall be authorized to issue off-sale 3.2 malt liquor licenses pursuant to M.S. Chapter 340A, as it may be amended from time to time.

A. Temporary 3.2 Malt Liquor License. Temporary 3.2 malt liquor licenses may be issued by the City Council from time to time subject to the limitations set by state statute.

B. License Duration. Except as otherwise provided in this chapter for limited licenses all licenses shall be issued for a period of one year; provided that for the purpose of coordinating the time of expiration of licenses issued pursuant to this chapter, the licenses may be issued for a shorter time, in which case the fees shall not be prorated or refunded. Licenses issued pursuant to this chapter shall expire on June 30 of each year.

§ 11.2.16 LICENSE FEES

A. On-Sale/Off-Sale; 3.2 Malt Liquor. The fee for each off-sale 3.2 malt liquor license issued shall be set by the City Council from time to time. The initial fee set by the Council shall be \$100 per year.

§ 11.2.17 LICENSING PROCEDURES AND REQUIREMENTS

A. Application. Application forms shall be prepared and furnished by the City Clerk. No application shall be considered until the applicant shall have filed with the City Clerk a written verified application with all questions fully answered.

B. License Issuance, Transfer and Renewal.

(1) The City Clerk shall not issue any license under this chapter unless directed to do so by resolution or motion duly adopted by the City Council. Any resolution granting a license may be conditioned on payment of taxes or any other condition the City Council shall deem appropriate. The City Clerk shall not issue any license until all the conditions shall be met.

(2) The Sheriff's Department shall cause a preliminary background and financial investigation to be made of all applicants for a license or the person(s) to whom an existing license under this chapter is sought to be transferred. If, after the preliminary investigation, the City Council determines that a comprehensive background investigation of the applicants or the person(s) is necessary, an investigation fee not to exceed \$500 shall be charged the applicants or the person(s) if the investigation is conducted within the state, or the actual cost, not to exceed \$3,000 if the investigation is required outside of the state. After any such investigation and approval of the required bond and/or insurance policy, the City Council shall grant or refuse the license in its discretion. No license shall

be issued, transferred or renewed if the results of the investigation show, to the satisfaction of the City Council, that the issuance, transfer or renewal would not be in the public interest. Notwithstanding anything to the contrary contained in this section, no license issued under this section shall become effective until it, together with the bond and/or insurance policy, shall have received any required approval of the State Commissioner of Public Safety.

C. License Issuance; Corporations

(1) Alcoholic beverage licenses may be issued to any corporation authorized to do business in the state if an officer or a managing agent of the corporation shall be a resident of Minnesota residing within 50 miles of the Cromwell City Hall.

(2) 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 five 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 five-year period for violation of any such law, or for cause, and unless the officers, directors, shareholders, local managers and local managing agents shall be of good moral character and repute. This section shall not apply to corporations whose stock is publicly held and listed and traded by the public on a recognized stock exchange, except with respect to those provisions dealing with local managers and local managing agents.

(3) 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, officers, local managers or local managing agents by a corporate license holder shall be deemed a transfer of all alcoholic beverage licenses held by the corporation and, in such case, the provisions of 530.10, shall be applicable. The failure of any corporate license holder to comply with the provisions of this section shall be grounds for the revocation of all alcoholic beverage licenses held by the corporation.

D. License Issuance; Prohibited to Certain Persons

No licenses required by this chapter shall be issued to any person not a citizen of the United States or not of good moral character and repute, nor to any person under 21 years of age, nor to any person who shall be convicted of any willful violation of any law of the United States, this state or any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages within five years of a license application, nor to any person whose license under this chapter or otherwise shall be revoked for any willful violation of any such laws or ordinances or for cause within five years of a license application nor to any person who at the time of any such violation owned any interest, whether as an owner of any capital stock of a corporate licensee, or who was a partner or otherwise, in the premises or in the business conducted thereon, of a licensee that violated any such laws or whose license was revoked for any such violation.

E. Regulatory Compliance

No license shall be issued unless the applicant shall be found to be in compliance with all applicable statutes and regulations of the state, in particular, but not limited to M.S. Chapter 340A, as it may be amended from time to time, and the rules and regulations of the Minnesota Department of Public Safety, and with the provisions of this chapter.

F. Limitation on Licenses to Same Licensee

- (1) No more than one off-sale intoxicating liquor license shall be directly or indirectly issued to any one person, partnership or corporation or for any one place or location in the City.
- (2) No person, partnership or corporation shall have or possess a direct or indirect interest in more than one off-sale intoxicating liquor license in the City.
- (3) A person, partnership or a corporation which receives moneys from time to time directly or indirectly from a licensee in the absence of a bona fide consideration therefor, and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in the retail license.
- (4) In determining whether an "interest" exists, the transactions shall have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this section shall be considered.

- (5) Upon conviction for violation of this section, the City Council may revoke all licenses in which the convicted person, partnership or corporation has an interest.

