

CHAPTER 112: LIQUOR REGULATIONS

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INTOXICATING LIQUOR

SECTION 112.01 PROVISION OF STATE LAW ADOPTED.

The provisions of Minn. Stat. Chap. 340A, with reference to the definition of terms, applications for licenses, granting of licenses, conditions of licenses, restrictions on consumption, provisions on sales, conditions of bonds of licensees, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are hereby adopted and made a part of this Section as if fully set out herein, unless the terms and provisions as hereinafter set forth are more restrictive than those of Minn. Stat. 340A. If in that event, the more restrictive Section provision shall control.

SECTION 112.02 DEFINITIONS.

For the purposes of this Chapter, the definitions found in MN Stat. Chap. 340A, shall apply.

SECTION 112.03 LICENSE REQUIRED.

No person, except in wholesale or manufacture to the extent authorized under state license, shall directly or indirectly, upon any pretense or by any device, import, sell, exchange, barter, dispose of or keep for sale any intoxicating liquor at retail without first having obtained a license therefor as hereinafter provided. However, nothing herein shall prohibit the fermentation of fruit juices in the home for family use. Intoxicating Liquor Licenses shall be of four kinds:

"On Sale" Licenses. "On Sale" licenses may be granted only to bars, hotels, motels, bowling centers, clubs and restaurants and shall permit the consumption of liquor on the

premises only. The number of "on sale" liquor licenses shall not exceed the maximum number of licenses as provided for by the laws of the State of Minnesota.

"Sunday Sale" Licenses. "Sunday Sale" licenses may be granted only to hotels, motels, bowling centers, clubs and restaurants that have an on-sale liquor license and facilities for serving not less than 30 guests at one time. No liquor shall be served on Sundays other than to persons in those types of hotels, motels or restaurants which qualify and have been issued a valid license for the "Sunday Sale" license. "Sunday Sale" licenses shall permit the sale and consumption of intoxicating liquors on the licensed premise only. Hours of operation shall be from 10:00 a.m. to 12:00 Midnight on Sunday; except in those instances when New Year's Eve or the 4th of July fall on a Sunday, when the hours of operation will be from 10:00 a.m. on Sunday to 1:00 a.m. on Monday.

"On Sale - Wine". "On sale - wine" licenses may be issued only to establishments meeting the qualifications of Minn. Stat., Chap. 340A. A wine license allows the sale of wine not exceeding 14% alcohol by volume for consumption on the premises only and in conjunction with the sale of food. The City may allow a business with both a wine license and a 3.2 malt liquor license (see beer licensing regulations hereafter) to sell intoxicating malt liquor (strong beer) without another license if the business has gross receipts that are at least 60% attributable to the sale of food.

"Off Sale" Licenses. "Off sale" licenses shall be granted to permit the sale of liquor at retail in the original package for consumption off the premises only.

SECTION 112.04 APPLICATION.

(A) Application. Every person desiring a license for an On Sale, Sunday, On Sale - Wine, or Off Sale license shall file a verified application with the City Clerk, in the form to be prescribed by the State of Minnesota, and with such additional information as the Council may require.

(B) Liability Insurance Policy. No liquor license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Stat. 340A.409. Liability limits shall be at least the minimum prescribed by State law. The policy shall specifically provide for the payment by the insurance company on behalf of the insured, of all sums which the insured shall become obligated to pay by reason of liability imposed upon it by law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Minn. Stat. 340A.801. Such liability insurance policy shall further provide that no cancellation of the same for any cause, can be made either by the insured or the insurance company without first giving ten days notice to the City, in writing of intention to cancel the same, addressed to the City Clerk. The operation of an intoxicating liquor business without having on file at all times with the City the liability insurance policy herein referred to, shall be grounds for immediate revocation of the license. 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.

(C) False Statements. It is unlawful to make any false statement or representation in any application or in information furnished for a license, and it shall be grounds for revocation of said license.

SECTION 112.05 FEES.

All applications for licenses shall be accompanied by a receipt from the City Treasurer for the required annual fee or installment due for the respective license as set out in the Ordinance Establishing Fees and Charges adopted pursuant this code, as that ordinance may be amended from time to time. Upon rejection of any application for a license, the City shall refund the amount paid and the cash deposit of the applicant shall be returned to the applicant.

SECTION 112.06 LICENSE EXPIRATION.

All licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other provisions of this Code and to all regulations promulgated by the Minnesota State Liquor Control Commissioner applicable thereto and the laws of Minnesota regulatory thereof. All licenses shall be granted by the Council, subject to the approval of the Commissioner of Public Safety and shall not become effective until so approved. All licenses shall expire on the last day of July in each year.

(Ordinance 344, 6-1-15)

SECTION 112.07 CONDITIONS OF LICENSE SPECIFIED.

All licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other provisions of this Code and to all regulations promulgated by the Minnesota State Liquor Control Commissioner applicable thereto and the laws of Minnesota regulatory thereof. All Licenses shall be granted by the Council, subject to the approval of the Commissioner of Public Safety and shall not become effective until so approved.

(A) Licensee Responsible for Conduct. Every licensee shall be responsible for the conduct in the licensee's place of business and the conditions of sobriety and order within the building premises and upon all parking areas immediately adjacent to the building premises and commonly used in connection with the licensee's business. No "on sale" licensee shall sell any liquor by the bottle or container for removal from the building premises in which the licensee does business. No "on sale" or "off sale" licensee shall permit the consumption of alcoholic beverages outside such building premises and upon the immediately adjacent parking areas commonly used in connection with the licensee's business. No "off sale" licensee shall permit the consumption of alcoholic beverages within the licensed building premises.

(B) Consumption on Premises. No "off sale" license shall be issued for any place where non-intoxicating malt beverages shall be sold for consumption on the premises, unless an "on sale" license is also issued in connection with said premises.

(C) Minn. Stat. 340A.503 and Amendments Conformity Required. No liquor shall be sold, given, bartered, furnished, delivered or disposed of to any person to whom such activities are prohibited by Minn. Stat. 340A.503, or any amendments thereto. No liquor license shall be granted to any person who has not attained the minimum lawful drinking age specified in Minn. Stat. 340A.503, and no such person shall be employed in any rooms constituting the place in which intoxicating liquors are sold retail at "on sale," except that persons under such age may be employed to perform the duties of waitress/waiter in bars, restaurants or hotels/motels, a busboy or dishwashing service in restaurants or hotels/motels serving food in rooms in which intoxicating liquors are sold at retail "on sale."

(D) Gambling devices or Apparatus and Disorderly Persons Prohibited. No licensee shall keep, possess or operate, or permit the keeping, possession or operation of, on the premises, or in any room adjoining the licensed premises controlled by the licensee, any slot machine, dice or other gambling device or apparatus, nor permit any gambling therein, except as is provided in Minn. Stat. 340A.410, Subd. 5, and authorized by Minn. Stat. Chapters 349 and 349A. Nor shall the licensee permit the licensed premises or any room in the same or in any adjoining building directly or indirectly under his or her control, to be used as a resort for other disorderly persons.

(E) Personal Requirements of License. No license shall be issued to any person not a citizen of the United States or a resident alien, and who shall not be of good moral character and repute; nor to any person who within five years of the license application has been convicted of any willful violation of any law of the United States or the State of Minnesota constituting a felony or gross misdemeanor, of any local Section with regard to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor; nor to any person whose license under this Section has been revoked for any willful violation of any such laws or sections.

(F) Persons Prohibited From Being Licensed. No license shall be granted to any manufacturer of intoxicating liquor, nor to anyone interested in the ownership or operation of any such place, nor to a person operating a licensed place owned by a manufacturer or exclusive wholesale distributing agent; and no equipment or fixture in any licensed place shall be owned in whole or in part by any such manufacturer or distiller.

(G) Number of Licenses Allowed. Not more than one license of either class shall be granted to one person, one corporation or one management.

(H) Delinquent Taxes or Assessments. No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent and unpaid.

(I) Inspection of Premises. All premises where any license hereunder is granted shall be open to inspection by any police or health officer or other properly designated officer or employee of the City at any time during which the licensed premises is open to the public for business or any other reasonable time. Any refusal to allow an inspection

as above defined shall constitute grounds for suspension or revocation of license.

(J) Proximity to Churches or Schools. No license hereunder shall be granted for any establishment whose building is within a radius of four hundred (400) feet of any school or church building (said radius to be measured directly from building to building); provided, however, that nothing in this paragraph shall prohibit the issuance, renewal or transfer of a license, or licenses, for the sale of intoxicating liquors on or in premises in connection with which and for which a license, or licenses, for the sale of intoxicating liquors is in effect at any time in which an application for a building permit for the construction of any school or church is initially made.

