

CHAPTER SIX

LICENSES

600 AMUSEMENT LICENSES

601 CARAVANS, THEATRICAL PERFORMANCES, MERRY-GO-ROUNDS AND SHOWS

601.01 No person or persons shall exhibit any caravan, theatrical performance, merry-go-round, concert, or performance for the amusement of the public and for the purpose of gain with the City of Glencoe without having first obtained a license therefor from the City Council of said City.

601.02 The City Clerk of said City of Glencoe is hereby authorized to grant and issue such license to any reputable person upon the payment by the said person applying for said license to the Treasurer of said City of the sum herein set forth, to-wit: For all performances, exhibitions or concerts in which the number of performers, actors, or singers shall not exceed three in number, the sum of three dollars for each day in which the performers, actors or singers shall be actually engaged in such performance, exhibition, or concert; for all performances, exhibitions, or concerts, in which the number of performers shall exceed three, the sum of five dollars for each day in which the performers shall be actually engaged in such performance, concert, or exhibition.

601.03 Any person or persons attempting to exhibit or exhibiting within the limits of said City any such public performance for gain, contrary to the provisions of this ordinance shall, on conviction thereof before the City justice of said City, be fined not less than ten dollars nor more than one hundred dollars, with the costs of prosecution; and in case said fine and costs are not paid the person or persons so fined may be imprisoned in the common jail of McLeod County, Minnesota, until such fine and costs are paid, for a period not to exceed ninety days. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(Source: Ordinance No. 21 adopted July 6, 1895.)

602 CIRCUSES AND MENAGERIES

602.01 No person or persons shall exhibit any menagerie or circus within the City of Glencoe without having first obtained a license therefor from the City Council of said City.

602.02 The City Clerk of said City of Glencoe is hereby authorized to grant and issue such license to any reputable person or persons applying for the same upon the payment by said person or persons to the City Treasurer of said City for said license of the sum of twenty-five dollars for each day in which said person or persons shall be actually engaged in their show and performance.

602.03 Any person or persons attempting to exhibit or exhibiting within the limits of said City any circus or menagerie contrary to the provisions of this ordinance shall, on conviction thereof before the City Justice of said City be fined not less than ten dollars no more

than one hundred dollars, with the costs or prosecution, and, in case said fine and costs are not paid, the person or persons so fined may be imprisoned in the common jail until such fine and costs are paid for a period of not to exceed ninety days.

(Source: Ordinance No. 13 adopted May 1, 1894.)

603 THEATERS, BOWLING ALLEYS, RECREATION ESTABLISHMENTS

603.01 That no person or persons shall maintain, within the limits of the city of Glencoe, any place for the exhibition of moving pictures, of theatrical performance, or of other public entertainments, for pay; nor any place wherein the game of bowling is for pay, without first having obtained a license therefor from the City Council of said City as hereinafter provided. Every such license shall be for one year from its date, unless sooner annulled, shall specify the place in which the business licensed is to be carried on, and shall state that the person named is authorized to carry on said business only in such place and only at the items and in the manner prescribed by the laws of the State of Minnesota and the Ordinances of the City of Glencoe. The license fee for such licensee is hereby fixed as follows, to-wit: For any place for the exhibition of moving pictures, of theatrical performances or of any other public entertainments, for pay, the license fee is fixed at Fifteen Dollars; for any place where bowls are played, the amount of the license fee shall be determined by the number of bowling alleys maintained therein, for the place maintaining one bowling alley the license fee is fixed at \$5.00 and where there is more than one bowling alley \$5.00 shall be added for each additional bowling alley that shall be maintained in such place.

603.02 Any person desiring a license to carry on any of the occupations specified in Section One hereof shall file with the City Clerk of said City a written application therefor, stating the place for which license is desired, the date from which license is to run, if the application is for the licensing of a place in which to bowl, it shall state the number of bowling alleys to be maintained in such room. Such application shall be heard at the next regular meeting of the City Council to be held thereafter but the hearing thereon may be adjourned from time to time until finally determined. In case such application for license is granted, the City Clerk shall issue the same upon the filing in his office by the applicant for such license of a receipt from the City Treasurer of said City, showing that the license fee required by section one hereof has been paid.

603.03 Any person or persons licensed to keep or maintain any of the places hereinabove specified shall, at all times during the continuance of such license, conduct the place where the said business so licensed is carried on in an orderly, quiet and peaceable manner and shall not permit in said place, any gaming of any description for money, property or other things. Each bowling room shall be closed on and during each and every Sunday and at and after eleven o'clock at night of each day and until six o'clock in the morning of the following day and no games shall be placed in said rooms during the time in which they are required to be closed; and all curtains, screens, ground or colored glass, and any other obstruction to an inside view of such rooms must be removed and kept from the windows of each of such rooms at all times so long as the license for conducting any one of said businesses therein shall be in force.

603.04 Any person violating any provision of this ordinance shall, upon conviction thereof, be punished by a fine of not less than one nor more than one hundred dollars and the costs of prosecution; and, in default of the payment of such time and costs, may be

imprisoned in the county jail of McLeod County, Minnesota, the city jail of said city, or such other place of detention as shall, at the time of such conviction, be maintained by said city, not exceeding ninety days. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(Source: Ordinance No. 55 adopted May 4, 1915; Section 1 amended by Ordinance No. 220 adopted February 3, 1969; Pool Table and Billiard provisions repealed by reference by Ordinance No. 306 adopted October 4, 1982 and now appearing in Code provisions 621.)

604 POOL TABLES, VIDEO GAMES AND OTHER AMUSEMENT DEVICES

604.01 That it shall be unlawful for any person, firm or corporation to use or permit to be used, any pool table, billiard table, snooker table, pinball machine, video game, bowling machine, or any other recreational or amusement device whatsoever, by which the user thereof pay any form of a fee directly or indirectly, or by the insertion of any coin or token, or as a reward or premium for the purchase of any product or service, without first having obtained a license therefore.

604.02 A license for any of the foregoing shall be obtained by application to the City Clerk upon such a form as the Clerk shall prepare which shall include the name, address and telephone number of the applicant; the description of the device to be licensed; the address and description of the business establishment in which said device shall be located; a statement of whether or not the applicant holds any type of intoxicating license.

604.03 Upon receipt of such an application the City Clerk shall verify the information thereon and present the same at the next meeting of the City Council, occurring not less than five (5) days after the receipt of said application; which provisions the City Council in its discretion may waive.