G. Proof of Financial Responsibility

- (1) No license shall be granted unless the applicant shall provide proof of financial responsibility with regard to liability imposed by M.S. Section 340A.801, as it may be amended from time to time, with the application. Financial responsibility shall be demonstrated by filing one of the following with the application:
 - (a) A certificate that there shall be in effect an insurance policy or pool providing coverage of at least:
 - (i) Fifty thousand dollars of coverage because of bodily injury to any one person in any one occurrence, and \$100,000 of coverage because of bodily injury to two or more persons in any one occurrence and \$10,000 of coverage because of injury to or destruction of property of others in any one occurrence;
 - (ii) Fifty thousand dollars of coverage for loss of means of support of any one person in any one occurrence, and \$100,000 of coverage for loss of means of support of two or more persons in any one occurrence; and
 - (iii) That specifies that the insurance coverage shall not be materially altered, canceled or not renewed by either the insured or insurer without 30 days prior notice to the City of the cancellation, material alternation or non-renewal; or
 - (iv) The insurance required by 530.08.1.1.1 may be provided by an insurer in combination with other insurance coverage.

H. Payment of Taxes, Assessments, And Other Charges

- (1) No license shall be granted under this section for the operation on any premises, on which real estate taxes, assessments or other financial claims of the City shall be delinquent and unpaid.
- (2) In the event the applicant is the owner, either in fee or under a contract for deed of the real estate where the licensed business is to be located and there are delinquent real estate taxes and/or assessments and/or other financial claims of the City against the real estate, the City Council may

nevertheless, by affirmative vote of three members of the City Council, authorize and direct the issuance of the license, but only if the applicant shall submit a certified copy of an agreement under any laws of the state for the payment of the delinquent taxes and assessments and other financial claims.

- (3) In the event the applicant does not own the real estate where the licensed business is to be located and there are delinquent real estate taxes, assessments and/or other financial claims of the City against the real estate, the City Council, may nevertheless, by affirmative vote of three members of the City Council, authorize and direct the issuance of the license, but only if the applicant shall submit evidence to the City Council that the owner of the real estate and the applicant having entered into a written rental agreement or lease providing that rent paid shall first be applied to the delinquent real estate taxes, assessments and other financial claims.

I. Assignments And Transfers

- (1) No license issued under the provisions of this chapter 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 the assignment, transfer or change of address shall have been first duly approved by resolution of the City Council.
- (2) Application for an assignment or transfer of a license or for the change of address in the location of the licensed premises shall be made to the City Clerk by the holder of the license to be transferred or assigned or whose licensed premises address is to be changed on an application form to be prepared and furnished by the City Clerk. No application shall be considered until the applicant shall have filed with the City Clerk a written application with all questions fully answered. Applications for assignment, transfer or change of address of an off-sale 3.2 malt liquor license shall be accompanied by a fee of \$50. The fees shall be to cover the necessary costs of investigation and shall not be refunded if the application is withdrawn, or the assignment, transfer or change of address shall not be granted by the City Council.
- (3) The Carlton County Sheriff or his or her designee shall investigate each person to whom a license is proposed to be transferred or assigned and each individual owner of any corporation, partnership, association or other organization to whom a license is proposed to be assigned or transferred and inspect the premises to which a licensed premises is proposed to be changed and report back to the City Council whether or not the person to

whom the license shall be transferred or assigned or its owner(s) shall be of good character and whether the premises to which a licensed premises is proposed to be changed shall be proper.

- (4) No licenses shall be transferred or assigned if the individual person or any individual owner of any entity to which the license is proposed to be assigned has been previously convicted of a misdemeanor, gross misdemeanor or felony, provided, however, that the City Council may, in its sole discretion, grant a waiver of the prohibition if it determines that the conviction shall not bear a substantial relationship to the character or ability of the person to conduct a liquor business consistent with the provisions of this chapter and all other applicable laws. No application for a transfer or assignment of a license issued under this chapter or change of address in the location of the licensed premises shall be approved unless the person, corporation, partnership or other entity shall be found to be in compliance with all applicable statutes and regulations of the state, in particular, but not limited to M.S. Chapter 340A, as it may be amended from time to time, the rules and regulations of the Minnesota Department of Public Safety and with the provisions of this chapter. After the approval of the transfer or assignment of a license issued under this section, all of the provisions of this chapter and all other applicable laws and regulations shall apply to the license and the new licensee.

J. Renewal.

Applications and fees for renewal shall be received by the City Clerk at least 45 days prior to the expiration date of any license.

K. Grounds for Revocation or Suspension

(1) Licenses issued hereunder may, in addition to causes set forth in applicable Minnesota Statutes and common law, be revoked for violation of the provisions of any rule or regulation promulgated by the Department of Public Safety, and for violation of the provisions of this chapter or any regulations issued thereunder, in the manner provided in M.S. Sections 340A.304 and 340A.415, as they may be amended from time to time.

(2) Operation of a business hereunder without meeting the financial responsibility requirements specified in 530.08 of this chapter shall entitle the City Council to immediately suspend or revoke the license. Notice of cancellation of an insurance policy provided to satisfy the requirements of 530.08 shall constitute notice to the licensee insured under the policy that the licensee's license shall be suspended or revoked unless evidence of compliance with the financial responsibility requirement of this chapter

shall be presented to the City Council before the cancellation of the insurance policy shall be effective.

L. License Not Effective Beyond Space for Which Granted; Exception

- (1) General Rule. No license granted under this section shall be effective beyond the compact and contiguous space named therein for which the license was granted. Licensed premises for any license granted shall include the entire parcel of land on which the establishment is located, provided, however, that no sales or service of alcoholic beverages shall take place outside of the interior portion of the establishment and any exterior portion of the establishment whose perimeter, with the exception of any entry way(s) to the exterior portion of the establishment, shall be bounded by a permanent structure at least six feet, constructed in accordance with all applicable codes, ordinances and regulations, and the interior and exterior portions described above shall be permanently dedicated as an area(s) for the serving and sale of alcoholic beverages with the areas to be identified on the application for the license as the applicant's designated service area.