(K) Licensee Liability for Employees. The act of any employee of the licensee authorized to sell or serve intoxicating liquor shall be deemed the act of the licensee as well, and the licensee shall be subject to all penalties provided by this Section, as well as the employee.

(L) Liquor Liability and Public Liability Insurance Required. Each licensee shall maintain liquor liability (Dram Shop) and public liability insurance covering any incident that might arise from operation under the license with at least minimum coverages required by State law. Each licensee shall also comply with the provision of Minn. Stat. 340A.409. The City shall be named as an additional insured to whatever extent it might become liable or involved, and a certificate of insurance shall be filed with the City Clerk before any license shall be granted or renewed. Failure to maintain such insurance, failure to file a valid certificate of insurance with the City Clerk, allowing lap of insurance, or failure to notify the City of any cancellation or other discontinuance of this insurance requirement shall be grounds for revocation or suspension of the license. No sales of liquor are permitted under any circumstances when the insurance hereinbefore described has lapsed or a valid certificate of insurance has not been filed with the City Clerk. No hearing or other procedures are necessary prior to enforcement of this section by the City and its police department.

(M) "Sunday Sales" License Conditions. Every "Sunday sales" license shall be granted subject to the same conditions as respects as "on sale" license, subject to all applicable regulations promulgated by the Commissioner of Public Safety, subject to the provisions of Minn. Stat. 340A.504.

(N) Transferring and Posting of License. A license may not be transferred or assigned to another person or premises without the consent of the Council and shall be posted in a conspicuous place in the premises for which it is issued.

(O) Building Conformity. In any place licensed for sale of intoxicating liquor, the type of place of building shall conform strictly with the state laws, as to bars, partitions, boxes, booths, panels, screens, etc.

SECTION 112.08 HOURS AND DAYS OF OPERATION.

(A) Minn. Stat. 340A.504 and Amendments Conformity Required. No sale of intoxicating liquor shall be made during the dates and times for which such sales are

prohibited by Minn. Stat. 340A.504. During such prohibited dates and times, all entrances and exits of such establishments shall be securely locked and no person or persons shall be allowed to be or remain within any room, place or premises where intoxicating liquor is permitted to be sold for any purpose whatsoever, except that the licensee, his or her agents or employees may be and remain therein for the purpose only of cleaning, preparation of meals, necessary repairs or maintenance, bookkeeping or for the purpose of acting as watchmen.

(B) All liquor establishments are permitted to sell liquor in accordance with Minnesota State law during the broadest possible range of hours and days permitted by State law. This ordinance shall be deemed to permit sales during any and all days and during all hours allowed by Minnesota State law, provided such sales are made in conformity with all other regulations and laws that apply to said sales.

SECTION 112.09 RESTRICTION ON CONSUMPTION.

(A) Sale or Consumption on Public Thoroughfare or In Vehicle Prohibited. No liquor shall be sold or consumed on a public highway, street, or thoroughfare, or in any vehicle, regardless of whether the vehicle is located on public or private property.

(B) "On Sale" License Required for Preparing Liquor for Consumption in Public Place. It shall be unlawful for any person or persons to mix or prepare liquor for consumption in any public place or place of business where no "on sale" license is held, or to consume liquor in such places.

(C) Room Service of Liquor. No sale of intoxicating liquor shall be made to or in guest rooms of hotels and motels, unless the rules of such hotel or motel provide for the service of meals in guest rooms.

SECTION 112.10 REVOCATION, CONSTRUCTION AND PENALTY.

(A) Suspension or Revocation. Any license granted under this Section may be suspended for up to 60 days or revoked upon a finding that the license holder has failed to comply with any applicable statute, regulation or section of this Code relating to intoxicating liquor or made a false statement in the application. No suspension or revocation shall take effect until the license holder has been afforded an opportunity for a hearing pursuant to Minn. Stat. 14.57 to 14.70. Except in the case of lapse of insurance, in which case the right to sell liquor shall immediately cease as provided herein.

(B) License Fee Refund. No portion of the license fee shall be refunded upon revocation or suspension. The City Council at its discretion may determine up to 50% of the license fee to be refunded upon sale of the business, cessation of business operations, transfer or assignment of the business premises, or other circumstances in which the license holder ceases to do business.