604.04 A schedule of license fees for said devices shall be as follows: which shall be prorated to the nearest month in the case of a partial year:

Pinball Machine	\$12.00 per machine per year
Bowling Machine	\$12.00 per machine per year
Video Games	\$12.00 per machine per year
Music Machine/Juke Box	\$24.00 per machine per year
Pool Table/Billiard Table/SnookerTable	\$12.00 per table per year
Other Amusement Device	\$12.00 per device per year

604.05 No licensee shall permit any person the age of 18 years or under to operate any of the foregoing devices licensed hereunder in any premises in which intoxicating liquor is served.

604.06 No person under the age of 18 years shall be permitted to operate any of the foregoing devices in any licensed establishment between the hours of 8:00 o'clock a.m. and 3:00 o'clock p.m. on any day in which the public schools in the City of Glencoe are in session.

604.07 That violation of any of the foregoing provisions shall constitute a petty misdemeanor, each day of violation shall constitute a separate offense therefore. Any portion of any ordinances in conflict herewith are hereby expressly repealed.

(See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(Source: Ordinance No. 306 adopted October 4, 1982.)

605 PUBLIC DANCES

605.01 Definitions:

- a. A public dancing place shall be taken to mean any room, place or space open to public patronage which dances are conducted or wherein the public may participate, to which admission may be had by the public by payment, directly or indirectly of an admission or fee for dancing.
- b. Public dance shall be taken to mean any dance wherein the public may participate by payment, directly or indirectly, an admission fee or price for dancing, or fee for membership in a club, and shall include any manner of holding a dance which may be participated in by the public through the payment of money, either directly or indirectly.
- c. School sponsored dances shall mean any dance conducted through the auspices of the public school system upon school property for which supervision is provided by the school authorities, whether or not any admission is required, and shall not be considered public dances for the purpose of this ordinance.
- d. Person shall be taken to mean any entity being a natural person, a firm, partnership, corporation, unincorporated association, club or other entity whatsoever.

605.02 It shall be unlawful for any person to give, hold or conduct a public dance, except school sponsored dances, unless the owner or proprietor of the public dancing place, or the person giving the same on charge thereof, shall first have procured a permit to hold, give, or conduct such public dance from the City of Glencoe through its City Council as hereinafter provided.

605.03 The City Council may issue permits for public dances either on a special occasioned basis or for an annual period. The following permit fees shall be applicable until otherwise amended by the Council by appropriate resolution:

Special occasion permits (not to exceed five consecutive days)	\$20.00 per special occasion
Annual permit	\$200.00

605.04 Any person desiring to obtain a permit to hold, give or conduct a public dance shall make application therefore to the Glencoe City Clerk upon such a form as the City Clerk shall require and setting forth at least the following facts: The name and address of the person or entity to conduct the dance, location of the dance to be conducted, whether or not the same is for special occasion or an annual permit, the description of the dancing area to be provided, including its dimensions in feet and inches, the

number of persons that may be accommodated at the building or site the dance is to be conducted and the name or names of the responsible person(s) supervising the dance. The application shall be presented to the City Council, who may at its discretion refer the matter to the Chief of Police for an investigation report to determine the good and proper character of the applicant. The City Council shall thereupon act upon the application by either granting the permit or rejecting the same. No person shall issue however, until the required fee shall have been paid by the applicant to the City for deposit into the general fund of the City.

605.05 Any permit issued by the City shall specify the name and address of the person to whom the permit is issued, the amount of the fee so paid, the exact address where the dance is to be held, any date or time limitations imposed by the Council in the case of special occasion permits. In all cases the permit shall set forth the name of at least one natural person who shall be the responsible person for the conduct of any public dance, and at least one of such persons named in the permit shall be in actual attendance at the dance and supervision thereof. The permit shall be posted in a conspicuous place at the premises where the dance is to be conducted at all times while any dancing is being conducted.

605.06 The following are specific regulations under which any public dance shall be conducted:

- a. Any site at which a dance is to be conducted shall conform to all other ordinances and regulations, including all building codes, safety codes and occupancy codes. In all cases there shall be adequate lighting, appropriate safety exists and fire protection.
- b. The persons responsible for the dance shall insure that there are appropriate licenses for any other activity to be conducted on the premises, such as food sales, non-intoxicating malt liquor sales, liquor sales, cigarette sales, soft drink sales, pinball machines or amusement devices, and that otherwise all other laws, regulations ordinances and statutes are fully complied with.
- c. No person to whom a permit has been issued shall permit to be upon or remain upon or in any public dancing place, any intoxicate person, any prostitute, any unmarried person under the age of 16 years, unless that person is accompanied by a parent or guardian, any unmarried person of more than 16 and under the age of 18 years, unless such person is accompanied by a parent or guardian. The person in charge shall inform the officer in charge of any unruly or unqualified person on the premises for the purposes of removal.
- d. No public dance shall be conducted whatsoever without at least one officer of the law present during the entire time that said public dance is being held, the exact number to be determined by the Chief of Police. In all cases the holder of the permit shall advise the Chief of Police of a dance at least thirty (30) days in advance of the dance and shall describe the type of dance, anticipated number of persons to be present, and any other information that may be required in order that the Chief of Police may determine the appropriate number of officers to be in attendance. All

officers of the law shall be designated by the Chief of Police of the City. All fees and expenses of each Officer at Law shall be paid in advance by the person to whom the permit has been issued.

- e. No public dance shall be held or conducted between the hours of 1:00 a.m. and 6:00 a.m. on any day; provided that no public shall be held or conducted between the hours of 1:00 a.m. and 12:00 noon on Sundays.
- f. No public dance shall be held which permits, encourages, or allows unlawful or unruly behavior. The Chief of Police is empowered with the authority to cancel the permit granted for any particular dance if behavior of the dance participants violate this provision, including any situation which arises resulting in illegal behavior, unruly conduct, or unsafe conditions for other participants, including the attending officers.

605.07 The City Council shall have the power at any time to revoke any public dancing permit by reason of the breach of any provisions herein, including the permit holders inability to control or prevent conduct at public dances which consists of illegal or unruly behavior by the attending person at the public dance site or its immediate environs, without such revocation requiring the City to rebate any portion of the permit fee.

605.08 Any person violating any portion of this ordinance shall be guilty of a misdemeanor and subject to the uniform violation for misdemeanors as provided for in the City of Glencoe Code. (See Uniform Misdemeanor Violation and General Regulations.)

608 BICYCLES

608.01 The provisions of Chapter 199 of the 1976 Session Laws of the State of Minnesota (Minnesota Statutes §168C.01 through §168C.13) are hereby adopted by reference as though full set forth herein.

608.02 Pursuant to Chapter 199 of the 1976 Minnesota Session Laws and pursuant to Minnesota Statutes Section 168.13, any or all bicycles ridden upon any highway, street, alley, sidewalk or other public property within the boundaries of the City of Glencoe shall be registered pursuant to said provision and said law.