M. Hours and Days of Sale

- (1) Malt Liquor. No sale of 3.2 malt liquor (off-sale) may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

- (2) Intoxicating Liquor; On-Sale. No sale of intoxicating liquor for consumption on the licensed premises shall be made:

- (a) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

N. Persons under 21

- (1) Consumption. It shall be unlawful for any:

- (a) 3.2 malt liquor licensee to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises; or

- (b) Person under the age of 21 years to consume any alcoholic beverages unless in the household of the person's parent or guardian and with consent of the person's parent or guardian.

(2) Purchasing. It shall be unlawful for any person:

(a) To sell, barter, furnish or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;

(b) Under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

(c) To induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under age 21 for the purpose of purchasing or attempting to purchase an alcoholic beverage.

(3) Possession. It shall be unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

(4) Entering Licensed Premises

(a) It shall be unlawful for a person under the age of 21 to enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage.

(b) Persons 18, 19 or 20 years old may enter an establishment licensed under this chapter to:

(i) Perform work for the establishment, including the serving of alcoholic beverages;

(ii) Consume meals; and

(iii) Attend social functions that are held in a portion of the establishment where liquor shall not be sold.

(c) In no case shall a person under the age of 18 be permitted to serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

(5) Misrepresentation of Age. It shall be unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

(6) Proof of Age. Proof of age for purchasing or consuming alcoholic beverages shall be established only by a valid driver's license issued by Minnesota, another state, or a province of Canada and including the photograph and date of birth of the licensed person or a valid Minnesota identification card, or in the case of a foreign national by a valid passport or a valid Canadian identification card with the photograph and date of birth of the person, issued by a Canadian province.

(7) Employment of Minors. No person under 18 years of age shall be employed in a place where intoxicating liquor is sold for consumption on the licensed premises, except persons under 18 years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that shall be licensed to sell intoxicating liquor and persons under 18 years of age may be employed as waiters or waitresses at a restaurant, hotel, or motel where only wine is sold, provided that the person under the age of 18 may not serve or sell any wine.

O. Posting of Signs

(1) Premises that are licensed off-sale intoxicating and 3.2 malt liquor sales, including municipal liquor stores, shall post and maintain in a conspicuous place signs warning customers of the penalty for driving under the influence and criminal vehicular homicide, warning that the establishment shall not serve to persons under 21 years of age or who are obviously intoxicated, and a warning statement regarding drinking alcohol while pregnant. The sign shall be at least 14½ inches wide by 8 inches and shall be the one available from the State Commissioners of Health and Public Safety.

(2) For purposes of this subsection, a “conspicuous place” shall be a location clearly visible to the customers of the establishment. The intent of this section is to conform to the requirements of M.S. Section 340A.10 (4)(b), as it may be amended from time to time.

P. Sales to Obviously Intoxicated Persons. No person may sell, give, furnish or in any way procure for another person alcoholic beverages for the use of an obviously intoxicated person.

Q. Posting of License. A retail license to sell alcoholic beverages shall be posted in a conspicuous place in the premises for which it is used.

R. License Extension; Death of Licensee. In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative of the estate of the deceased licensee shall be authorized to continue operation of the business for not more than 90 days after the death of the licensee.

S. Illegal Gambling.

(1) Gambling Apparatus. Except as provided in 530.22.2, no licensee shall keep, possess, operate or permit the keeping, possession or operation of the licensed premises of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the licensed premises or in any room adjoining the licensed premises controlled by the licensee, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under licensee's control, to be used as a resort for prostitutes or other disorderly persons.

(2) Charitable Gambling. A charitable organization licensed by the state pursuant to M.S. Chapter 349, as it may be amended from time to time, to conduct lawful gambling may conduct the gambling on premises for which an intoxicating or 3.2 malt liquor license has been issued. The operation of charitable gambling in establishments licensed to sell alcoholic beverages shall be subject to all applicable laws, ordinances, rules and regulations, including, without limitation, the provisions of this code and no licensee or other person shall violate any of the regulations.

T. Copy of Summons. Every application for the issuance or renewal of any license issued pursuant to this chapter shall include a copy of each summons received by the applicant under M.S. Section 340A.802, as it may be amended from time to time, during the preceding year.

U. License Required. Except as provided by this chapter and M.S. Chapter 340A, as it may be amended from time to time, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale or otherwise dispose of alcoholic beverages as part of a commercial transaction without having first obtained a license under this chapter.

V. Workers' Compensation Certificate. No license shall be granted under this section unless the applicant shall provide with his or her application a certificate evidencing that applicant has in force and effect workers' compensation insurance that meets the requirements of M.S. Section 176.181 (2), as it may be amended from time to time.

