

TITLE XI: BUSINESS REGULATIONS

Chapter

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CHAPTER 110: PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS

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' 110.01 LICENSING; EXEMPTIONS.

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. Chapter 329, as it may be amended from time to time, if the county issues a license for the activity.

Penalty, see ' 10.99

' 110.02 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 ANo Peddlers, Solicitors or Transient Merchants,@ or APeddlers, Solicitors, and Transient Merchants Prohibited,@ or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

Penalty, see ' 10.99

CHAPTER 111: ALCOHOLIC BEVERAGES

Section

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GENERAL PROVISIONS

▸ **111.01 ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of M.S. Chapter 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

▸ **111.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The City Council is authorized by the provisions of M.S. ' 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Chapter 340A, as it may be amended from time to time.

▸ **111.03 DEFINITIONS.**

In addition to the definitions contained in M.S. ' 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

LIQUOR. As used in this chapter, without modification by the words Aintoxicating@ or A3.2% malt,@ includes both intoxicating liquor and 3.2% malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a Arestaurant@ as defined by this section, an establishment shall have a license from the state as required by M.S. ' 157.16, as it may be amended from time to time, and meet the definition of either a Asmall establishment,@ Amedium establishment@ or Alarge establishment@ as defined in M.S. ' 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of Asmall establishment@, Amedium establishment@ or Alarge establishment.@

▪ **111.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2% malt liquor license or the imposition of a civil penalty under the provisions of ' 111.99(B).
Penalty, see ' 111.99

▪ **111.05 CONSUMPTION IN PUBLIC PLACES.**

No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.
Penalty, see ' 111.99

LICENSING

▪ **111.20 NUMBER OF LICENSES WHICH MAY BE ISSUED.**

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State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of license which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Chapter 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. ' 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

' 111.21 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

' 111.22 KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in ' 111.20.

(A) 3.2% malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2% malt liquor off-sale license.

(C) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under ' 111.23 shall not exceed \$100 or a greater amount which may be permitted by M.S. ' 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. ' 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under ' 111.23 shall not exceed the amounts provided for in M.S. ' 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. ' 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. ' 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. ' 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in ' 111.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of ' 111.23, shall not exceed \$200, or the maximum amount provided by M.S. ' 340A.504, Subd. 3c, as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. ' 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in ' 111.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. ' 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of ' 111.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the

organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of ' 111.23 shall not exceed \$300, or the maximum amount permitted by M.S. ' 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

' 111.23 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Chapter 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time by resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. ' 340A.408, Subd. 5, as it may be amended from time to time.

' 122.24 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

' 111.25 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. ' 340A.409, as it may be amended from time to time, with regard to liability under M.S. ' 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. ' 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

Penalty, see ' 111.99

▪ **111.26 DESCRIPTION OF PREMISES.**

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

▪ **111.27 APPLICATIONS FOR RENEWAL.**

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

▪ **111.28 TRANSFER OF LICENSE.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Penalty, see ' 111.99

▪ **111.29 INVESTIGATION.**

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(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

• 111.30 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

• 111.31 RESTRICTIONS ON ISSUANCE.

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

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

Penalty, see ' 111.99

' 111.32 CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an Aon-sale@ license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

Penalty, see ' 111.99

' 111.33 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. ' 340A.504, as it may be amended from time to time.

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(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

Penalty, see ' 111.99

' 111.34 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2% malt liquor are sold at retail on sale.

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

Penalty, see ' 111.99

' 111.35 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. ' 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

Penalty, see ' 111.99

' 111.36 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. ' ' 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Chapter 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2% malt liquor, or violation of ' 111.04, the license shall be revoked.

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

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The council shall select the day or days during which the license will be suspended.

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

(D) The provisions of ' 111.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter. Penalty, see ' 111.99

111.99 PENALTIES.

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

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

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

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

ORDINANCE NO. 112

**AN ORDINANCE OF THE CITY OF STARBUCK
IMPOSING A LOCAL LODGING TAX IN THE CITY OF STARBUCK**

Subd. 1. Imposition of Tax. Pursuant to Minnesota Statutes, Chapter 469.190 there is hereby imposed a tax of three percent (3%), or the maximum allowed by law, of the gross receipts from the furnishing for consideration for lodging within the City of Starbuck. In no case shall the lodging tax imposed by this ordinance upon an operator exceed the amount of lodging tax that the operator is authorized and required by this section to collect from a lodger.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated unless the context clearly indicates or requires a different meaning:

- A. **“Campground”** means any property that is used to provide temporary lodging for the public while fishing, hunting, vacationing, or touring in tents, campers, recreational vehicles, or other portable shelters owned by such members of the public.
- B. **“Gross Receipts”** means the total amount received, in money or otherwise, for lodging as measured by the rate for lodging.
- C. **“Local Convention or Tourism Bureau”** means the Starbuck Chamber of Commerce or whomever the Starbuck City Council shall designate in lieu of the Starbuck Chamber of Commerce.
- D. **“Lodging Facility”** means every building, structure, enclosure, or area, or any part thereof, kept, used as, maintained as, or advertised as, or held to the public to be an enclosure where sleeping accommodations are furnished to the public and furnishing accommodations other than renting or leasing of it for a continuous period of thirty (30) days or more. This applies to hotels, motels, rooming houses, bed & breakfasts, tourist courts, resorts, and public, private, and municipal campgrounds or recreational resorts located within the City of Starbuck.
- E. **“Lodger”** means every person obtaining lodging from an operator.
- F. **“Lodging”** means the furnishing for consideration of lodging by a lodging facility except where lodging shall be rented or leased for a continuous period of thirty (30) days or more to the same lodger. The furnishings of rooms or lodging space owned by a religious, educational, or non-profit organization for self-sponsored activities and events shall NOT constitute lodging for purposes of this chapter.
- G. **“Lodging Tax”** means a tax imposed by the City of Starbuck pursuant to Subd. 1 of this chapter.

- H. **“Municipal”** means property owned by the City of Starbuck.
- I. **“Operator”** means any person who is the proprietor of the lodging facility, whether in the capacity of owner, lessee, sub lessee, licensee, agent or any other capacity.
- J. **“Person”** means any individual, firm, corporation, partnership, trustee, lessee, receiver, association, estate, executor, administrator, assignee, syndicate or any other combination of individuals. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOMEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers, and agents thereof.
- K. **“Resort”** means any building, structure, or enclosure or any part thereof, located on, or on property neighboring any lake, stream, or skiing or hunting area for the purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public, and primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.

Subd. 3. Exceptions and Exemptions. The lodging tax shall not apply to the furnishing for consideration of lodging for a continuous period of thirty (30) days or more to the same lodger, including but not limited to seasonal campground rentals and contracts or agreements with any business, organization, and/or person(s) for extended stay lodging.

An Exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the city to tax. No exemption shall be granted except upon a claim made at the time the rent is collected. Such claim shall be made in writing and under penalty of perjury on forms provided by the City of Starbuck. All such claims shall be forwarded to the City of Starbuck when the returns and collections are submitted as required by this chapter.

Subd. 4. Advertising No Lodging Tax. It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the lodging tax or any party thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded.

Subd. 5. Collections. Each operator shall collect the lodging tax imposed by this chapter at the time the rent is paid. The lodging tax collected shall be deemed to be held in trust by the operator for the City of Starbuck. The amount of lodging tax shall be separately stated from the rent charged for the lodging and those persons paying the lodging tax shall receive a receipt of payment from the operator.

Subd. 6. Payments and Returns. Every person who collects lodging tax shall pay the lodging tax collected to the City of Starbuck. Operators shall prepare monthly returns and shall

submit payments to the City of Starbuck quarterly, on or before the 15th of the month following the end of the calendar quarter (March, June, September, and December).

At the time of payment, Operators shall submit a copy of monthly returns for the calendar quarter, plus a quarterly return summarizing the totals for the calendar months being filed. All returns shall be those prepared, authorized, and containing such information as the City of Starbuck may require. At the minimum, the return(s) shall contain the following information:

- A. The period covered by the return;
- B. The total amount of consideration collected for lodging during the period covered by the return;
- C. The total amount of exceptions or exemptions;
- D. The amount of uncollectible consideration charged subject to the lodging tax;
- E. The amount of lodging tax required to be collected and due for the period; and
- F. The signature of the person filing the return or that of his or her agent duly authorized in writing.
- G. A Certification of accuracy attested to by the person signing the form.

The operator may offset against the lodging taxes payable with respect to any reporting period, the amount of lodging tax that became uncollectible during such reporting period, but only in proportion to the portion of such consideration which became uncollectible.

Subd. 7. Processing Returns. Upon receipt of returns and payments, the City of Starbuck shall review the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness.

The lodging tax computed on the basis of such examination shall be the lodging tax due. If the lodging tax due is found to be greater than paid, such excess shall be paid to the City of Starbuck within ten (10) days after receipt of a notice thereof given either personally, electronically, or sent by registered mail to the address shown on the return.

If the lodging tax paid is greater than the lodging tax found to be due, the excess shall be refunded to the person who paid the lodging tax to the City of Starbuck within ten (10) days after determination of such refund.

Subd. 8. Failure to File Return. The City of Starbuck shall notify any operator of a facility who fails to file a return or who files an incorrect, false, or fraudulent return of such fact. Such operator shall file such return or a corrected return within five (5) days of the receipt of such written notice and pay any lodging tax due thereon.