608.03 The City of Glencoe shall continue to maintain its licensing and registration records on all bicycles licensed or registered prior to March 1, 1977, and the owners thereof of record as of March 1, 1977, are hereby required to notify the City of Glencoe when they sell or otherwise transfer ownership of said bicycle.

608.04 Every license issued hereunder shall be deemed to be granted subject to the following conditions:

- a. No person shall ride or propel a bicycle on a street or other public highway of the city with another person on the handlebars or in any position in front of the operator.

- b. No bicycle shall be ridden faster than is reasonable and proper, but every bicycle shall be operated with reasonable regard to the safety of the operator and other persons upon sidewalks, streets and other public highways of the City.
- c. Persons riding bicycles shall observe all traffic signs and stop at all stop signs.
- d. No bicycle shall be permitted on any sidewalk, street or other public highway of the city between thirty minutes after sunset and thirty minutes before sunrise, without a headlight visible under normal atmospheric conditions from the front thereof for not less than 300 feet indicating the approach or presence of the bicycle, firmly attached to such bicycle and properly lighted, or without a yellow or red light or reflector attached to and visible from 200 feet from the rear thereof. The said headlight shall give a clear white light.
- e. No person shall ride or propel a bicycle upon any street or other public highway in the city abreast of more than one other person riding or propelling a bicycle.
- f. Every person riding or propelling a bicycle upon any street or other public highway in the city shall observe all traffic rules and regulations applicable thereto, and, shall turn only at intersections, signal for all turns, ride at the right hand side of the sidewalk, street or highway, pass to the left when passing overtaken vehicles and individuals that are slower moving and shall pass vehicles to the right when meeting.

608.05 No person shall deface, mutilate or remove a license tag placed upon any bicycle, nor shall any person take any bicycle for the purpose of riding or propelling the same upon the street or other public highway without the consent of the owner.

608.06 Any person violating the provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed \$100 or by imprisonment not to exceed 90 days; provided that in the case of violation of any provision of Section 3 hereof, the Court may in lieu of or in addition to the penalty provided herein, suspend the license and/or impound the bicycle belonging to the person guilty of such violation for a period of not more than 30 days. (See Uniform Misdemeanor Violation penalties in General Regulations Section of Code.)

(Source: Sections 600.01 - 600.02 from Ordinance No. 272 adopted April 18, 1977; Sections 600.04 - 600.06 from Ordinance No. 99 adopted September 3, 1940. Sections 605.03, 605.06(c), 605.06(d), 605.06(f), 605.07 amended by Ordinance No. 470 adopted December 4, 2000)

610 RAFFLES AND GAMBLING DEVICES

610.01 Lawful gambling is the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards and pulltabs. Lawful gambling conducted pursuant to Minnesota Statutes Chapter 349 is authorized within the City and shall be operated in accordance with the terms

and conditions specified in this division, other applicable provisions of the city code and state and federal laws and regulations.

610.02 License may be issued only to nonprofit organizations which meet the specific requirements as provided for herein:

- a. A qualifying organization must have at least 15 regular members.
- b. Each organization must have been in existence for at least three (3) years and any church must be a recognized religion within the meaning of the Internal Revenue Code and with a house of worship within the City of Glencoe.
- c. All organizations must have a principal office, headquarters, or meeting place within the established trade area of the City of Glencoe.
- d. The organization must have been licensed by the state gambling control board.

610.03 Lawful gambling authorized by the State Gambling Control Board may be conducted only at the following locations:

- a. Pulltab gambling may be conducted only in establishments which hold on sale liquor licenses or on sale club liquor licenses.
- b. All other authorized gambling may only be conducted in the license association's hall or regular meeting place.
- c. Churches may conduct gambling only within their place of worship or adjunct facilities such as educational buildings or structures owned or leased by the church.
- d. Raffles and special events authorized by the Minnesota Gambling Control Board for an exemption from lawful gambling license are exempt from the restrictions required in this ordinance.

610.04 At no time shall more than 6 permits authorizing pulltab gambling shall be issued within the City of Glencoe at any time.

610.05 No lawful gambling shall be permitted during hours in which onsale of intoxicating liquor, wine or 3.2% malt liquor is prohibited under the Glencoe Municipal Code.

610.06 No more than two licenses shall be issued to conduct lawful gambling in any physical structure, building, or premises within the City of Glencoe.

610.07 An organization or its authorized agents conducting lawful gambling shall have exclusive control over all gambling equipment, money and records. Whenever the organization personnel or its authorized agents are not present, and when gambling

hours are closed, all gambling devices, money and records shall be securely locked. All gambling proceeds shall be maintained separately and shall not be commingled with other funds at the premises of the gambling operation.

610.08 Each organization's license to conduct lawful gambling within the City shall complete the City's investigation form, submit copies of all state gambling application forms, and submit any additional information required by the City. Every establishment in which gambling is conducted, and every gambling event, in the City of Glencoe conducted by an organization with a state license shall be open to inspection of the City's police department and/or city administration.

610.09 The City shall not approve of the issuance of a permit for lawful gambling from any applicant who is an officer, director or other person in a supervisory or management position who:

- a. Has ever been convicted of a felony.
- b. Has ever been convicted of a crime involving gambling.
- c. Owes delinquent real estate taxes, or any form of delinquent state or federal taxes.

610.10 Any organization making application to conduct lawful gambling within the City of Glencoe shall pay an investigation fee of \$100.00 to defray the cost of the City's processing application investigation. Said fee shall be nonrefundable whether or not the permit is issued.

610.11 Each organization conducting lawful gambling within the City must expend at least 50% of its lawful purpose expenditures on lawful purposes conducted or located within the limits of the Glencoe/Silver Lake Consolidated School District which is declared to be the trade area of the City of Glencoe. Annually, each organization must file with the City the report required to be filed with the State Gambling Board for the purpose of documenting compliance with this section. The report shall be filed within thirty (30) days from the date the report is required to be filed with the state or thirty (30) days next following the end of the fiscal year of the organization, whichever is sooner. The report shall identify the name of the entity to whom all payments have been made, the location of the entity when the payment was made, and the amount of the donation or expenditure."

610.12 Each organization conducting lawful gambling within the City must contribute 10% of its lawful purpose expenditures to the City of Glencoe to be placed in a gambling proceeds fund. The City Council may from time to time draw upon said fund for expenditures for any lawful public purpose. The 10% requirement provided in this section shall be included as a part of the 50% requirement set forth in Section 610.11 of this code.

(Source: Ordinance No. 280 adopted August 21, 1978; Sections 610.01 thru 610.07 repealed and Sections 610.01 thru 610.12 adopted by Ordinance No. 434 March 17, 1997.)

615 INTOXICATING LIQUORS

615.01 Definitions.

- a. "Intoxicating Liquor" or "Liquor" means ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% alcohol by weight.