§ 11.2.18 ALCOHOLIC BEVERAGES IN PUBLIC PLACES

A. Prohibitions

- (1) No owner, manager or person having control of any public place shall serve, permit to be served or permit any person to consume alcoholic beverages in the public place unless the place has been duly issued a temporary on-sale license by the City of Cromwell.
- (2) No person shall mix, prepare, serve or consume alcoholic beverages in any public place, unless the place has been duly issued a temporary on-sale license.
- (3) No person shall consume or have alcoholic beverages in his or her possession in any public place unless the alcoholic beverages have been served to him or her by the holder of the on-sale or temporary on-sale license or the employer or agent of the holder of the on-sale or temporary on-sale license.

B. Public Place; Definition. For purposes of this section, "public place" shall have the meaning given it in 500.03.12.

§ 11.2.19 NUDITY PROHIBITED

A. Purpose. It shall be in the best interest of the public health, safety and general welfare of the people of the City that certain types of activities, as set forth in this section shall be prohibited upon the premises of licensed liquor, wine and beer establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The standards in this section reflect the prevailing community standards in the City. This section shall be intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. It shall also be desired to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault and disorderly conduct.

B. Certain Acts Prohibited. It shall be unlawful for any licensee to permit or allow any person or persons from being upon the licensed premises when the person does not have his

or her buttocks, anus, breast and genitals covered with a non-transparent material, and it shall be unlawful for any person to so appear without said areas covered with a non-transparent material.

C. Violation. A violation of this section shall constitute a misdemeanor. In addition to all other remedies available to the City under this section, this Code and applicable law, be justification for revocation or suspension of any liquor, wine or beer license.

RESTRICTIONS ON PURCHASE AND CONSUMPTION OF ALCOHOL

§ 11.2.20 MINORS

(A) Consumption. It is unlawful for any person under the age of 21 years to consume alcohol unless in the household and with the consent of the person's parents or guardian.

(B) Purchasing. It is unlawful for any person:

- (1) To sell, barter, furnish, or give beer to a person under 21 years of age, except that a parent or guardian of a person under that age may give or furnish alcohol to that person solely for consumption in the household of the parent or guardian;
- (2) Under the age of 21 years to purchase or attempt to purchase alcohol; or
- (3) To induce a person under the age of 21 years to purchase or procure alcohol.

(C) Possession. It is unlawful for a person under the age of 21 years to possess alcohol with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of a parent or guardian, is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

(D) Entering licensed premises. It is unlawful for a person under the age of 21 years to enter an establishment licensed under this ordinance in order to purchase beer or have alcohol served or delivered.

(E) Misrepresentation of age. It is unlawful for a person under the age of 21 years to misrepresent his or her age for the purpose of purchasing alcohol.

(F) Proof of age. Proof of age for purchasing or consuming alcohol may be established only by a valid driver's license or Minnesota identification card, or in case of a foreign national by a valid passport.

§ 11.2.21 PROHIBITED-WHERE

It shall be unlawful for any person to consume alcohol in any theater, recreation hall or center, dance hall, ball park, or other place of public gathering used for the purpose of entertainment, amusement, or playing of games.

No liquor shall be sold either for consumption upon the premises or for removal therefrom to a person who is in an intoxicated condition.

RETAIL SALE OF CIGARETTES AND CIGARETTE WRAPPERS

§ 11.2.22 LICENSE REQUIRED

No person shall directly or indirectly or by means of any device keep for retail sale, sell at retail, or otherwise dispose of any cigarette or cigarette wrapper at any place in the City of Cromwell, unless a license therefore shall first have been obtained from the County of Carlton as prescribed by law.

§ 11.2.23 APPLICATION AND ISSUANCE

Application for such license shall be made to the County of Carlton on a form supplied by the County.

§ 11.2.24 LICENSE FEE

The fee for every such license shall be determined by the County.

§ 11.2.25 RESTRICTIONS

No license shall be issued to an applicant for sale of cigarettes at any place other than his established place of business. No license shall be issued for the sale of cigarettes at a movable place of business, nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any cigarette, cigarette paper or cigarette wrapper to any person below the age of 18 years. Every such license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

§ 11.2.26 PENALTY

Any person who shall violate any provision of this Code shall be guilty of a misdemeanor.

11.3: AMUSEMENTS

Section

Circuses, Exhibitions, and the Like

- 11.3.01 License required
- 11.3.02 Fee
- 11.3.03 Application
- 11.3.04 Deposit required

Games of Chance

- 11.3.05 Statute incorporated by reference
- 11.3.06 Additional regulations
- 11.3.07 License or permit required
- 11.3.08 Application
- 11.3.09 Investigation fee
- 11.3.10 Fidelity bond
- 11.3.11 Copies of reports
- 11.3.12 Revocation

CIRCUSES, EXHIBITIONS, AND THE LIKE

§ 11.3.01 LICENSE REQUIRED.

No person except a local school, lodge, society, or charitable organization, none of which are organized or maintained for profit, shall hold, promote, advertise for, or otherwise engage in offering or opening to the public a circus, theatrical performance, amusement, show, or exhibition without first obtaining from the City Council a license therefor.

§ 11.3.02 FEE.

The license fee shall be the sum of \$100 per year, or \$10 per day for each day that activity is conducted, offered, or held open for the public, whichever is less.

§ 11.3.03 APPLICATION.

Any person or persons desiring to engage in activities regulated under this subchapter shall make application for a license on a form furnished by the Clerk-Treasurer. The application shall set forth the name and address of the person, persons, committee, or organization which is to conduct the regulated activity; state the times and places where the activities are to be held or conducted; and state the nature of the activity for which the license is sought. The application shall also contain such information as is reasonably requested by the Clerk-Treasurer. In the event the license is issued, it shall be posted in a conspicuous place on the premises at which the activity is conducted.