(Ordinance 344, 6-1-15)

SECTION 112.11 OFFSALE LIQUOR DELIVERY

(A) Prohibition. No off-sale establishment licensed under the City of Annandale shall deliver or permit any employee to deliver any alcoholic beverages if:

- (1) The licensee has not provided notice of delivery service to the license issuing authority. Annual notice is required at the time of license renewal; and
- (2) The delivery driver is under the age of 21 years of age; and
- (3) It cannot be determined that the person receiving such beverage is of legal age to purchase and consume alcoholic beverages under MS §340A.503; and
- (4) The order was not taken in person or by phone at the establishment licensed by the City of Annandale. Orders placed over the internet or by text or email do not constitute “in person or by phone” orders; and
- (5) Delivery is to a place where display and/or consumption of alcoholic beverages is prohibited.

(B) Records Required. Off sale establishments are required to obtain an invoice signed by the person receiving such alcoholic beverage(s). The invoice shall state the names and addresses of the seller and person receiving the delivery, the quantity, size and brand of the alcoholic beverage(s) delivered, and the time, date, and place of delivery. The invoice shall be kept by the off-sale licensee for a period of one (1) year and shall be made available for inspection by the license issuing authority and the Annandale Police Department.

(C) Times of Delivery. No off-sale licensee shall deliver or permit any employee to deliver to a residential address:

1. between 10:00 p.m. and 8:00 a.m.; and

(D) Suspension or Revocation of Delivery. The City may suspend or revoke the licensee’s delivery services for violations of any requirements of this Chapter or violations of Minnesota Statutes Chapter 340a as amended.

(Ordinance 338, 8-5-13)

BEER LICENSING

SECTION 112.20 DEFINITIONS.

For purposes of this Chapter, the definitions found in MN Stat. Chap. 340A, shall apply.

SECTION 112.21 LICENSE REQUIRED.

No person may sell, vend, deal in or dispose of, or keep for sale, any beer within the corporate limits of the City without an appropriate license. Licenses may be of two kinds: on-sale and off-sale.

On-Sale. Retail on-sale licenses will permit the licensee to sell beer for consumption on the licensed premises only. Annual on-sale licenses will be granted only to bona fide clubs, bowling alleys, hotels and restaurants. A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the sale of beer for a specified day or number of days during a year.

Off-Sale. Retail off-sale licenses will permit the licensee to sell beer in original packages for consumption off the premises only.

SECTION 112.22 LICENSE APPLICATION.

(A) Form. An application for an annual license will include the name of the applicant, applicant's age, representations as to applicant's character with such references as may be required, citizenship status, the address and legal description of the premises to be licensed, the names of the owner of the premises and operator of the business, the period applicant has been in business at such location, and such other information as the Council may require. It is unlawful to make any false statement in the application, and shall be grounds for revocation of said license.

(B) Temporary License. An application for a temporary license will include the name of the applicant, the address of the headquarters of the organization, the location of the premises to be licensed, the dates for which the license is being requested, and such other information as the Council may require.

(C) Proof of Financial Responsibility. Before the issuance of a beer license, the applicant must demonstrate proof of financial responsibility as defined in Minn. Stat. 340A.409, with reference to liability under the statutes, 340A.801. Such proof will be filed with the Commissioner of Commerce except that if a license involves sales of beer of a prospective vendor who is not required by law to file such proof with the Commissioner of Commerce, such proof will be filed with the Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision must conform to Minn. Stat. 340A.409.

(D) Approval of Security. Liability insurance policies required by this Section, but not by state law, will be approved as to form by the City Attorney. There shall be no operation of a business licensed by this Section without having on file with the State Commissioner of Commerce or the City at all times, effective security as required herein, lapse of insurance or failure to file required proof of insurance shall be grounds of immediate revocation of said license and no hearing for the procedures are required.

SECTION 112.23 LICENSE FEES.

(A) Full Payment Required. Each application for a license shall be accompanied by a receipt from the City treasurer for payment in full of the required fee for the license. Upon rejection of any application for a license, the treasurer or Administrator shall refund the amount paid.

(B) Expiration. All licenses shall expire on the last day of July in each year. Each license shall be issued for period of one (1) year, except that if the portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(Ordinance 344, 6-1-15)

(C) On Sale Fee. The annual fee for an "On Sale" license shall be in an amount established in the Ordinance Establishing Fees and Charges, adopted pursuant to this code, as that ordinance may be amended from time to time.