- b. "Sale" and "Sell" mean and include all barters and all manners or means of furnishing intoxicating liquor or liquors as above described in violation or evasion of law and also include the usual meaning of terms.
- c. "On Sale" means the sale of intoxicating liquor by the glass, or by the drink for consumption on the premises only.
- d. "Hotel" is an establishment where food and lodging are regularly furnished to transients and which has:
 - (1) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time: and
 - (2) guest rooms in the amount of 10.
- e. "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority and at least 40% of the gross sales of the business is derived from the sale of food.
- f. "Club" is an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans organization which:
 - (1) has more than 30 members.
 - (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members:
 - (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

615.02 License Required

- a. No person, except wholesalers or manufacturers to the extent authorized under State License, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor without first having received a license to do so under this Chapter. Licenses shall be of three kinds: "On Sale", "On Sale Club" and a "Special License for Sunday Liquor Sales".
- b. "On Sale" licenses shall be issued only to motels, hotels and restaurants, pursuant to

Minnesota Statutes 340A.404, and who meet the requirement of Section 1 herein.

- c. "On Sale Club" licenses shall be issued only to clubs.
- d. "Special License for Sunday Liquor Sales" shall be issued only to establishments which hold 'On Sale' licenses or 'On Sale Club' licenses as defined in this Chapter.
- e. Temporary licenses for Sunday Liquor Sales may be issued to "clubs" as defined by this chapter to which "On-Sale" licenses have been issued or hereafter may be issued for the sale of intoxicating liquors. The licenses shall be issued only in conformity with Minnesota Statutes 340A.404, including any amendment thereto.

615.03 Application for License

- a. In addition to the information which may be required by the State Liquor Control Commissioner's form, the application for license shall be on a form provided by and contain such information as required by the City Council.
- b. If the application is by a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; if by an unincorporated association, by the manager or managing officer thereof. If the applicant is a partnership, the application, license and bond (or insurance policy) shall be made and issued in the name of all partners.

615.04 Renewal Applications.

- a. Applications for the renewal of an existing license shall be made at least 90 days prior to the date of the expiration of the license, and shall contain such information as required by the City Council. This time requirement may be waived by the Council for good and sufficient cause.
- b. With the application for renewal, the applicant shall file with the City Clerk a statement made by a certified public accountant that shows the total gross liquor sales and the total food sales of the restaurant for the twelve month period immediately preceding the date for filing renewal application. A foreign corporation shall file a current Certificate of Authority.

615.05 License Fees.

- a. The annual license fee for "On Sale" license shall be \$3000. The annual license for an "On Sale Club" license shall be \$100. The annual license fee for a "special license for Sunday Liquor Sales" shall be \$200. Sunday Liquor Sales may only be made between the hours of 10 o'clock a.m. and 12 o'clock midnight, except that the council may by resolution extend the closing hours to 1:00 a.m. Monday morning, when in the council's judgment there is a special event or holiday which justifies extended hours. Such a resolution adopted by the council to extend hours shall be effective only as to the single date set forth in the resolution. Such resolution shall be adopted at least 15 days prior to the date upon which it will be effective, and all Sunday liquor sales license holders shall be provided with notice by the City Administrator of the content of each such resolution.
- b. The annual license fee shall be paid in full before the application for a license is accepted, except that, with respect to "On Sale" license applications, one-half of the fee shall be paid before the application is accepted and the remaining balance shall be paid before the license is issued. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, or upon withdrawal of application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant except where rejection is for willful misstatement on the

license application.

- c. The fee for "On Sale" license granted after the commencement of the license year shall be pro rated on a monthly basis. "On Sale Club" and "Special License for Sunday Liquor Sales" shall not be pro rated.
- d. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety days after the approval of the license by the Council or upon the date the building is ready for occupancy, whichever is sooner.
- e. At the time of each original application for an "On Sale" license, the applicant shall pay in full an investigating fee. The investigating fee shall be \$100.00 for a single natural person, \$200.00 for a partnership, \$300.00 for a corporation or other association. The unexpended portion of the investigation fees may be refunded.
- f. At any time that an additional investigation is required because of a change in the ownership the licensee shall pay an additional investigation fee in the amount of \$100.00 for a single natural person, \$200 for a partnership, \$300 for a corporation or other association.

615.06 Granting of Licenses.

- a. All applications for a license shall be referred to the Chief of Police for investigation who shall make a written recommendation and report to the Council. The investigation shall include a list of all violations of Federal or State Law or Municipal Ordinance. The Council may order and conduct such additional investigation as it shall deem necessary.
- b. Upon receipt of the written report and recommendation by the Chief of Police, the City Clerk shall within 20 days thereafter have published in the official newspaper not less than 10 days in advance a notice of a hearing on the license application, to be held by the Council setting forth 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.
- c. (i) Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application.

(ii) No license may be transferred to another person or to any other place without complying with the requirements of an original application including the approval of the Council and the Liquor Control Commissioner, as required.
- d. Where a license is granted for premises where the building is under construction or otherwise not ready for occupancy, the City Clerk shall not issue the license until notified that a certificate of occupancy has been issued and the building is ready for

occupancy.

615.07 Persons Ineligible for License No license shall be granted to or held by any person:

- a. Who is ineligible under Minn. Stat. Chapter 340A.
- b. Who has been convicted within 15 years prior to the application of such license, of any willful violation of any law of the United States, the State of Minnesota, or any other State or Territory, or of any local ordinance regarding the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor, or whose liquor license has been revoked for any willful violation of any law or ordinance.
- c. Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of the section.
- d. Who is the spouse of a person ineligible for a license or who, in the judgment of the Council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

615.08 Places Ineligible for License.

- a. No license shall be granted, or reviewed for operation on any premises, on which taxes, assessments or other financial claims of the City or of the State are due, delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of Minn. Stat. Chapter 278 questioning the amount or validity of the 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.
- b. No license shall be issued for the premises owned by a person to whom a license may not be granted.
- c. No license shall be granted for any place which has a common entrance or exit between two establishments except that a public concourse or public lobby shall not be construed as a common entrance or exit.