If such person fails to file such return or corrected return, the City of Starbuck shall make a return or corrected return for such person from such knowledge and information as the City of Starbuck can obtain and assess the lodging tax due on the basis thereof, which said lodging tax shall be paid within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the City of Starbuck shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Subd. 9. Interest. The amount of lodging tax not timely paid, together with any penalty, shall bear interest at the rate set by the City Council per annum in accordance with the fee schedule from the time such lodging tax should have been paid until paid in full, including interest. Any interest and penalty shall be added to the lodging tax and be collected as part thereof.

Subd. 10. Application of Payments. All payments shall be credited first to penalties, next to interest, and then to the lodging tax due.

Subd. 11. Enforcement. If any portion of the lodging tax imposed by the City of Starbuck, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City Attorney may institute legal action as may be necessary to recover the amount due plus interest and penalties, the costs and disbursement of any action, including any reasonable attorney fees or other costs associated with such recovery of amount due.

Subd. 12. Administration of Lodging Tax. The City of Starbuck shall administer and enforce the assessment and collection of the lodging taxes imposed by the city. The City of Starbuck shall prepare blank forms for the returns and other documents required by this section and shall make them available to the members of the public. The failure to receive or secure such forms shall not relieve any person from any obligation required of him or her under this ordinance.

Subd. 13. Examination of Records. The City of Starbuck or its designated agent may examine books, papers, and records of any operator of a facility subject to the lodging tax imposed by the City of Starbuck in order to verify the accuracy of any return made, or if no return was made, to ascertain the lodging tax imposed by the City of Starbuck through this chapter. Every such operator is directed and required to give the City of Starbuck or its agent the means, facilities, and opportunity for such examination and investigations as are hereby authorized.

Subd. 14. Appeals. Any operator aggrieved by any notice, order, or determination made by the City of Starbuck under this section may file with the City of Starbuck a written petition for review of such notice, order, or determination by the Starbuck City Council. The petition shall contain the name of the petitioner, the petitioner's address, the location of the lodging facility, the order, notice, or determination subject to the review and the basis for the request for the review, and it shall be signed by the petitioner.

Upon receipt of the petition, the matter will be placed on the City Council agenda for a hearing as soon as practical. The City of Starbuck shall give the petitioner at least five (5) days prior written notice of the date, time, and place of such hearing. At the hearing, the petitioner shall

be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn.

The Starbuck City Council shall make written findings of fact and conclusions based upon this chapter and the evidence presented. The Starbuck City Council may modify, reverse, or affirm the notice, or order or determination that is subject to the review. All requests for review must be made within ninety (90) days of the date of the notice, order, or determination.

Subd. 15. Use of the Proceeds. Pursuant to Minnesota Statutes, Chapter 469.190, Subd. 3, ninety-five percent (95%) of the gross proceeds obtained from the collection of lodging taxes shall be used by the City of Starbuck to fund the Local Convention or Tourism Bureau for the purpose of marketing and promotion of the City of Starbuck as a tourist or convention center.

The City of Starbuck shall retain up to five percent (5%) of the proceeds obtained hereunder to defray the costs and expenses of collection and administration of such tax. The City shall disburse the balance collected to the local convention and tourism bureau by the 15th day of the month following the City's receipt of such funds.

Commencing January 2015, the Local Convention or Tourism Bureau shall, for its most recent calendar year, provide an annual year-end report of its operations and its use of the lodging tax proceeds to the Starbuck City Council in writing and by oral presentation at a City Council meeting held no later than April 30.

Subd. 16. Penalty.

- A.** Late Payment of Tax. If any tax imposed by this Ordinance is not paid within the time herein specified for the payment, or any extension thereof, there shall be added thereto a specific penalty equal to ten percent (10%) of the amount remaining unpaid. If the penalty as computed does not exceed ten dollars (\$10), a minimum penalty of ten dollars (\$10) shall be assessed.
- B.** Late Filing of Return. If any operator fails to make and file a return within the time prescribed by this Ordinance (unless it is shown that such failure is not due to willful neglect), in addition to the penalty provided in Section 16.A. above, there shall be added to the tax owed a penalty of ten percent (10%) of the tax owed for each thirty (30) day period, or fraction thereof, during which such failure continues. The amounts so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.
- C.** Willful Failure to File a Return. If any operator willfully fails to file any return or make any payment required by this Ordinance, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat any such tax or payment thereof imposed by this Ordinance, there shall be imposed as a penalty an amount equal to fifty percent (50%) of any tax found due for the

period to which such return applies, less any amounts paid on the basis of such false or fraudulent return. This penalty shall be collected as part of the tax and shall be in addition to any other penalties provided in this Ordinance.