(D) Off Sale Fee. The annual fee for an "Off Sale" license shall be in an amount established in the Ordinance Establishing Fees and Charges, adopted pursuant to this code, as that ordinance may be amended from time to time.

SECTION 112.24 GRANTING OF LICENSES.

(A) Investigation. The Council will investigate the facts included in the application. After investigation, the Council will grant or deny the application in its discretion. Opportunity will be given to any person to be heard for or against the granting of the license.

(B) Transfers. Each license will be issued to the applicant only and will be issued for the premises described in the application. The license may not be transferred to another person or to other premises.

SECTION 112.25 PERSONS INELIGIBLE FOR A LICENSE.

No license will be granted to or held by any person who:

(A) Is under 21 years of age.

(B) Within five years of the license application, has been convicted of a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

(C) Is a manufacturer of beer or is interested in the control of any place where beer is manufactured. A manufacturer of beer may without a license from the City sell beer to licensed dealers holding either on-sale or off-sale licenses.

(D) Is not a citizen of the United States or a resident/alien, or a citizen of the City.

(E) Is not of good moral character.

(F) Is, or during the period of the license becomes, the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor.

(G) Is not the proprietor of the establishment for which the license is issued.

SECTION 112.26 ELIGIBILITY FOR TEMPORARY LICENSES.

Temporary licenses may be issued to organizations referred to in Minn. Stat. 340A.403.

SECTION 112.27 PLACES INELIGIBLE FOR A LICENSE.

No license will be granted for sale on any premises where a licensee has been convicted of the violation of this Code, or of the State beer or liquor laws, or where any license under this Section has been revoked for cause until one year has elapsed after such conviction or revocation.

SECTION 112.28 CONDITIONS OF LICENSE.

Every license will be granted subject to the conditions in the following subdivisions and all other provisions of this Code and of any other provision of the City or State law:

(A) Insurance. Compliance with financial responsibility requirements of State law and of this Section is a continuing condition of any license granted pursuant to this Section.

(B) Inspections. All premises licensed under this Section will be open to inspection by any police or other properly designated officer or employee of the City at any time during which the licensed premises are open to the public.

(C) Gambling. No gambling, or any gambling device prohibited by law, is permitted in any licensed premises, except as provided for in Minn. Stat. 340A.410, Subd. 5 and authorized by Minn. Stat. Chaps. 349 and 349A.

(D) Display. All licenses issued under this Section will be posted in a conspicuous place on the licensed premises at all times.

(E) Intoxicating Liquor. It is the duty of every licensee to prevent the consumption of intoxicating liquor on the licensed premises. Any licensee who knowingly permits intoxicating liquor to be consumed on the licensed premises may have his or her license revoked by the Council.

(F) Intoxicated Person. No beer shall be sold or served to any intoxicated person

or to any person under 21 years of age.

(G) Employees Under Age 21. No minor under 21 shall be employed to sell or serve beer in any "on sale" establishment, except as authorized by state law. Employees under the age of 21 may be employed at establishments that sell beer on an off-sale basis, in accordance with State law.

(H) Sale or Consumption of Intoxicating Liquor. No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquors. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this Section.

(I) Licensee Responsible for Conduct. Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.

SECTION 112.29 HOURS AND DAYS OF OPERATION.

Hours and days of operation shall be the maximum permitted by State law.

No beer may be sold, served, consumed, or may remain available for consumption, within premises licensed under this Section for on-sale at any time the sale of beer is not permitted under this section.

SECTION 112.30 BEER SALES BY CLUBS.

No club shall sell beer except to members and to guests in the company of members.

SECTION 112.31 VIOLATIONS.

It is unlawful for any:

(A) Licensee or his or her employee to sell or serve beer to any person under the age of 21 years or to permit any person under the age of 21 years to consume beer on the licensed premises, unless with a parent or guardian, or as otherwise provided by Minnesota State law.

(B) Person other than the parent or legal guardian to procure beer for any person under the age of 21 years.

(C) Person to induce a person under the age of 21 years to purchase or procure beer.

(D) Person under the age of 21 years to misrepresent his or her age for the purpose of obtaining beer.

(E) Person under the age of 21 years to consume any beer unless in the company of his or her parent or guardian.