615.09 Conditions of License. Every license shall be granted subject to the following subdivisions and all other requirements of this Chapter and of any other applicable law of the City or State:

- a. Any police officer, building inspector, or any properly designated officer or employee of the City shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant.
- b. No licensee shall sell, offer for sale, or keep for sale, intoxicating liquors in any original package which has been refilled or partly refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any

original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any intoxicating liquor in the original package differing in composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

- c. No "On Sale" liquor establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- d. No licensee shall apply for or possess a Federal Wholesale Liquor Dealers special tax stamp or a Federal gambling stamp.
- e. No licensee shall keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.
- f. The business records of the licensee, including Federal and State tax returns, shall be available for inspection by the City Clerk or the Council at all reasonable times.
- g. Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws, or partnership agreement, as the case may be, shall be submitted to the City Clerk within 30 days after such changes are made.
- h. At the time a licensee submits his application for renewal of a license, he shall state the nature or amount of any contribution he has made for campaign or political purposes, the person to whom the contribution was made and the person or organization for whom intended.
- i. A restaurant shall be conducted in such manner that at least 40% of the gross sales of the business is derived from the sale of food.
- j. No "Special License for Sunday Liquor Sales" licensee shall serve liquor on Sunday except in conjunction with the serving of food.
- k. At the time of application for renewal of an "On Sale" license, the applicant shall submit proof to the City that not less than 50% of the gross sales of the establishment, for which the "On Sale" license is to be used, is in the serving of food.
- l. No Club for which a license herein is issued shall serve liquor to, or allow upon any premises any person who is not a bona fide member of such club or a bona fide guest of a member of such club.

615.10 Bond

- a. Bonds, Insurance or Deposit Required. At the time of filing an application for either "On Sale" or an "On Sale Club" liquor license, but excluding a "Special License for

Sunday Liquor Sales", the applicant shall file a bond with corporate surety, or a liability insurance policy, or in lieu thereof, cash or United States Government Bonds which shall be deposited with the City Clerk. Such bond, cash or government bonds shall be in the amount of \$3,000 for an "On Sale" license.

The filing of the above described bond, cash or insurance policy for an "On Sale" liquor license shall be deemed sufficient for the purpose of issuance of a "Special License for Sunday Liquor Sales", provided such bond, insurance policy or the terms of such cash deposit are amended to include the periods during which such licensee is operating under a "Special License for Sunday Liquor Sales".

- b. Approval of Bond or Insurance. The surety bonds or insurance policies required by Subdivision A of this section shall be subject to the approval of the Council.
- c. Procedures Where Cash or Government Bonds are Used. If the applicant uses cash for security, it shall be deposited with the City Clerk. If United States Government Bonds are permitted and are used as such security, an assignment or agreement shall accompany them and they shall be filed with the City Clerk. The licensee shall be permitted to clip and take all interest bearing coupons thereto attached as they become due.
- d. Surety or Insurance Companies. The surety on such bond or the insurer on such liability insurance policy, shall be a surety company or insurance company, as the case may be, duly licensed to do business in the State, and the bond and liability insurance policy shall be approved as to form and execution by the City Attorney. All surety bonds or liability insurance policies, when approved by the proper City or State officers, shall be deposited with the City Clerk.
- e. Amount and Terms of Insurance. A certificate of insurance certifying that there is in effect for the period covered by the license an insurance policy or pool providing for the following minimum coverage shall be filed with the City Clerk prior to the license being effective: \$50,000 because of bodily injury to any one person and any one occurrence and subject to the limit for one person, in the amount of \$100,000 because of bodily injury to two or more persons in any one occurrence and the amount of \$10,000 because of injury to or destruction of property to others in any one occurrence; in addition thereto \$50,000 for loss of means of support of any one person and any one occurrence, and subject to limit for one person, \$100,000 for loss of means of support of two or more persons in any one occurrence; which policy shall specifically provide for the payment of the insurance company on behalf of the insured all sums which insured shall become obliged to pay by reason of liability imposed upon him by law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Sections 340.95 of Minnesota Statutes. Such liability insurance policy shall further provide that no cancellation for any cause can be made either by the insured or the insurance company without first giving 10 days' notice to the City in writing of intention to cancel the same, addressed to the City Clerk. Further, it shall provide that no

payment of any claim by the insurance company shall, in any manner, decrease the coverage provided for in respect to any other claim or claims brought against the insured or company thereafter. Such policy shall be conditioned that the insurer shall pay, to the extent of the principal amount of the policy, any damages for death or injury caused by, or resulting from the violation of any law relating to the business for which such license has been granted. The licensee and the City shall be named as joint insureds on the liability insurance policy.

615.11 License Revocation

- a. Any license herein may be revoked by the Council upon proof of any violation of this ordinance by the license holder.
- b. That prior to any revocation of any license, the license holder subject to revocation by reason of an alleged violation of this ordinance shall receive 15 days' notice and shall have the opportunity to be heard at a public hearing before the Council concerning said alleged violation.
- c. At such hearing concerning any alleged violation the City Attorney shall present such witnesses and evidence to the Council of violations by the license holder, following which the license holder shall have the full right of cross examination of all such witnesses, shall have the right to counsel at all times during said hearing, may present all relevant evidence including testimony of witnesses in his own behalf, and shall be furnished in writing the decision of the Council concerning its action with regard to a revocation hearing.

615.12 That all places in the City of Glencoe wherein intoxicating liquors are licensed to be sold, including the Glencoe Municipal Liquor Store, shall be closed between the hours of 1:00 o'clock a.m. of each day and remain closed until the hour of 8:00 o'clock a.m. the succeeding day, and those establishments entitled to sell Sunday liquors shall be closed according to Section 615.05(a) of this Code. No intoxicating liquors shall be sold, served or otherwise disposed of herein during the prohibited hours. Further, no person shall permit any person, who is not the owner or a bona fide employee of the licensed establishment to loiter or remain upon the premises at any time later than one-half hour after the closing hours as set forth herein, and in any event, no persons shall consume any intoxicating liquors whatsoever in any licensed premises later than one-half hour after lawful closing hours.

615.13 Penalties. Any violation of this ordinance in addition to cause for revocation of any license hereunder, shall further constitute a misdemeanor subject to a fine not to exceed \$300 or imprisonment in the County jail not to exceed 90 days or both. (See Uniform Minnesota Violation penalties in General Regulations Section and also appropriate state statute.)

615.15 Caterer's Permit

Section 1: “Section 615.15 shall be added to the Glencoe Municipal Code regarding caterer’s permits, as the City Council finds that it is needed to enact additional sale provisions governing persons selling or furnishing alcoholic beverages pursuant to a caterer’s permit issued pursuant to Minnesota Statute '340A.404(12), as it may be amended from time to time. The statute authorizes the holder of such a permit to provide alcoholic beverages at unlicensed locations provided that the sale is incidental to a larger food service. This division is enacted in order to preserve the incidental nature of the caterer’s permit and to preserve the underlying state and local framework for permanent on-sale intoxicating liquor licenses. The issuance of a caterer’s permit does not allow a person to, in effect, operate a permanent on-sale intoxicating liquor establishment; rather it entitles the person to provide temporary alcoholic beverages as an incidental part of a food service that prepares meals at special locations apart from the licensee’s permanent location. The location requirements in this section for the sale of alcoholic beverages at catered events are enacted to ensure compliance with existing state and local provisions regarding on-sale licenses. Numerous events conducted at one location where alcoholic beverages are provided by caterers thwarts the licensing scheme for permanent on-sale intoxicating liquor establishments.