- D. Interest Rate.** The amount of tax not timely paid, together with any penalty imposed by provisions of this Ordinance, shall bear interest at the rate of ten percent (10%) per annum from the time such tax should have been paid until the time it is paid. Any interest and penalty shall be added to the tax and shall be collected as part thereof.

Subd. 17. Violations. Any person who shall willfully fail to make a return required by this ordinance, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this Ordinance after written demand for such payment, or who shall refuse to permit the City or its duly authorized agent(s) to examine the books, records and papers under his or her or its control, or who shall willfully make any incomplete, false or fraudulent return shall be guilty of a misdemeanor.

Subd. 18. Effective Date. This ordinance shall take effect and be enforced from and after January 1, 2015.

THE CITY OF STARBUCK, MINNESOTA

By: _____
Bruce Bakewell
Mayor

ATTEST:

Andrea Swenson
City Clerk/Treasurer

CITY OF STARBUCK, MINNESOTA
ORDINANCE NO. #113 - BUSINESS REGULATIONS
AN ORDINANCE REGULATING THE SALE OF PRODUCTS CONTAINING TETRAHYDROCANNABINOL

Section 3.20. **Tetrahydrocannabinol Product Sales.**

Subd. 1. **Purpose and Intent.** By enacting Laws 2022, Chapter 98, Article 13 the Minnesota Legislature amended Minnesota Statutes, Section 151.72 and legalized the sale and adult use of certain products containing tetrahydrocannabinol ("THC"). The purpose of this Section is to regulate the sale of any product that contains THC and is intended for human or animal consumption, excluding "medical cannabis" as defined by Minn. Stat. § 152.22, Subd. 6, as the same may be amended from time to time, ("THC Product" or "licensed product") for the following reasons:

1. The City Council for the City of Starbuck, Minnesota recognizes that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use THC products presents a significant potential threat to the public health, safety, and welfare of the residents of Starbuck, and particularly to youth.
2. The City has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among THC product retailers with laws prohibiting the sale or marketing of THC products to minors.
3. A local regulatory system for THC product retailers is appropriate to ensure that retailers comply with THC product laws and business standards of the City of Starbuck to protect the health, safety, and welfare of our youth and most vulnerable residents.
4. State law requires THC product retailers to check the identification of purchasers to verify that they are at least 21 years of age, comply with certain packaging and labeling requirements to protect children and youth, and meet certain potency and serving size requirements.
5. State law authorizes the Board of Pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of THC products and ensure the safety and compliance of commercially available THC products in the state of Minnesota.
6. THC Products may only be sold in the Highway Business District or the Business district of the City of Starbuck. State law does not preempt the authority of a local jurisdiction to adopt and enforce local ordinances to

regulate THC product businesses including, but not limited to, local zoning and land use requirements and business license requirements.

7. A requirement for a THC product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute THC products to adults but will allow the City of Starbuck to regulate the operation of lawful businesses to discourage violations of state and local THC Product-related laws.
8. In making these findings and enacting this ordinance, the Starbuck City Council intends to ensure responsible THC product retailing, allow legal sale and access without promoting increases in use, and discourage violations of THC Product-related laws, especially those which prohibit or discourage the marketing, sale, distribution, possession, and use of THC products to or by youth under 21 years of age.

Subd. 2. **Definitions.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Subdivision:

1. **Applicant:** The natural person or business entity applying for a license under this section, and in the case of an applicant that is not a natural person, any owner of the applicant.
2. **Assistance or intervention:** The actual physical exchange of the licensed product between the customer and the licensee or employee.
3. **Compliance Checks:** The system the City uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this section. Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes, or for investigating or enforcing Federal, State, or local laws and regulations relating to licensed products.
4. **Exclusive Liquor Store:** An establishment that meets the definition of exclusive liquor store in Minnesota Statutes, section 340A.101, subdivision 10.
5. **Fixed Place of Business:** Any form of business operated from a fixed address storefront or other permanent type of structure that is not a Moveable Place of Business.
6. **License:** A license issued under this section.
7. **Licensed Product or THC Product:** Any product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72, as the same may be amended

from time to time. Licensed Product and THC Product does not include Medical Cannabis.

8. **Medical Cannabis:** Medical cannabis shall have the meaning provided in Minn. Stat. § 152.22, Subd. 6, as the same may be amended from time to time.
9. **Moveable Place of Business:** Any form of business operated out of a kiosk, truck, van, automobile, trailer, or other type of vehicle or transportable shelter and is not a fixed address storefront or other permanent type of structure authorized for sales transactions.
10. **Retail Establishment:** Any place of business where licensed products are available for sale to the general public.
11. **Restaurant:** The term "restaurant" shall have the meaning given in Minn. Stat. § 157.15, Subd. 12, as the same may be amended from time to time.
12. **Sale:** Any transfer of goods for money, trade, barter, or other consideration.
13. **School.** Any public or private elementary, vocational, or secondary school, or a public or private college or university, or a state licensed day care center.
14. **Self-Service Merchandising:** Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee.
15. **Vending Machine:** Any mechanical, electric, electronic, or other type of device that dispenses licensed products upon the use of cash, coins, tokens, credit or debit card, personal identification number, or any form of direct or indirect payment, by the person seeking to purchase the licensed product.