§ 11.3.04 DEPOSIT REQUIRED.

As a condition for the issuance of a license, the applicant shall deposit with the Clerk-Treasurer the sum of \$100 dedicated to cleaning up and restoring the area used to its state existing prior to the commencement of the activity licensed. The licensee shall have a period of 24 hours following the termination of the activity within which to clean up and restore the area or premises. The Clerk-Treasurer or other authorized personnel of the city may examine the area to see if the conditions herein stated have been complied with. Upon compliance, the Clerk-Treasurer shall refund the deposit of \$100. The refusal of or failure by the licensee to comply with the conditions of this section shall constitute a release of any claim to the deposited sum by the licensee, and the sum shall thereafter be forfeited to the city for the purposes of cleaning up and restoring the area or premises. Any balance remaining thereafter shall be deemed liquidated damages forfeited to the city for failure to comply with this section.

GAMES OF CHANCE

§ 11.3.05 STATUTE INCORPORATED BY REFERENCE.

The provisions of M.S. § 349.60, as it may be amended from time to time, are incorporated by reference and made a part of hereof as if fully set out herein.

§ 11.3.06 ADDITIONAL REGULATIONS.

The regulations set forth in this subchapter shall apply to the conduct of bingo and other lawful gambling within the city in addition to the provisions of M.S. ' 349.11 through 349.60, as they may be amended from time to time.

§ 11.3.07 LICENSE OR PERMIT REQUIRED.

The unlicensed conduct of bingo or lawful gambling within the city is prohibited. Any organization authorized by law to conduct bingo or lawful gambling occasions may do so only after applying for and receiving a license from the state charitable gambling control board after approval of the City Council, if no state license is required, after applying for and receiving a permit from the City Council as hereafter provided.

§ 11.3.08 APPLICATION.

Those interested in conducting lawful gambling which is otherwise exempt from licensing under M.S. § 349.166, as it may be amended from time to time, shall apply for a bingo or lawful gambling permit to the City Council upon forms prepared by the Clerk-Treasurer for that purpose. The application shall state where the games will be played and the dates and hours for which permission to play the game is requested. The organization shall not conduct lawful gambling at any place, date, or time other than those specified in the application. The application shall be verified by a duly authorized officer of the organization and by the designated gambling manager. No application shall be accepted by the city unless accompanied by the required investigation fee.

§ 11.3.09 INVESTIGATION FEE.

The City Council by resolution may assess an investigation fee up to \$100 on organizations applying for or renewing a state license or local permit to conduct lawful gambling in the city. State licenses shall be for the term listed on the license. Permits shall expire upon the date listed on the permit or 12 months after issuance.

§ 11.3.10 FIDELITY BOND.

As a condition of permitting, the City Council may require the permit applicant to provide a fidelity bond in the sum of \$10,000 in favor of the organization. The bond shall be conditioned on the faithful performance by the manager of his or her duties. The bond shall not be cancelable except upon 30 days written notice to the city. The City Council may, by unanimous vote, agree to waive the fidelity bond requirement. If such waiver is granted, the permit must be endorsed to indicate such action.

§ 11.3.11 COPIES OF REPORTS.

All licensees shall furnish to the city copies of any and all reports required by law to be filed with the state charitable gambling control board. All permittees shall furnish, at the request of the city, reports and records on the operation of lawful gambling, including but not limited to gross receipts, expenses, and profits.

§ 11.3.12 REVOCATION.

No licensee or permittee shall have a vested right in any license or permit issued hereunder, and permits issued hereunder may be revoked by the City Council at any time. Licenses and permits shall be revoked upon a showing that the licensee or permittee violated or caused to be violated any provisions of this chapter, or of state law regulating the licensing or conduct of lawful gambling. The license or permit shall also be revoked in the event of any misrepresentation in the license or permit application or any reports required of the licensee or permittee to be made.

11.4: PEDDLERS AND SOLICITORS

Section

11.4.01	Definitions
11.4.02	Exceptions to definitions
11.4.03	Licensing; exemptions
11.4.04	License ineligibility
11.4.05	Suspension and revocation
11.4.06	Transferability
11.4.07	Registration
11.4.08	Prohibited activities
11.4.09	Exclusion by placard

§ 11.4.01 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.

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 anyone location for more than 14 consecutive days.

§ 11.4.02 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.

§ 11.4.03 LICENSING; EXEMPTIONS.

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

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

(C) 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) Applicant's full legal name;
- (2) All other names under which the applicant conducts business or to which applicant officially answers;
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
- (4) Full address of applicant's permanent residence;
- (5) Telephone number of applicant's permanent residence;
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or agent;
- (7) Full address of 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;
- (13) A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;
- (14) A list of the three 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.

(D) Fee. All applications for a license under this chapter shall be accompanied by the fee established in the city's fee schedule as adopted from time to time by an ordinance passed by the City Council.

