

## CHAPTER 6. OTHER, BUSINESS REGULATIONS AND LICENSING

### Section 600 - DEFINITIONS, APPLICATIONS AND SPECIFIC LICENSES

600.01 Definitions. As used in this Chapter, the following terms have the stated meanings:

Subd. 1 Applicant. Any person making an application for a license under this Chapter.

Subd. 2 Application. A form with blanks or spaces thereon, to be filled in and completed by the applicant as a request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 3 Bond. A corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

Subd. 4 Business. Any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

Subd. 5 License. A document issued by the City to an applicant permitting the applicant to carry on and transact a business.

Subd. 6 Licensee. An applicant who pursuant to an application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

Subd. 7 License Fee. The money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.

Subd. 8 Sale, Sell and Sold. All forms of barter and all manner or means of furnishing merchandise to persons.

600.02 Applications. All applications shall be made as follows:

Subd. 1 Forms. All applications shall be made at the office of the City Clerk upon forms that have been formulated by the City for such purposes.

Subd. 2 Content. All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

A. Applicant's name and citizenship.



B. Applicant's present address and length of time lived at that address.

C. Applicant's occupation and length of time so engaged.

D. Applicant's addresses and occupations for the three years last preceding the date of application.

E. Names and addresses of applicant's employers, if any, for the three years last preceding the date of application.

F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense.

G. Type of license and location of premises for which application is made.

H. At least four character references if applicant has not resided in the City for two years last preceding the date of application.

I. Such other information as the Council shall deem necessary considering the nature of the business for which the license application is made.

Subd. 3 Omissions and False Statements Prohibited. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall be cause for an automatic refusal of the license, or if already issued, shall render any license or permit issued void and of no effect to protect the applicant from prosecution for violation of this Chapter.

Subd. 4 Applicant Investigation. The City Clerk shall, upon receipt of each completed application, investigate the truth of statements made and the moral character and business reputation of each applicant for license to such an extent as the Clerk deems necessary. The City Clerk may enlist the aid of the Chief of Police in the investigation. The Council shall not consider an application before the investigation has been completed.

Subd. 5 License Renewal Applications. Applications for renewal licenses may be made in an abbreviated form, as the Council may adopt by resolution.

600.03 Action on Application, Transfer, Termination and Duplicate License.

Subd. 1 Time Period. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this Chapter.

Subd. 2 Issuing. If an application is approved, the City Clerk shall issue a license in the form prescribed by the Council upon proof of ownership; payment of the appropriate license fee; and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be valid for a one year period of time, July 1 of each year until June 30 of the following year, unless otherwise specified as to particular businesses. Unless otherwise specified in this Section, license fees shall be pro-rated on the basis of 1/12<sup>th</sup> for each calendar month or part remaining in the then current license year. Licenses shall be valid only at one location and on the premises described in the license.

Subd. 3 Transfer. A license shall be transferable between persons upon consent of the Council. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Subdivision.

Subd. 4 Termination. Licenses shall terminate only by expiration or revocation.

Subd. 5 Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application or revoke any license. No license shall be granted to a person of questionable moral character or business reputation. Before revocation of any license, the Council shall give notice to the licensee and grant the licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for the hearing.

Subd. 6 Duplicate License. Duplicates of all original licenses may be issued by the City Clerk, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee as established from time to time by resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

600.04 Fixing License Fees. Except as otherwise provided in this Chapter, all fees for licenses under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any

such subdivision or categorization shall be included in the resolution authorized by this Subsection.

600.05 Carrying or Posting. All solicitors shall at all times when so engaged, carry their licenses on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses, upon demand by any officer or citizen.

600.06 Penalty for Property Owners. It is unlawful for any person to knowingly permit any real property owned or controlled by the person to be used without a license for any business for which a license is required by this Chapter.

600.07 Responsibility of Licensee. The conduct of agents or employees of a licensee, while engaged in performance of duties for their principal or employer under such license, shall be deemed the conduct of the licensee.

600.08 Conditional Licenses. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of necessity, place such conditions and restrictions upon a license as it deems reasonable and justified.