Subd. 3. **License.**

1. **License Required.** No natural person, corporation, partnership, limited liability company, or business entity of any type shall sell, donate, give away, or otherwise transfer any THC product, or offer to do so, without first having obtained a license to do so from the City.
2. **Application.** An application for a license to sell THC products shall be made on a form provided by the City and approved by the City Council. The application shall contain:
 - A. **Verification.** Every application for a license shall be verified and filed with the City Administrator or the City Administrator's designee.
 - B. **Form of Applicant.** The application shall show whether the applicant is a natural person, corporation, partnership, limited liability company, or other form of organization.

- i. **Natural Person.** If the applicant is a natural person, the following information shall be required:
 - a. Full legal name, place and date of birth and street address of applicant.
 - b. Whether the applicant has ever used or been known by a name other than his or her true legal name and, if so, what was such name or names, and information concerning dates and places where used.
 - c. The name of the business if it is to be conducted under a designation, name, or style other than the full individual name of the applicant.
 - d. Street addresses at which applicant lived during the preceding five (5) years.
 - e. Kind, name and location of every business or occupation applicant has been engaged in during the preceding five (5) years.
 - f. Names and addresses of applicant's employers and business partners, if any, for the preceding five (5) years.
 - g. Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance, other than traffic offenses, except that alcohol related driving offenses shall be reported. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had.
 - h. Whether applicant has ever been engaged as an employer or in operating a business of a similar nature. If so, applicant shall furnish information as to the time, place, and length of time of such operation.
 - i. Whether applicant has ever been in the military service. If so, applicant shall upon request exhibit all discharges.
 - j. The name of the operating officer, manager or proprietor or other agent in charge of the premises to be licensed.
 - k. Certification that the applicant has liability insurance covering the applicant's sale of THC products.

- ii. **Partnership or Limited Liability Partnership.** If the applicant is a partnership or limited liability partnership, the names and addresses of all partners and all information concerning each partner as is

required of a single applicant in subdivision 3.2.B.1 above. A managing partner, or partners, shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the applicant's partnership agreement, if any, shall be submitted with the application. If and in the event the composition of the partnership shall change at any time subsequent to the initial application, any amended partnership agreements must be filed with the City.

- iii. **Corporation, Limited Liability Company, or other Business Entity.** If the applicant is a corporation, limited liability company, or any other business entity, the following information shall be required:
 - a. Company name and state of incorporation or organization.
 - b. A true copy of Certificate of Incorporation or Organization, Articles of Incorporation or Organization, and, if a foreign corporation, any certificate of authority to conduct business in the state of Minnesota as may be required by state law.
 - c. The name of the operating officer, manager, proprietor, or other agent in charge of the premises to be licensed, giving all the information about said person as is required of a single applicant in subdivision 3.2.B.1 above.
 - d. A list of all persons who, whether individually or with another, own or control any interest in said corporation or association together with their addresses and all information as is required of a single applicant in subdivision 3.2.B.1 above.
 - e. The name of the business if it is to be conducted under a designation, name, or style other than the full legal name of the applicant.
- C. **Legal Description and Street Address.** The street address and exact legal description of the premises to be licensed, together with a plan, sketch, or drawing of the area showing dimensions, location of buildings, street access, parking facilities and the locations of and distances to the nearest place of worship and school building.
- D. **Floorplan.** A diagram or sketch depicting the licensed premises and the area within the licensed premises where the licensed product will be sold.

- E. **Age 21 and Older Retailer.** Certification as to whether access to the licensed premises will be limited to persons age 21 or older.
 - F. **Disclosure of Ownership Interests.** At the time of application, each applicant that is not a natural person shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.
 - G. **Additional Information.** Any additional information the City deems necessary.
3. **Incomplete Application.** If the City Administrator or the Administrator's designee determines that an application is incomplete, they shall return the application to the applicant with notice of the information needed to make the application complete.
 4. **Investigation.** On an initial application for a license and on application for transfer of an existing license, the applicant shall pay with the application an investigation fee of \$500.00.

The City shall request that its Chief of Police conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of a license, it shall so determine. If the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation. If an investigation outside the state is required, the applicant shall be charged the cost not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted. Upon completion of the investigation, the Chief of Police shall make a written report and recommendation to the City Council of his or her findings, including a specific report on any violations of federal or state law or municipal regulations.