(E) Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk-Treasurer shall forward the application to the City Council within two regular business days of receipt. An application shall be determined to be complete only if all required

information is provided. The City Clerk-Treasurer, within two regular business days of receipt, shall determine if the application is complete. If the City Clerk-Treasurer determines that the application is incomplete, the City Clerk-Treasurer shall inform the applicant of the required necessary information which is missing. The City Council shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving the application from the City Clerk-Treasurer, the City Council shall vote whether or not to issue the license. If the City Council approves the application, the City Clerk-Treasurer shall be instructed to issue a license to the applicant. If the City Council rejects the application, the applicant shall be notified in writing of the City Council's decision, the reason for denial, and of his or her right to appeal the denial by requesting, within 20 days of receiving the City Council's notice of rejection, a public hearing to be heard within 20 days of the date of the request. The final decision of the City Council following the public hearing shall be appealable by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

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

(G) 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 such 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.

§11.4.04 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 five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the city. Such violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person;

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

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

§ 11.4.05 SUSPENSION AND REVOCATION.

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

- (1) Fraud, misrepresentation, or incorrect statements on the application form;
- (2) Fraud, misrepresentation, or false statements made during the course of the licensed activity;
- (3) Conviction of any offense for which granting of a license could have been denied under § 113.04; and
- (4) Violation of any provision of this chapter.

(B) Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each

such 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 ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time-frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

(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.

§ 11.4.06 TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

§ 11.4.07 REGISTRATION.

All solicitors, and any person exempt from the licensing requirements 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 non-transferable.

§ 11.4.08 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 such a way as to create a threat to the health, safety, and welfare of any individual or the general public;

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor 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.

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

§ 11.4.09 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 four inches long and four 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.

11.5: NUDE DANCING

Section

11.5.01	Purpose
11.5.02	Findings of the City Council
11.5.03	Conclusions of the City Council
11.5.04	Definitions
11.5.05	Zoning Regulations
11.5.06	Sign Restrictions
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11.5.16	Restrictions Regarding Hours of Operation
11.5.17	Restrictions Regarding Minors
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11.5.19	Sanctions for License Violations
11.5.20	Penalty

§ 11.5.01 PURPOSE.

The purpose of this Ordinance is to prescribe licensing requirements for sexually-oriented businesses in order to protect the general health, safety, and welfare and to control certain land uses that may have a direct and detrimental effect on the character of the City's residential and commercial neighborhoods.

§ 11.5.02 FINDINGS OF THE CITY COUNCIL.

The City Council of the City of Cromwell makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by a City staff committee.

(a) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending state licensed family day care home, state licensed group family day care homes, and state licensed child care centers; student attending school; and people using public parks and libraries.

(b) Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

(c) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.

(d) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of life in the community. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is often perceived by others as an indication that the community or area is deteriorating and the result can be devastating to other businesses that may be required to move out of the vicinity and which could influence residents to relocate from the area. It has been noted that the presence of such businesses can have the overall effect of causing declining real estate values, which result can be exacerbated by the concentration of such businesses, which can erode the City 's tax base and contribute to overall community blight.

(e) Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

(f) Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

§ 11.5.03 CONCLUSIONS OF THE CITY COUNCIL.

In direct furtherance of the substantial goals of public health, safety, and welfare, the City Council adopts the following Ordinance, recognizing that it has a great interest in the present and future character of the City's residential and commercial neighborhoods.

§ 11.5.04 DEFINITIONS.

The following words and terms when used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

Adult Body Painting Studio - An establishment or business which provides the service of applying paint or other substances, 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 area as defined herein.

Adult Book Store - An establishment that has forty percent (40%) or greater of its current store stock in merchandise, videos, books, magazines, and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.

Adult Oriented Cabaret - A building or space wherein a portion of the business is used for providing dancing, modeling or other live entertainment, if such dancing or modeling or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons.

Adult Car Wash - A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.

Adult Companionship Establishment - A companionship establishment which excludes minors by reason of age, or which provides the service for a fee 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 sexually activities or specified anatomical areas as defined herein.

Adult Entertainment Facility - A building or space wherein an admission is charged for entrance, or food or alcoholic and nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment, including nude dancing, nude modeling or nudity, or which include other activities distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.

Adult Modeling Studio - An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as define herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Motion Picture Theater - A building or space with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

Adult Mini-Motion Picture Theater - A building or space with a capacity for fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation os such material.

Adult Sauna - A sauna which excludes by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

City - City of Cromwell, Minnesota.

Dwelling Unit - One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

Issuing Authority - City Council of the City of Cromwell.

Minor - Any natural person under the age of eighteen (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 a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

Person - One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.

Public Library - Any library that provides fee access to all residents of a city or county without discrimination, received at least half of its financial support from public funds, and is organized under the provisions of Minnesota Statutes, Chapter 134.

Public Park - A park, reservation, open space, playground, beach, or recreation center in the City owned, leased, or used, wholly or in part, by a City, County, State, School District or Federal Government for recreation 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 or religious educational purposes.

Sadomasochistic abuse - Flagellation or torture by or upon a person unclad or partially clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one.

School - A building or space that is principally used as a place where 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 Ordinance.

Sign - A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land which directs attention to an object, project, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display or official court or government office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed

building unless the context shall so indicate. Each display surface of a sign shall be considered a "sign".

Single Family Dwelling - A residential building containing one dwelling unit as herein defined, including detached, semi-detached and attache dwellings, which is intended to be used as a residence.

State Licensed Family Day Care Home, State Licensed Group Family Day Care Home, State Licensed Child Care Center - A facility holding a license from the State of Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

Sexually Oriented Business - An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash, adult-oriented cabaret, or adult sauna as herein defined.