(F) Person under the age of 21 years to have in his or her possession any beer, with intent to consume it at a place other than the household of the person's parent or guardian. Possession of such beer at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

(G) Person to consume beer or intoxicating liquor in any theater, recreation hall or center, dance hall, ball park or other place of public gathering for the purpose of entertainment, amusement or playing of games, except that spectators may consume beer in the bleachers at the ball park within 50' of the park pavilion for events associated with use of the park pavilion.

SECTION 112.32 REVOCATION.

The violation of any provisions or conditions of this Section by a beer licensee or agent shall be grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. Lapse of insurance or failure to keep on file with the City Clerk valid proof of insurance shall be grounds for suspension of license without notice or hearing. In all other cases, a license granted under this Section may be revoked or suspended by the Council after a hearing held pursuant to Minn. Stat. Sec. 14.57 to 14.70.

BREWERY LICENSES

SECTION 112.40 BREWER TAPROOM LICENSE.

It is unlawful for a brewer or distiller, to sell on-sale malt liquor or spirits without a license therefore from the City. Annual on-sale brewer taproom or micro-distillery cocktail room licenses may be issued only to brewers or distillers who meet the requirements of this section.

(A) A brewer taproom or a micro-distillery cocktail room license authorizes on-sale of malt liquor or spirits (respectively) produced by the brewer or distiller for consumption on the premises of or adjacent to one brewery or micro-distillery location owned by the brewer or distiller.

(B) A brewer or distiller may only have a total of one license for a brewer taproom or micro-distillery cocktail room.

(C) Licensed brewer taprooms or micro-distillery cocktail rooms may operate a restaurant on the premises without additional licensure.

(D) A brewer taproom or micro-distillery/cocktail room license may not be issued to a brewer or distiller if the brewer or distiller, or any person having an economic interest in the brewery or micro-distillery seeking the license or exercising control over the brewery or distillery seeking the license, brews more than 250,000 barrels of malt liquor annually, distills more than 40,000 proof gallons annually or produces more than 250,000 gallons of wine annually.

(Ordinance 341, 4-7-14 & Ordinance 369, 6-3-19)

SECTION 112.41 BREWER'S OFF-SALE LICENSE

The Council may issue a license for the off-sale of malt liquor to a brewer located within city limits. No more than two (2) licenses shall be issued under this Section. Applicants for the off-sale license must meet the following requirements:

- (A) be a licensed by the State of Minnesota as a manufacturer or wholesaler under Minn. Stat. 340A.301, Subd. 1, as amended;
- (B) manufacture fewer than 3,500 barrels of malt liquor in one year at any one licensed premises; or hold an on-sale restaurant license issued by the City; and
- (C) obtain the consent of the Commissioner of Public Safety to hold an off-sale license.

The off-sale licensee shall be subject to the following restrictions

- (A) off-sale shall be limited to 64 oz. containers known as "growlers" of malt liquor produced and packaged on the licensed premises which have been labeled and sealed in accordance with statutory specifications;
- (B) off-sale may not exceed 500 barrels per year;
- (C) total of on-sale and off-sale by the Brewer's Off-Sale license holder cannot exceed 3500 barrels per year;
- (D) off-sale hours shall be limited to the hours of operation set forth in Section 112.29.

It is unlawful for any brewer to sell malt liquor in violation of this Section.

(Ordinance 341, 4-7-14)

CLUB AND SET-UP LICENSES

SECTION 112.50 PURPOSE.

This Section is intended to regulate the consumption and display of liquor and prescribe the procedures and fees for the granting of licenses for the consumption and

display of liquor to clubs and public places.

SECTION 112.51 DEFINITIONS.

For the purposes of this Chapter, the definitions found in MN Stat. Chap. 340A, shall apply.

SECTION 112.52 ELIGIBILITY FOR ON-SALE LICENSE; THREE-TWO LICENSE; SET-UP LICENSE.

A club, as above defined, and in compliance with the provisions of this Code and Minn. Stat., Chap. 340A, as amended, may be issued an on-sale intoxicating liquor license by the Council for a one-year term. A club may also be issued a three-two license by the Council for a one-year term. A club, as above defined and in compliance with Minn. Stat. 340A.414, as amended, may be issued a permit for a set-up license (to be issued by the Department of Public Safety in accordance with said statute) for a one-year term by the Council.

SECTION 112.53 LICENSE APPLICATION.