5. **Public Hearing.** For initial and renewal applications, upon receipt of the written report and recommendation by the Police Chief of the City of Starbuck, and within twenty-one (21) days thereafter, the City Clerk shall cause to be scheduled a public hearing, with notice thereof to be published in the official newspaper ten (10) days in advance of the scheduled hearing, setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business, and such other information as the Council may direct. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.
6. **Action.** The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. A four-fifths vote of the City Council shall be required for the granting of any license. If the City Council approves the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision pursuant to Subdivision 6 of this section. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.

7. **Term.** All licenses issued under this section shall be valid from January 1 until December 31. License fees shall be prorated on a monthly basis for the portion of any year remaining on an initial application and with any portion of a licensed month counting as a full month.
8. **Revocation or Suspension.** Any license issued under this article may be revoked or suspended whenever the City Council deems there is cause to do so. Cause exists whenever a licensee violates any provision of this section or no longer meets the license eligibility requirements of this section.
9. **Transfers.** All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited, except as provided herein for successors of licensees.
10. **Display.** The licensee shall post and display on the licensed premises and in plain public view any license issued hereunder.
11. **Renewals.** The renewal of a license issued under this section shall be handled in the same manner as the original application, provided, however that the City Council may waive the requirement of a background and financial check on an application for a renewal of a license if the City Council deems it is in the public interest to do so. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
12. **Issuance as Privilege and Not a Right.** The issuance of a license issued under this section is a privilege and does not entitle the applicant to a license, nor does it entitle a license holder to automatic renewal of the license.

Subd. 4. **Fees.**

1. **Fee Required.** No license shall be issued under this section until the appropriate license fee shall be paid in full.
2. **Fee.** The fee for a license under this section shall be \$2,000.
3. **Payment.** Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee. All fees shall be paid into the General Fund. If an application for a license is rejected, the Treasurer shall refund the amount paid as a license fee.

Subd. 5. **Ineligibility and Basis for Denial of License.**

1. **Ineligibility.**
 - A. **Moveable Place of Business.** No license under this section shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.
 - B. **Exclusive Liquor Store.** No license shall be issued to an exclusive liquor store as defined in Minnesota Statutes, section 340A.101, subdivision 10, as the same may be amended from time to time.
 - C. **Financial Delinquencies.** No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minnesota Statutes Chapter 278, as the same may be amended, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.
 - D. **On-Sale Liquor Licensees.** No license shall be issued to the holder of an on-sale beer, wine, or liquor license issued by the City of Starbuck.
 - E. **Restaurants.** No license shall be issued to any restaurant.
 - F. **Zoning Ordinance Applies.** No license shall be issued for a location not zoned for the sales proposed by the applicant.
2. **Grounds for Denial.** Grounds for denying the issuance or renewal of a license under this section include, but are not limited to, the following:
 - A. The applicant, or any owner of an applicant that is not a natural person, is under the age of 21 years.
 - B. The applicant is prohibited by Federal, State, or other local law, ordinance, or other rule or regulation from holding a license.
 - C. The applicant has been convicted within the past five years for any:

- i. violation of a Federal, State, or local law relating to the licensed products or any controlled substance law; or
 - ii. misdemeanor or felony, including alcohol-related driving offenses but excluding other traffic offenses.
- D. The applicant has had a license to sell licensed products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
- E. The applicant has had any license issued by the City or any other jurisdiction suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises, whether in the City or in another jurisdiction, that has had a license suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
- F. The applicant is a business that does not have an operating officer manager, proprietor, or other agent who is eligible pursuant to the provisions of this section.
- G. The applicant is the spouse of a person ineligible for a license pursuant to this section or who, in the judgement of the City Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
- H. The applicant fails to provide any information required on the application or provides false or misleading information. Any false or misleading statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the

applicant from prosecution or license denial, revocation, or suspension for violation of this section, or any part thereof.

- I. The proposed licensed premises is located within 300 feet of any school or addiction recovery center. The distances herein referred to shall be measured in a straight line from the nearest property boundary of the licensed premises to the nearest property boundary of the school or addiction recovery center.
 - J. A license issued under this section shall be for a single fixed location only.
3. **Background Check.** Upon receipt of an application for a license under this section, the City shall conduct a background investigation on all new applications and applications to transfer a license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery of the mistake, and the City shall provide the licensee with a notice of revocation, along with information on the right to appeal.