Specified Sexual Activities - For the purposes of this Ordinance, sexual activities include the following:

- (1) Human genitals in a discernible state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse, sadomasochistic behavior or sodomy; or
- (3) Fondling of or other erotic touching of human genitals, the pubic region or pubic hair, buttock, or female breast or breast; or
- (4) Any combination of the foregoing.

Specified Anatomical Areas - For purposes of this Ordinance, this means:

- (a) Less than completely or opaquely covered:
 - (1) human genitals, pubic region or pubic hair; or
 - (2) buttock; or
 - (3) female breast or breasts below a point immediately above the top of the areola; or
 - (4) any combination of the foregoing; and/or,
- (b) Human male genitals in a discernibly turgid state even if completely or opaquely covered.

§ 11.5.05 ZONING REGULATIONS.

(a) Sexually oriented businesses shall be prohibited in all of the City's zoning districts except the area provided for commercial business as set forth in the City's comprehensive land use plan.

(b) In the commercial district in which sexually oriented businesses are permitted uses, the following conditions shall be met prior to a sexually oriented business being allowed.

- (1) No sexually oriented business shall be located closer than five hundred (500) feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest point of the actual business premises of any other sexually oriented business.
- (2) No sexually oriented business shall be located closer than five hundred (300) feet from any place of worship, school, public park, state licensed family day care home, state licensed group family day care home, public library, or state licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual premises used as a place of worship, school, park, or state licensed family day care home, state licensed group family day care home, or state licensed child care center.
- (3) A sexually oriented business must also comply with existing licensing requirements of the City of Cromwell.
- (4) The operation or maintenance of more than one (1) of the following uses in the same building or structure shall be prohibited:

Adult Body Painting Studio; Adult Book Store;
Adult Car Wash; Adult Companionship Establishment;
Adult Entertainment facility;
Adult Modeling Studio;
Adult Oriented Cabaret;
Adult Sauna;
Adult Motion Picture Theater;
Adult Mini-Motion Picture Theater.

§ 11.5.06 SIGN RESTRICTIONS.

In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following sign regulations shall apply to all sexually oriented businesses in the City:

- (a) All signs shall be flat wall signs. No signs shall be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages. No sign shall contain any message or image which identifies specified sexual activities or specified anatomical areas as defined herein.
- (b) The amount of allowable sign area shall be one (1) square foot of sign area per foot of lot frontage on a street, not to exceed eighty (80) square feet.
- (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 sexually oriented business is located.
- (d) No signs shall be placed in any window. A one (1) square foot sign may be placed on the door to state hours of operation and admittance to adults only.

§ 11.5.07 LICENSE REQUIRED.

No person shall own or operate a sexually-oriented business within the City unless such person is currently licensed under this Ordinance.

§ 11.5.08 LICENSE APPLICATION.

The application for a license under this Ordinance shall be made on a form supplied by the issuing Authority and shall request the following information:

- (1) All Applicants. For all applicants:
 - a. Whether the applicant is a natural person, corporation, partnership, or other form of organization.

b. The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared by must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

c. The name and street address of the business. If the business is to be conducted under a designation, name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted.

(2) Applicants Who Are Natural Persons.

If the applicant is a natural person:

a. The name, place and date of birth, street and city address, and phone number of the applicant.

b. 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.

c. The street and city addresses at which the applicant has lived during the preceding two (2) years.

d. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.

e. Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.

(3) Applicants That Are Partnerships.

If the applicant is a partnership:

a. The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart (2) of this Section.

b. The name(s) of the managing partner(s) and the interest of each partner in the business.

c. A true 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 Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.

(4) Corporate or Other Applicants.

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 By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached.

c. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of the applicants in subpart (2) of this Section.

§ 11.5.09 LICENSE APPLICATION EXECUTION.

If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

§ 11.5.10 LICENSE APPLICATION VERIFICATION.

Applications for licenses under this Ordinance shall be submitted to the City Council (hereinafter referred to as the "Issuing Authority"). Within twenty (20) calendar days of receipt

of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this Ordinance.

§ 11.5.11 LICENSE APPLICATION CONSIDERATION.

No later than ten (10) calendar days after the completion of the license application verification and investigation by the Issuing Authority or its agents and employees, as prescribed in Section 10, the Issuing Authority shall accept or deny the license application in accordance with this Ordinance. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the determination for reconsideration by the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received, the hearing before the City Council shall take place within twenty (20) calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises. During the application consideration process prescribed herein an applicant operating a business not previously subject to the license provisions of this Ordinance may remain operating pending the outcome of the application consideration by the Issuing Authority.

§ 11.5.12 LICENSE FEES.

(a) Application fee.

(1) The license application fee shall be Five Hundred Dollars (\$500.00).

(2) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority the license fee shall be refunded to the applicant.

(3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

(b) Investigation fee.

(1) An applicant for any license under this Division shall deposit with the Issuing Authority, at the time an original application is submitted, \$500.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. The investigation fee shall be non-refundable.