600.09 Renewal of Licenses. Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

600.10 License Denial and Fixing Rates - Hearing.

Subd. 1 Night to Deny. The Council reserves to itself the right to deny any application for a license to operate any business licensed or regulated under this Chapter where such business involves service to the public, rates charged for service, use of public streets or other public property by the applicant or the public, or the public health, safety and convenience. The Council may also consider the location of such business in making the determination. Provided, however, that before making the determination, the Council shall hold a public hearing, pursuant to notice to interested parties and the public, as it may deem necessary or proper in action calling for such hearing.

Subd. 2 Rates. Where under specific provisions of this Chapter, the Council has reserved to itself the right to fix or approve fees, rates or charges of a licensed or regulated business, such rates shall be uniform for each category or class of service.

No licensee or proprietor of a regulated business shall claim or demand payment in excess of the set rate.

Subd. 3 Hearing. Any applicant or licensee under this Chapter who challenges denial of a license or rates fixed or approved by the Council, shall have a right to a hearing before the Council upon written request for a hearing. Notice of time, place and purpose of the hearing shall be given to persons and by means as the Council determines in calling the hearing.

600.11 Insurance Requirements. Proof of insurance shall accompany the license application. Whenever insurance is required by a provision of this Chapter, after approval by the Council but before the license shall issue, the applicant shall file with the City Clerk a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be canceled or terminated without thirty days written notice upon the City Clerk. Cancellation or termination of such coverage shall be grounds for license revocation.

#### 600.12 Kennels.

Subd. 1 Defined. For the purpose of this Section, the term "kennel" means any place, building, tract of land, abode or vehicle where three or more dogs or cats or a combination, over ninety days of age; are kept, kept for sale, or boarded.

Subd. 2 License Required. It is unlawful for any person to operate or maintain a kennel without a license from the City.

Subd. 3 Exception. Hospitals and clinics operated by licensed veterinarians exclusively for the care, and treatment of animals are exempt from the provisions of this Section.

Subd. 4 Zoning. No license shall be issued to a person for operation of a kennel in a zoning district where such operation is not permitted or otherwise allowed under the Zoning Chapter of the City Code.

#### 600.13 Gambling Regulations.

Subd. 1 Purpose and Intent. This ordinance is enacted for the following purposes: to promote the health, safety, and general welfare of the inhabitants of the City of Kilkenny by closely regulating the conduct of gambling.

Subd. 2 Nuisance of Gambling. The Council finds that gambling could be a nuisance prone activity and as such is subject to restrictive regulations. The Council further

finds and declares that the ability to conduct gambling and participate in gambling is a privilege rather than a right.

Subd. 3 Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 349, relating to the definition of terms, licensing and restrictions of gambling are adopted and made a part of this Section as if set out in full. Amendments made pursuant to legislation to said Chapter shall also be incorporated and adopted herein without further action.

Subd. 4 Local Approval of State Licensed Organizations. Pursuant to M.S. 349.213, the Charitable Gambling Control Board for the State of Minnesota must notify the City Council before issuing or renewing an organization license at the State level for those organizations whose premises are located within the City. If the City Council adopts a resolution disapproving the State license and so informs the Board within 30 days of such notice, the license may not be issued or renewed.

Subd. 5 Obligations of State Licensed Organizations. State licensed organizations within the City shall provide to the City Clerk copies of all information which such organization provides to the Charitable Gambling Control Board. Such copies shall be provided to the City Clerk within seven days after the State licensed organization sends such information to the State. Failure of a State licensed organization to provide such copies shall constitute a basis for disapproval of the license or renewal by the City Council.

Subd. 6 Eligibility for License. Eligibility for a charitable gambling license within the City of Kilkenny, shall be restricted to local fraternal, religious, veterans and educational and other non-profit organizations. A local organization shall be defined as an organization having at least 40 percent of its members who list a Kilkenny City or Rural Route mailing address which would include the existing Kilkenny zip code, 56052, or its successor as determined by the U.S. Postal Service.

Subd. 7 Use of Proceeds of Charitable Gambling. All applications for licenses shall state the proposed use of funds received from the gambling activity. :No license will be approved unless verification on the application is stated that at least 80 percent of the net proceeds collected from lawful charitable gambling shall be used to support recreational, cultural, and civic programs benefiting the citizens of Kilkenny. For purposes of this Subsection, net proceeds shall be computed as follows: gross receipts from lawful gambling less reasonable sums necessarily and actually expended for the following items: (a) prizes; (b) gambling supplies and equipment which shall be defined as those expenses authorized by the Charitable Gambling Control Board in their adopted rules, specifically Subpart 203) of Adopted Rule 7860.0160; (c) rent; (d) utilities used during gambling occasions; (e) compensation paid to members for conducting gambling; (f) taxes imposed by

Minnesota Statute Section 349.212; and, (g) maintenance of devices used in lawful gambling.