Subd. 6. **Procedure upon Denial, Suspension, Non-Renewal, or Revocation of License.** A determination by the City to deny, suspend, revoke, or not renew any license under this section may be appealed to the City Council of Starbuck by filing with the City Administrator a written Notice of Appeal within fifteen (15) days of the date on which notice of the City's denial, suspension, or revocation is mailed to the licensee. In that event, the appeal will be heard by the Council at its next meeting occurring at least fifteen (15) days but not more than 45 days after the filing of the Notice of Appeal. At any appeal of a determination by the City under this Ordinance, the licensee or applicant, or an attorney representing said party, may appear and make a presentation to the City Council. The licensee or applicant shall present to the City Council the basis for the determination being appealed, and the City Council may receive and consider any evidence it deems relevant to the issue. After the hearing, the Council may uphold, reverse, or modify the prior decision based upon the provisions of this Ordinance and upon the protection of the public health, safety, or general welfare. The City Council shall issue written findings and determination within thirty-one (31) days of the hearing, unless the Council extends that time for good cause. A decision of the City Council made following an appeal as set forth herein may be appealed by Writ of Certiorari to the Court of Appeals of the State of Minnesota pursuant to its Rules of Civil Appellate Procedure and Minnesota Statutes.

Subd. 7. **Prohibited Acts.**

1. **In general.** No person shall sell, donate, give away, or otherwise dispense or distribute any licensed product, or offer to do so:
 - A. By means of any type of vending machine.
 - B. By means of self-service merchandising, provided, however that self-service merchandising is permitted in a licensed establishment where entry to the premises is restricted to persons of age 21 or older.
 - C. By any other means, to any other person, on in any other manner or form prohibited by state or other local law, ordinance provision, or other regulation.
 - D. That is not packaged in strict compliance with state laws, rule, and regulations.
 - E. From any location other than a fixed place of business that is a licensed premises. Delivery of licensed products from a licensee to a purchaser who is located off the licensed premises is strictly prohibited.
 - F. By any form of internet/online transaction.
 - G. By acceptance or redemption of any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any THC products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.
2. **Controlled Substances.** No person shall sell, offer to sell, or otherwise provide any licensed products containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances not authorized by state or federal law.
3. **Legal Age.**
 - A. **Age to Sell.** No person under the age of 18 shall sell any licensed product to any person.
 - B. **Age to Purchase.** No person, regardless of license status, shall sell any licensed product to any person under the age of 21.
 - C. **Age verification.** Licensees, including their employees and representatives, shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age.
 - D. **Signage.** All licensees shall post and display in plain view of the general public on the licensed premise, a sign supplied by the City of Starbuck, which shall state that it is illegal to sell licensed products to

anyone under the age of 21 years and that the possession and use of such items by anyone under the age of 21 is also illegal under state, federal, and/or local law. Said signs shall be issued to the licensee along with their license.

4. **Samples Prohibited.** No person shall distribute samples of any licensed product free of charge or at a nominal cost. Sampling is prohibited on any licensed premises.
5. **Other Prohibitions.** No person shall sell, offer to sell, or otherwise provide, dispense, or distribute any licensed products by any means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation. Possession on the premises by the licensee of any licensed product in a package indicating that the contents do not comply with the requirements of state laws, rules, or regulations shall be prima facie evidence that the contents of the package violate this ordinance. It shall be the licensee's burden to prove, by a preponderance of the evidence, that the contents do comply.
6. **Sales to Obviously Intoxicated or Impaired Persons.** No person shall sell, give, furnish, dispense, distribute, or in any way procure for another person any licensed products for use by an obviously intoxicated person or a person who is obviously impaired by or under the influence of licensed products or any controlled or intoxicating substance.
7. **On-Site Consumption Prohibited.** No licensed product may be sold, given, distributed, dispensed, or otherwise furnished for consumption or use on any premises that holds a license issued under this section.

Subd. 8. **Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this Ordinance:

1. **Illegal Possession.** It shall be a violation of this ordinance for any person under the age of 21 to have any THC product in his or her possession. This subdivision shall not apply to persons under the age of 21 who are lawfully involved in a compliance check or to employees of a licensee who are at least 18 years of age and are acting in the course and scope of their employment for a licensee.
2. **Illegal Use.** It shall be a violation of this ordinance for any person under the age of 21 to consume or otherwise use any licensed product.
3. **Illegal Procurement.** It shall be a violation of this ordinance for any person under 21 years of age to purchase or attempt to purchase or otherwise obtain any licensed product, and it shall be a violation of this ordinance for any person to

purchase or otherwise obtain such items on behalf of a person under 21 years of age. It shall further be a violation for any person to coerce or attempt to coerce a person under 21 years of age to illegally purchase or otherwise obtain or use any licensed product. This subpart shall not apply to persons under 21 years of age who are lawfully involved in a compliance check.