§ 11.5.13 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

The Issuing Authority shall issue a license under this division to an applicant unless one (1) or more of the following conditions exists:

(1) The applicant is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;

(2) The applicant failed to supply all of the information requested on the license application;

(3) The applicant gave false, fraudulent, or untruthful information on the license application;

(4) The applicant has had a sexually-oriented license revoked from the City or any other jurisdiction within a one (1) year period immediately preceding the date the application was submitted;

(5) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;

(6) The sexually-oriented business does not meet the zoning requirements prescribed in this Ordinance;

(7) The premises to be licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;

(8) The applicant has not paid the license and investigation fees required in Section 12.

§ 11.5.14 LICENSE RESTRICTIONS.

(a) Posting of License. A license issued under this Ordinance must be posted in a conspicuous place in the premises for which it is used.

(b) Effect of License. A license issued under this Ordinance is only effective for the compact and contiguous space specified in the approved license application.

(c) Maintenance of Order. A licensee under this Ordinance shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

(d) Distance Requirement for Live Adult Entertainment. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten (10) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.

(e) Interaction with Patrons. No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

(f) Gratuity Prohibition. No customers, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer, and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

(g) Adult Car Wash Requirements. Sexually-oriented businesses that are adult car washes shall meet all of the requirements of this Ordinance.

§ 11.5.15 RESTRICTIONS REGARDING LICENSE TRANSFER.

(a) The license granted under this Ordinance is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from

place to place or from person to person without complying with the requirements of an original application.

(b) When a sexually-oriented business licensed under this Ordinance is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this Ordinance.

§ 11.5.16 RESTRICTIONS REGARDING HOURS OF OPERATION.

A licensee shall not be open for business to the public during the following hours on the following days:

(1) Adult Body Painting Studio, Adult Book Stores, Adult Companionship Establishment, Adult Modeling Studio, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Sauna, Adult Car Wash:

Monday through Sunday - Not open before 6:00 a.m. nor after 11:00 p.m.

(2) Adult Entertainment Facilities, including Adult Oriented Cabarets:

Monday through Sunday - Not open before 6:00 a.m. nor after 1:00 a.m.

§ 11.5.17 RESTRICTIONS REGARDING MINORS.

No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of eighteen (18) years. Proof of age may be established only by; a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

§ 11.5.18 RENEWAL APPLICATION.

(a) Annual Licenses: Deadline for Renewal Applications. All licenses issued under this Division shall be effective for only one (1) year commencing with the date of approval by

the Issuing Authority or City Council. An application for the renewal of an existing license shall be submitted to the Issuing Authority at least thirty (30) calendar days prior to the expiration date of the license.

(b) Verification, Investigation and Consideration of Renewal Application. Within twenty (20) calendar days of receipt by the Issuing Authority of a fully completed renewal application, the Issuing Authority shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Ordinance. No later than ten (10) calendar days after the completion of the renewal application verification and investigation by the Issuing Authority, as prescribed herein, the Issuing Authority shall issue a renewal license unless one (1) or more of the following conditions exist:

- (1) The applicant is a minor at the time the application is submitted.
- (2) The applicant failed to supply all of the information requested on the renewal application;
- (3) The applicant gave false, fraudulent, or untruthful information on the renewal application;
- (4) The sexually-oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this Ordinance;
- (5) The sexually-oriented business does not meet the zoning requirements prescribed in the Ordinance;
- (6) The premises licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- (7) The applicant has had a conviction of any crime listed in this Division; or
- (8) the Applicant has had a sexually-oriented license revoked within a one (1) year period immediately preceding the date the application was submitted.

(c) Notice of Denial. If the Issuing Authority denies a renewal application, the Issuing Authority shall notify the applicant in accordance with this Ordinance and the notice shall, in addition, state the grounds for the denial.

(d) Appeal to City Council or Court of Law. After the denial of a renewal application by the Issuing Authority, the applicant may appeal the determination to the City Council for reconsideration or by immediately challenging the determination in a court of law. If the City denies renewal of a license under this Division, the applicant shall not be issued a

license under this Division for one (1) year from the date of the denial. If, subsequent to the denial, the City Council finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

§ 11.5.19 SANCTIONS FOR LICENSE VIOLATIONS.

(a) Suspension. The City Council may suspend a license issued pursuant to this Ordinance for a violation of:

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

(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

(3) Any violation of this Ordinance or related state law.

(4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 368.03, Subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.

(5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the community.

(b) Revocation. The City Council may revoke a license if the City Council determines that:

(1) The licensee's license was suspended in the preceding fourteen (14) months and an additional cause for suspension as detailed in (a) above is found by the City Council to have occurred within the fourteen (14) month period;

(2) The licensee gave false or misleading information in the material submitted to the City during the application process;

(3) The licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;

(5) A licensee violated any of the provisions of Minnesota Statutes, Section 617.241 - 617.299 relating to the illegal distribution, possession or sale of obscene materials;

(6) A licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;

(7) A licensee has been convicted of an offense prescribed in Section 13 and/or 14 of this Ordinance for which the time period required has not elapsed;

(8) On two or more occasions within a 12-month period, a person or persons has/have committed an offense prescribed in Section 13 and/or Section 14 of this Ordinance, in or on the license premises, for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed;

(9) A licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or

(10) A licensee is delinquent in payment to the City, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, or other financial obligations.

(c) Notice of Hearing. A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give a least eight (8) days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail at the most recent address listed on the application.

§ 11.5.20 PENALTY.

A violation of this Ordinance shall be a misdemeanor under Minnesota law and each day that a prohibited violation occurs or exists will constitute a separate violation.