The proper officers of the club shall file a verified and authorized license application in the form prescribed by the Department of Public Safety and with such additional information as the Council may require.

(A) If a club makes application for an on-sale license to sell intoxicating liquors or a three-two license, the approval of the application by the Council is subject to and conditioned upon full compliance with all applicable provisions governing approval of such applications under the provisions of this Code and Minn. Stat., Chap. 340A.

(B) If a club makes application for a set-up license, the approval of the application by the Council is subject to and conditioned upon full compliance with all applicable provisions governing approval of such applications under Minn. Stat., Chap. 340A. Following approval of such application by the Council, the City Clerk shall forward the approved application to the Commissioner of Public Safety for issuance of the permit as soon as is practicable.

SECTION 112.54 LIMITATIONS OF LIQUOR CONSUMPTION AND DISPLAY AND ON FURNISHING SET-UPS.

(A) Private Residence or Authorized Establishment. No person shall consume or display or allow the consumption or display of liquor or furnish set-ups or allow the furnishing of set-ups at any place within the City except (a) a private residence or (b) an establishment having a license or permit and maintaining the conditions set forth in this Section.

(B) Conformance to Law and Code Required. The furnishing of set-ups and the

consumption and display of liquor at any establishment having a permit shall be subject to the provisions of this Section and other applicable law.

(C) Hours. No person shall consume or display, or allow the consumption or display of liquor or furnish set-ups or allow the furnishing of set-ups, at any time prohibited by State law. The hours and days of operation shall be the same as for on-sale liquor establishments governed by this ordinance.

SECTION 112.55 RESTRICTION ON APPROVING PERMITS.

No officer or employee of the City shall sign any letter or other document expressing local approval of an application for a state consumption and display permit, or in any other manner express or convey the impression that such approval has been given, until he or she has been authorized by a resolution passed by a majority of the Council authorizing him or her to do so.

SECTION 112.56 REQUIRED CONDITIONS FOR FURNISHING SET-UPS AND FOR THE DISPLAY OR CONSUMPTION OF LIQUOR.

The conditions required under Section 112.54 are those set forth in this Subsection.

- (A) The premises must have a state consumption and display permit.
- (B) The premises are zoned commercial.
- (C) The premises are not within 200 feet of any church or school.
- (D) The establishment is a restaurant or has a restaurant as part of its facilities.
- (E) If a private club, the club has no members who are minors.
- (F) The City's fee has been tendered.
- (G) The person having the permit, or seeking the permit, has not been convicted of a felony.
- (H) The person having or seeking the permit has not been convicted of willfully violating the sections of this Code relating to the sale, consumption or display of liquor.

SECTION 112.57 LIMITATIONS WHERE PERMITS HAVE BEEN GRANTED.

(A) Person Storing Liquor on Premises. An establishment holding a Consumption and Display License shall be permitted to allow its patrons to bring and keep a personal supply of intoxicating liquor in lockers on the premises. All bottles kept on the premises must have attached to it a label signed by the patron. No person under 21 years of age may bring or keep a supply of intoxicating liquor on the premises.

(B) Minor Accompanied by Adult. No person under 21 years of age shall remain or be allowed to remain at a public place or private club having a permit unless accompanied by an adult.

(C) Inspection of Premises. Any establishment having a permit shall be kept open for inspection at all times by the law enforcement officers of the City. No person shall refuse to permit the law enforcement officers of the City to enter and inspect the premises for which a permit has been granted.

SECTION 112.58 FEE.

The City's fee for the operation of a private club or public place having consumption and display permit shall be established by the Ordinance Establishing Fees and Charges adopted pursuant to this code, as that ordinance may be amended from time to time.

SECTION 112.59 REPORT OF VIOLATIONS.

The City Administrator shall notify the liquor control commissioner of any violation of the provisions of this Section.

SECTION 112.60 CONDITIONS FOR MAINTAINING LICENSE.

(A) Full Compliance to Applicable Laws Required. A licensed club must continue to comply with all applicable provisions of this Code and the laws of the State of Minnesota regarding the particular type or types of license or permit held by such club.

(B) Restrictions as to Persons. In addition to the requirement stated immediately above, the following conditions must be met by any club licensee:

- (1) Licensed premises shall have the license posted in a conspicuous place on the premises at all times.
- (2) No club license shall be transferable as to premises without the prior approval of the Council.
- (3) Sales of intoxicating liquors, non-intoxicating liquors or set-ups under the appropriate club license are restricted to members of the club which holds the license or permit and their guests.
- (4) The premises taxes or assessments, or other financial claims of the City, are delinquent and unpaid.