4. **Use of False Identification.** It shall be a violation of this ordinance for any person under 21 years of age to attempt to disguise his or her true age by the use of any form of false identification, including but not limited to an identification card of another real or fictional person and one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.
5. **Tampering with Package.** No licensee shall directly or through any other person alter or tamper with the contents of any original package so as to change its composition or THC content while in the original package. Possession on the premises by the licensee of any licensed product in a package differing in composition or THC content in the product when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package has been changed or tampered with. It shall be the licensee's burden to prove, by the preponderance of the evidence, that the contents have not been tampered with.
6. **Restrictions on Consumption and Use.** No person shall consume or possess licensed products on a public street, highway, sidewalk, park, public or private school property, or in any public facility, on any form of public transportation or transit, at any other public place, or at any location where medical cannabis possession and use are prohibited by Minn. Stat. § 152.23, as the same may be amended from time to time. Provided, however, that nothing herein shall prohibit any person from possessing a licensed product while using a public street, highway, or sidewalk to travel directly from the point of a lawful purchase to a place of lawful use.
7. **Taxicabs.** No person shall consume licensed products while riding in any taxicab licensed by the City. No person who is licensed by the City to operate a taxicab shall operate a taxicab while possessing, using, or being under the influence of any licensed product.
8. **Other City-Issued Licenses.** No person shall possess, use, distribute, or be under the influence of any licensed product while performing any task for which any license has been issued by the City. A violation of this subpart shall be

grounds for suspension, revocation, or non-renewal of any such license.

Subd. 9. **Storage.** Unless the licensee restricts access to the entire licensed premises to persons age 21 or older, all licensed products shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

Subd. 10. **Responsibility.** All licensees are responsible for the actions of their employees, agents, and other representatives in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee or other representative of a licensee shall be considered an act of both the employee or representative and the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting a licensee's employee, agent, or other representative to any civil penalties or criminal prosecution that the City deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

Subd. 11. **Compliance Checks and Inspections.**

1. All premises licensed under this subdivision shall be open to inspection by the City during regular business hours. The City shall conduct compliance checks at its discretion.
2. No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.
3. Additionally, from time to time, the City will conduct inspections to determine compliance with any or all other aspects of this ordinance.

Subd. 12. **Violations and Penalty.**

1. **Administrative Civil Penalties – Individuals.** If a person who is not a licensee is found to have violated this section,

the person shall be charged an administrative penalty as follows:

- A. **First Violation.** The City shall impose a civil fine not to exceed \$ 100.00.
 - B. **Second Violation Within 12 months.** The Council shall impose a civil fine not to exceed \$ 200.00.
 - C. **Third Violation Within 12 months.** The Council shall impose a civil fine not to exceed \$ 300.00.
2. **Administrative Civil Penalties – Licensee.** If a licensee or an employee or representative of a licensee is found to have violated this section, the licensee shall be charged an administrative penalty as follows:
- A. **First Violation.** The City shall impose a civil fine of \$500.00 and suspend the license for not less than 2 consecutive business days.
 - B. **Second Violation Within 36 Months.** The Council shall impose a civil fine of \$1,000.00 and suspend the license for not less than 5 consecutive business days.
 - C. **Third Violation Within 36 Months.** The Council shall impose a civil fine of \$2,000.00 and suspend the license for not less than 10 consecutive days.
 - D. **Fourth Violation Within 36 Months.** The Council shall revoke the license for not less than one year.
3. **Administrative Penalty Procedures.** Notwithstanding anything to the contrary in this section:
- A. If one of the foregoing penalties is imposed by the City, no penalty shall take effect until the licensee or person has been served with notice (served personally or by mail delivered to the business address of the licensee) of the alleged violation and of the opportunity for a hearing before the Council pursuant to Subdivision 6 of this section, and such notice must be in writing and must provide that a right to a hearing before the Council must be requested within 15 business days of mailing or personal service of the notice or such hearing right shall terminate.
4. **Misdemeanor Prosecution.** Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this section.
5. **Continuing Violations.** Each day that a violation of this section continues shall be considered a separate offense.

Subd. 13. **Medical Cannabis Manufacture, Dispensing, and Use.** Nothing herein shall be construed to prohibit, prevent, impede, or otherwise change any person's right to lawfully manufacture, obtain, dispense, distribute, possess, prescribe, or use medical cannabis in compliance with state law. Provided, however, that nothing herein shall be construed to grant or expand those rights.

Subd. 14. **Severability.** If any part of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Subd. 15. **Provisions of State Law Adopted.** The provisions of Minn. Stat. § 151.72, relating to licensed products are adopted and made a part of this ordinance as if set out in full.

Subd. 16. **Effective Date.** This ordinance becomes effective upon final passage and publication.

Adopted: 11/14/2022 Council Meeting

Published: 11/28/2022

Effective:12/28/2022