615.15(1) Regulations.

Events that are catered in accordance with Minnesota Statute '340A.404(12) as may be amended from time to time, shall comply with the following additional sale provisions:

- A. An event of this type shall not be for more than three consecutive days.
- B. All such caterer’s licenses shall be approved by the City Council, although no public hearing shall be required.
- C. Any violation of this ordinance shall constitute a misdemeanor offense, subject to a fine not to exceed \$1,000.00 or imprisonment for not more than 90 days or both (See Uniform Minnesota Violations Penalty in General Regulations Section and also appropriate state statute).”

(Source: Ordinance No. 259 adopted November 3, 1975; Section 615.01(e) amended by Ordinance No. 308 adopted December 6, 1982; Section 615.05(a) amended by Ordinance No. 275 adopted October 3, 1977 and Ordinance No. 332 adopted November 18, 1985; Section 615.09(i) amended by Ordinance No. 308 adopted December 6, 1982; Section 610(e) amended by Ordinance No. 336 adopted January 22, 1986; Section 615.12 originated from Ordinances No. 59, 253, 262 and was last amended by Ordinance No. 312 adopted February 21, 1984; Section 615.02 amended by Ordinance No. 404 adopted February 16, 1993; Section 615.02(d) amended by Ordinance No. 413 adopted April 3, 1995; Section 615.05(a) amended by Ordinance No. 419 adopted September 18, 1995; Sections 625 and 625.01 and 625.06 amended by Ordinance No. 420 adopted December 21, 1995. 615.01 amended by Ordinance No. 541 adopted May 19, 2008. 615.09 amended by Ordinance No. 542 adopted May 19, 2008. Section 615.15 added by Ordinance 566 adopted July 6, 2010.)

616 NONINTOXICATING MALT LIQUOR

616.01 It shall be unlawful to sell nonintoxicating malt liquors at retail except when licensed as hereinafter provided. There shall be two types of licenses issued for the sale of non-intoxicating malt liquors, as hereinafter set out, namely:

- a. "On Sale" licenses shall permit the licensee for the sale of said non-intoxicating malt liquors to sell such for consumption on the premises. "On Sale" licenses shall be granted only to restaurants, hotels, drug stores, and bona fide clubs.
- b. "Off Sale" licenses shall permit the licensee of such non-intoxicating malt liquors to sell same in original packages for consumption off the premises only.

("Original package" as used herein shall mean the bottle or sealed container in which the liquor is placed at the place of manufacture.)

616.02 Any person desiring either of the licenses as hereinbefore described and shall first make an application therefore to the Council of the City of Glencoe by filing with the Clerk of said City for presentation by him to the council of an application in writing therefor, which said application shall set forth with reasonable accuracy the name, and place of residence of the applicant, the exact location of the place at which the applicant proposes to carry on the business of selling non-intoxicating malt liquors, and whether or not he has at any time previous to the date thereof been engaged in said business or in the business of selling foodstuffs in the City of Glencoe, and if so, when and where. Said application shall be signed by the applicant in person or by an officer of the club seeking said license or by an officer of the corporation seeking said license, and when received by the Clerk, shall be by him registered in a book of registration to be kept in the office of said Clerk for that purpose, provided, however, that said Clerk shall not receive such application or register the name of such applicant unless the application is accompanied by a receipt from the City Clerk provided for in the next section.

616.03 Before the filing of an application for either of the licenses hereinbefore provided for, the applicant shall deposit with the City Clerk the sum of one hundred and no/100 (\$100.00) dollars if the application is for an "On Sale" license, and the sum of fifty and no/100 (\$50.00) Dollars if the application is for an "Off Sale" license, and the said City Clerk shall thereupon deliver to such applicant duplicate receipts therefor, containing a statement of the purpose for which such deposit was made, and one of said receipts shall be attached to and filed with said application. Qualified non-profit organizations may obtain one day on-sale license for nonintoxicating malt liquor for a fee of \$25.00.

616.04 The applicant shall permit the officers of the Board of Health of said City as well as representatives of the Police Department and Fire Warden, to inspect and examine the place of business described in the application, together with all the appliances and instruments used or to be used in the transaction of the business for which the

license is sought, and any refusal on the part of such applicant to permit such inspection shall be deemed as sufficient ground upon which the Council shall refuse to issue the license applied for.

616.05 The City Clerk shall, upon receiving reports from the Board of Health, the Police Department and the Fire Warden, transmit the said reports together with his recommendations to the Council, which shall thereupon consider, the application and grant or deny the same.

616.06 It shall be unlawful to sell such non-intoxicating malt liquors to any minor.

616.07 Licenses herein provided for shall run for a period of one year from date of issuance.

616.08 Nothing herein contained shall be construed to prohibit the sale and delivery in original packages directed to the consumer by the manufacturer or distributor of non-intoxicating malt liquors. Any person violating the provisions of this act shall be guilty of a misdemeanor, punishable by a fine of not to exceed one hundred dollars (\$100.00) or by imprisonment in the county jail for a period not to exceed ninety days. (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

616.09 Any license granted hereunder may be revoked by the Council without notice to the grantee or a hearing may first be held by the Council and the revocation then made for cause. Any violation of provision or condition of this ordinance or any falsification of any statement in the application shall be grounds for revocation. No portion of the license fee paid into the city treasury shall be returned upon revocation.

616.10 No sales of non-intoxicating malt beverages shall be made between the hours of 1:00 a.m. and 8:00 o'clock a.m. on any day, nor on Sunday before 12:00 Noon or after 12:00 Midnight on Sunday night and it shall be unlawful for any license thereunder to permit or allow any non-intoxicating malt beverages to be consumed on the premises licensed between the hours of 1:30 o'clock a.m. and 8:00 o'clock a.m. of any day, nor on Sunday to be consumed before the hours of 12:00 noon; nor on Monday morning between the hours of 12:30 o'clock a.m. and 8:00 o'clock a.m.; nor shall any sales be made on any day prohibited by state statute.

616.11 It shall be unlawful for any licensee hereunder to permit or allow any person or persons to play cards or engage in any other game during the period of time as provided hereunder when the consumption of non-intoxicating malt beverage is not allowed.

(Source: Ordinance No. 84 adopted April 11, 1933; Sections 616.03 amended by Ordinance No. 231 adopted March 15, 1971; Section 616.06 amended by Ordinance No. 243 adopted July 16, 1973; Section 616.10 amended by Ordinance No. 312 adopted February 21, 1984 and Section 616.11 added by Ordinance No. 96 adopted May 6, 1940. Section 616.03 amended by Ordinance No. 432 adopted February 3, 1997.)