SECTION 112.61 REVOCATION.

The violation of any provisions or condition of this Section or Minnesota law by a licensee or agent shall be grounds for revocation or suspension of the license. A license granted under this Section may be revoked or suspended by the Council after written

notice to the grantee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may suspend any license pending a hearing.

CONSUMPTION OF LIQUOR ON PUBLIC LAND

SECTION 112.70 PURPOSE.

This Section is intended to prohibit the consumption of intoxicating liquor and non-intoxicating malt liquor on any public land within the City.

SECTION 112.71 DEFINITION.

Unless the context otherwise indicates, the following terms have the meanings stated:

***Intoxicating Liquor* or *Liquor*.** Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

***Non-intoxicating Malt Liquor* or *Beer*.** Any malt liquor containing not less than 0.5 percent alcohol by volume nor more than 3.2 percent alcohol by weight.

***Public Place*.** Any land owned by any governmental unit or over which any governmental unit has easement, including but not limited to streets, alleys, sidewalks, parks and parking areas.

***Open bottle*.** Any bottle or receptacle containing intoxicating liquor or non-intoxicating malt liquor except such original container, bottle or receptacle which seal has never been broken or opened. Any glass or other receptacle of whatever composition into which intoxicating liquor or non-intoxicating malt liquor has been poured and is contained is an open bottle.

SECTION 112.72 VIOLATIONS.

(A) Specified Places Prohibited. No person shall drink intoxicating liquor or non-intoxicating malt liquor on any public place within the City, nor in any motorized vehicle or any passenger carrying appurtenance attached thereto, including but not limited to trailers or campers attached to pick-up trucks or any other type of motorized vehicle while such vehicle is on a public place; except that beer and wine may be consumed by spectators in the bleachers at the ball park in the park and at the pavilion in the park.

(B) Open Bottle Prohibitions. No person shall have in his/her possession, or on his/her person any bottle or receptacle containing intoxicating liquor or non-intoxicating malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed while on any public place within the City; except that beer and wine may be consumed by spectators in the bleachers at the ball park in the park and

within 50' of the park pavilion for events associated with use of the park pavilion.

SECTION 112.73 SPECIAL PERMIT.

(A) Time Period. The Council may issue a special permit not to exceed 30 days waiving any provisions of Section 112.72 of this ordinance when it deems such waivers to be the interest of the public welfare and safety.

(B) Permit Conditions. Such permit shall describe with specificity the conditions under which the permit is issued and shall include the following information:

(1) The public place to which the permit pertains.

(2) The person or persons to whom the permit is issued.

(3) Any other conditions or restrictions that the Council deems necessary to adequately provide for the public welfare and safety, including restrictions relative to the type of beverage that may be consumed and the hours during which such beverage may be consumed.

(C) Permit Violation. Any violation of the conditions imposed on the permit shall be cause for the automatic revocation of the permit.

PROHIBITED CONDUCT IN LICENSED PREMISES

SECTION 112.80 PROHIBITED CONDUCT SPECIFIED.

The following acts or conduct are deemed contrary to public welfare and morals and are prohibited in premises licensed to sell intoxicating liquor or non-intoxicating malt liquor, or in premises licensed for the consumption and display of intoxicating liquor.

(A) To employ or use any person in the sale or service of food or beverages in or upon the premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(B) To employ or use the services of any hostess or dancer or entertainer or any other person while such person is unclothed or in such attire, costume or clothing as described in paragraph (a) above.

(C) To encourage or permit any person on the premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

(D) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(E) To permit any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus.

(F) To permit the showing of film, still pictures, electronic reproduction or other visual reproductions depicting:

- (1) Acts or Simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (2) Any person being caressed or fondled on the exposed breast, buttocks, anus or genitals.
- (3) Scenes wherein a person displays the vulva or the anus or the genitals.
- (4) Scene wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

SECTION 112.81 PENALTIES.

In addition to being guilty of a misdemeanor and/or subject to the penalties outlined in Section 10.99 of this code, violators of the provisions of this Section may be subject to revocation or suspension of their permits or licenses relating to any premises wherein any violations of this Section occur.