Subd. 8 Premises. The use of or sale of gambling supplies and equipment described as pull-tabs, paddle wheels and tip boards, shall be allowed on the premises owned by eligible organizations as defined in Subdivision 6 of this Ordinance. Except for the preceding, the use of the gambling supplies and equipment described in this Subdivision shall be allowed only on the premises of an establishment having a liquor license issued by the City of Kilkenny for the on or off sale of either intoxicating liquor or non-intoxicating malt liquor.

A. In leased locations authorized by this subdivision, the sale of pull-tabs, tip boards, and the operation of paddle wheels shall take place in a designated area of the leased premises. Locations authorized by this subdivision which are owned by the charitable organization need not designate such a location within the premises.

Subd. 9 Gambling Prohibited by Minors. Only those persons who have reached the age at which they are allowed to consume intoxicating liquor by Minnesota Statutes, shall be allowed to participate in the charitable gambling use of pull-tabs, paddle wheels, and tip boards or shall be employed by the organization requesting the charitable gambling license for the purpose of accomplishing the sale of the gambling devices described in this subdivision.

Subd. 10 Hours of Operation. The use or sale of gambling supplies and equipment described as pull-tabs, paddle wheels and tip boards shall be allowed on premises owned or leased by those organization eligible for a charitable gambling license pursuant to Subd. 6 only between the hours of 8:00 A.M. and 1:00 A.M.

Subd. 11 Extended Hours for Bingo and Raffle Tickets. The above notwithstanding, the conduct of bingo and sale of raffle tickets shall be allowed on Sundays and legal holidays when not prohibited by Minnesota Statute 349.

Subd. 12 Employees. Compensation to persons who participate in the conduct of lawful gambling, may be paid only to active members of the conducting organization or its auxiliary, or to the spouse or the surviving spouse of an active member.

Subd. 13 Gambling Sales Conducted by Organization's Members. The sale of pull-tabs, tip boards, paddle wheels and raffle tickets when accomplished on the premises of an establishment having a liquor license issued by the City of Kilkenny for the sale of either on-sale or off-sale intoxicating liquor shall be accomplished by an active member of the conducting organization or auxiliary or the spouse or surviving



spouse of an active member of the conducting organization. The preceding notwithstanding, if the person conducting the sale is also the owner or the employee of the establishment wherein space is being rented by the conducting organization, said person may sell pull-tabs, raffle tickets, or other charitable gambling supplies while he or she is then on duty with the lessor.

Subd. 14 Copies of Financial Reports to City Clerk. Each organization which is licensed to conduct charitable gambling within the City of Kilkenny, shall provide the City Clerk with a copy of all financial reports submitted to the State Charitable Gambling Control Board on a quarterly basis if there is any charitable gambling by that organization within the reporting period.

Subd. 15 Right to Set License or Permit Fee. To the extent allowed by Minnesota Statutes, the Council may by resolution set a licensing or permit fee for the conduct of charitable gambling within the City of Kilkenny. The resolution may set fees for application, processing of any application, including whatever amounts are deemed appropriate to defray the cost of investigation of the proposed applicant by the Council, City Clerk, or Chief of Police and to make a determination of the propriety of granting said permit. The City Clerk shall prepare a local application form and, shall include verification that the applicant agrees to abide by the local ordinance concerning the conduct of licensed charitable gambling.

Subd. 16 Non-Licensed Gambling Not Regulated. This Ordinance shall not regulate the conduct of non-licensed gambling as defined by Minnesota Statute Chapter 349, et sec.

Subd. 17 Police Right to Inspecting Premises. Each licensee shall be responsible for the conduct of its place of operation as described in its license application. Any peace officer of the City of Kilkenny shall have the unqualified right to enter, inspect, and search such premises of the licensee during business hours in order to ensure that said premises are conducted in compliance with this ordinance and applicable state laws and regulations.