617 DISPLAY AND CONSUMPTION OF INTOXICATING LIQUOR LICENSES

617.01 Pursuant to authority granted by the legislature for the State of Minnesota, there is hereby established a city license fee for the display and consumption of intoxicating liquor by any bottle club or business establishment in the city limits of the City of Glencoe.

617.02 That the fee for said license shall be \$100, payable to the City Clerk, and may be renewed upon the first day of July, of each year. Accompanying said fee shall be a copy of the executed Application to the State Liquor Control Commissioner for the state permit to allow consumption or display of intoxicating liquor. Refund of the local license fee shall be made for all applications not approved by the City or the State Liquor Control Commissioner.

617.03 The fee required in Section 617.02 herein shall be increased to \$200 for all licenses granted or renewed in the calendar year 1979, and shall be increased to \$300 for all licenses granted or renewed in the calendar year 1980 and thereafter.

617.04 It shall be unlawful for any bottle club or any business establishment, directly or indirectly, or upon any pretense or by any device, to allow the consumption, display of intoxicating liquor or the serving of any liquid for the purpose of mixing an intoxicating liquor without having first complied with the provisions of Section 617.02 above.

617.05 All business establishments or bottle clubs having paid a local license fee to the City prior to the passage and publication of this ordinance shall be deemed to have complied with the provisions herein prior to the first renewal date after this ordinance becomes effective.

NOTE - (See Uniform Misdemeanor Violation penalties in General Regulations Section and also appropriate state statute.)

(**Source:** Ordinance No. 277 adopted January 3, 1978.)

618 WINE LICENSES

618.01 Pursuant to the authority of Minnesota Statutes 340A.404, Subd. 5, there is hereby authorized an on sale wine license to permit the sale by the glass or drink wine not exceeding 14% alcohol by volume for consumption on the licenses premises only in conjunction with the sale of food. Such licenses shall be issued only to "restaurants"

defined by Minnesota Statutes Section 340A.404, Subd. 5 which have facilities for the seating of not fewer than 25 guests at one time.

618.02 The fee for on sale wine licenses as authorized by this ordinance shall be \$150.00. All licenses shall be issued on an annual basis which annual term shall commence on the 1st day of the month next following the approval of such a license, including such approval by the Liquor Control Commission as required by statute. No license fees paid to the city shall be pro-rated or rebated, whether or not such license was used.

618.03 The on sale of wine as permitted by this ordinance may be sold at all hours and days permitted for the sale of intoxicating liquor as established by Code Section 615.05 and as may be amended from time to time. Sunday sales shall be permitted during the hours as permitted by Code Section 615.12 and as may be amended from time to time. Applications for such licenses, the granting of such license, the persons eligible for such license, the places ineligible for such licenses, and the conditions of such licenses shall all be controlled by Code Section 615.03, 615.04, 615.06, 615.07, 615.08, 615.09(A)(B)(D)(E)(G) and (H) and 615.11 particularly Section 3, Section 6, Section 7, Section 8, Subparagraphs a, b, d, e, g, and h of Section 9, and Section 11 which are hereby incorporated by reference.

618.04 Intoxicating Malt Liquors. A holder of an on sale wine license who is also licensed to sell 3.2 percent malt liquors at on sale and whose gross receipts are at least 60 percent attribute to the sale of food, may sell intoxicating malt liquors at on sale without any additional license from the City of Glencoe. The seller qualifying under this section shall submit proof to the City Council that not less than 60 percent of the gross sales from the establishment are from serving food. Upon request of the City Administrator, the seller shall submit a financial statement signed by an accountant that indicates the total gross sales of the establishment and the total food sales of the seller for the calendar year of fiscal year proceeding the date of the seller's license renewal application.

Section 2: Glencoe Municipal Code Section 618.05 shall be added to read as follows: Any violation of this ordinance shall constitute a misdemeanor offense.

Section 3: This ordinance shall take effect and be in force from and after its passage and publication.

(Source: Ordinance No. 319 adopted December 17, 1984. Sections 615.02(b), 615.07(a) and 618.01 amended by Ordinance No. 491 approved April 21, 2003, 618.04 amended by Ordinance No. 545 adopted October 20, 2008)

619.01 Notice of all applications for new non-intoxicating malt liquor licenses or new liquor licenses must be published for one week in the official newspaper of the City of Glencoe.

619.02 Notice of the new applications must appear on all City Council Agenda after the receipt of application until final action is taken on said applications.

619.03 The City Council shall take no action for or against said license applications for a period of at least 30 days after the receipt of said application.

619.04 The City shall, without waiver of any other rights it may have, also have the right to suspend non-intoxicating malt liquor licenses or liquor licenses for activities of the licensee, his employees or guests in violation of any City Ordinance or State Statute for a period not to exceed 90 days and the City shall provide such opportunities for hearings, protests or appeals as it deems appropriate.

(Source: Ordinance No. 671 adopted April 4, 1977.)

620 SOFT DRINKS

(Repealed by Ordinance No. 432 on February 3, 1997.)

625 TOBACCO PRODUCTS

625.01 Because the City recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and such sales, possession, and use are in violation of both State and Federal laws; and because studies have shown that most smokers begin smoking before they have reached the age of eighteen (18) years and that those persons who reach the age of eighteen (18) years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. §144.391.

625.02 Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

a. **TOBACCO OR TOBACCO PRODUCTS.** "Tobacco" or "Tobacco products" shall mean any substance or item containing tobacco leaf, including but not limited to cigarettes, cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots, stogies, perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers, cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse craps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

b. **TOBACCO-RELATED DEVICES.** "Tobacco-related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, snuffing, or smoking of tobacco or tobacco products.

c. **SELF-SERVICE MERCHANDISING.** "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person may have access to the tobacco, tobacco products or tobacco-related

devices, without the assistance or intervention of the licensee or licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

d. **VENDING MACHINE.** "Vending Machine" shall mean any mechanical, electric, or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

e. **INDIVIDUALLY PACKAGED.** "Individually packaged" shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

f. **LOOSIES.** "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

g. **MINOR.** "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

h. **RETAIL ESTABLISHMENT.** "Retail Establishment" shall mean any place of business where tobacco, tobacco products, or tobacco-related devices are available for sale to the general public. Retail establishment shall include, but not be limited to grocery stores, convenience stores, restaurants, bars, and liquor outlets.

i. **MOVABLE PLACE OF BUSINESS.** "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

j. **SALE.** A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

k. **COMPLIANCE CHECKS.** "Compliance Checks" shall mean the system McLeod County uses to investigate and ensure that those

unauthorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State or local laws and regulations relating to tobacco, tobacco products, and tobacco-related devices.

625.03 No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related device without first having obtained a license to do so from the City of Glencoe.

a. **APPLICATION.** An application for a license to sell tobacco, tobacco products, or tobacco-related device shall be made on a form provided by City of Glencoe. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, City of Glencoe shall determine whether the applicant is eligible for a license and forward the application to the City Council for actions at its next regularly scheduled board meeting. If the City determines that an application is incomplete, the application will be returned to the applicant with notice of the information necessary to make the application complete.

b. **ACTION.** The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Administrator 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 decision.

c. **TERM.** The term of all licenses issued hereunder shall be from January 1st to the following December 31 or any part thereof.

d. **REVOCAION OR SUSPENSION.** Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.

e. **TRANSFERS.** All licenses issued under the ordinance shall be

valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

f. **MOVEABLE PLACE OF BUSINESS.** No license shall be issued to a movable place of business. Only fixed location business shall be eligible to be licensed under this ordinance.

g. **DISPLAY.** All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

h. **RENEWALS.** The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least twenty (20) days but no more than sixty (60) days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

625.04 No license shall be issued under this ordinance until the appropriate license fees shall be paid in full. The fee for a license under this ordinance shall be \$25.00 per year, but in no case shall it exceed the cost of enforcement of this ordinance. The City Council may readjust the license fee by resolution as may be necessary. License fees shall not be prorated for a partial year.

625.05 The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City of Glencoe must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- a. The applicant is under the age of eighteen (18) years.
- b. The applicant has been convicted within the past five (5) years of any violation of a Federal, State, or local law, ordinance provision or other regulation relating to tobacco or tobacco products, or tobacco-related devices.
- c. The applicant has had a license to sell tobacco, tobacco products, or tobacco-related devices revoked within the preceding twelve (12) months of the date of application.
- d. The applicant fails to provide any information required on the application, or provides false or misleading information.

e. The applicant is prohibited by Federal, State or other local law, ordinance, or other regulation from holding such a license.

625.06 It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, or tobacco-related device:

a. Without first obtaining a license from the City of Glencoe.

b. To any person under the age of eighteen (18) years.

c. By means of any type of vending machine, except as may otherwise be provided in this ordinance.

d. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco-related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco-related device between the licensee or the licensee's employee, and the customer.

e. By means of loosies as defined in Article 2 of this Ordinance.

f. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

g. By any other means, to any other person, or in any other manner form prohibited by Federal, State or other local law, ordinance provision or other regulation.

625.07 It shall be unlawful for a person licensed under this ordinance to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishments.

625.08 It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers. Any retailer selling

tobacco, tobacco products, or tobacco-related devices at the time this ordinance is adopted shall comply with this Article within sixty (60) days.

625.09 All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco-related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City of Glencoe from also subjecting the clerk to whatever penalties are appropriate under this ordinance, State or Federal law, or other applicable law or regulation.

625.10 All licensed premises shall be open to inspection by the local law enforcement agencies or other authorized City of Glencoe official during business hours. From time to time, but at least once per year, the City of Glencoe shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purposes of compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, or tobacco-related devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Article 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.

Conducting compliance checks shall be the responsibility of the Police Department and Public Health Department, acting in concert. For all compliance checks, the supervising adult shall be a licensed peace officer. All minor participants shall receive training prior to engaging in compliance check activities. Transportation shall be provided by the supervising adult, or other adult employee of the City as designated by the Police Department. Participating minors shall be "volunteers" subject to receipt of a per diem payment in an amount established for other city boards and commissions.

625.11 Unless otherwise provided, the following acts shall be a violation of this ordinance.

a. **ILLEGAL SALES.** It shall be a violation of this ordinance for any person to sell, give, or otherwise provide any tobacco, tobacco

product, or tobacco-related device to any minor.

b. **ILLEGAL POSSESSION.** It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This Section shall not apply to minors lawfully involved in a compliance check.

c. **ILLEGAL USE.** It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.

d. **ILLEGAL PROCUREMENT.** It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This Section shall not apply to minors lawfully involved in a compliance check.

e. **USE OF FALSE IDENTIFICATION.** It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or 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.

625.12 a. **NOTICE.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator or his or her right to be heard on the accusation.

b. **HEARINGS.** If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

c. **HEARING PANEL.** The City of Glencoe shall serve as the panel.

d. **DECISION.** If the Panel determines that a violation of this ordinance did occur, that decision, along with the Panel reasons for finding a violation and the penalty to be imposed under Article 13 of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator.

e. **APPEALS.** Appeals of any decision made by the Panel shall be filed in

the District Court for the jurisdiction of McLeod County in which the alleged violation occurred.

f. MISDEMEANOR PROSECUTION. Nothing in this Article shall prohibit the City of Glencoe from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City of Glencoe elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

g. CONTINUED VIOLATION. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

625.13 a. NON-LICENSED PERSONA/RETAIL ESTABLISHMENTS. Non-licensed persona/retail establishments found to have sold any tobacco, tobacco product or tobacco-related device to a person without obtaining a license shall be charged an administrative fee of one hundred fifty dollars (\$150.00).

b. LICENSEES. Any licensee found to that violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of seventy-five dollars (\$75.00) for a first violation of this ordinance; two hundred dollars (\$200.00) for a second offense at the same licensed premises within a twenty-four (24) month period; and two hundred fifty dollars (\$250.00) for a third or subsequent offense at the same location within a twenty-four (24) month period. In addition, after the third offense, the license shall be suspended for not less than seven (7) days.

c. OTHER INDIVIDUALS. Other individuals, other than minors regulated by Section 13.30 of this Article, found to be in violation of this ordinance shall be charged an administrative fee of fifty dollars (\$50.00).

d. MINORS. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices, shall be:

1. First time offense. Be referred to a diversion program operated by the County of McLeod.

2. Second time offense. Be petitioned or ticketed into juvenile court as a petty offender, and receive any disposition authorized by law for petty offenders.

e. MISDEMEANOR. Nothing in this Article shall prohibit the City of Glencoe from seeking prosecution as a misdemeanor for any violation of this ordinance.

625.14 Nothing in this ordinance shall prevent the providing of tobacco, tobacco products,

or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

625.15 If any session or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability of any other Article or provision of this ordinance.

Source: Ordinance No. 105 adopted January 5, 1942. Chapter 625, Sections 625.01, 625.06 amended by Ordinance No. 420 adopted December 18, 1995. Section 620 repealed by Ordinance No. 432 adopted February 3, 1997. Section 625.03 amended by Ordinance No. 432 adopted February 3, 1997. Section 625 amended by Ordinance No. 446 adopted May 4, 1998.