



**CITY OF NEWPORT  
COUNCIL WORKSHOP MEETING  
NEWPORT CITY HALL**

**APRIL 3, 2014**

**IMMEDIATELY FOLLOWING THE REGULAR CITY COUNCIL MEETING**

MAYOR: Tim Geraghty  
COUNCIL: Tom Ingemann  
Bill Sumner  
Tracy Rahm  
Steve Gallagher

City Administrator: Deb Hill  
Supt. of Public Works: Bruce Hanson  
Chief of Police: Curt Montgomery  
Fire Chief: Mark Mailand  
Executive Analyst: Renee Helm

**AGENDA**

1. Roll call
2. Discussion Regarding Proposed Amendments to Chapter 5, Alcoholic Beverages
3. Adjournment



# MEMO

TO: Mayor and City Council  
Deb Hill, City Administrator

FROM: Renee Helm, Executive Analyst

DATE: March 31, 2014

SUBJECT: Proposed Amendments to Chapter 5, Alcoholic Beverages

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## BACKGROUND

As you know, the Red Rock Saloon was recently purchased and the new owners would like to open a brew pub. In order for a brew pub to be opened, Chapter 5, Alcoholic Beverages, needs to be amended to allow this type of license. City staff reviewed this Chapter to add a brew pub license and is recommending some other changes be made as well after reviewing similar chapters from neighboring cities and the League of Minnesota Cities template ordinance.

## DISCUSSION

Please find attached a red-lined version of Chapter 5, Alcoholic Beverages, addressing the recommended changes. I've also attached the League's template ordinance for your review. Below is a summary of the major amendments and discussion points for the City Council.

**Section 500.02, City may be More Restrictive than State Law** - This language is from the League's template and states that the City Council is authorized to impose additional provisions regarding the sale and possession of alcoholic beverages.

**Section 500.03, Definitions** - This language is from Hastings' City Code and states that the terms in Chapter 5 shall have the same definition from Minnesota Statutes.

**Section 500.04, Licenses** - Currently, Chapter 5 only lists four licenses (On-Sale, Sunday On-Sale, Off-Sale and Wine On-Sale). Staff is recommending that the following licenses be added:

- **Brewer Taproom License** - This language was copied from the State Statutes. A Brewer Taproom License allows a business to only sell their brew.
- **On-Sale Brew Pub and Off-Sale Brew Pub** - This language was added from State Statutes. In order for the Red Rock Saloon to operate a brew pub and sell their brew both on and off-sale, they would need these licenses. The business would also be able to sell intoxicating liquor both on and off-sale with the issuance of an On-Sale and Off-Sale license. If they would like to sell on Sundays, they can also apply for a Sunday On-Sale. State Statutes allow the City to issue all of these licenses to one business. A business that operates under an On-Sale Brew Pub License cannot sell more than 3,500 barrels per year. Of that, they cannot sell more than 500 barrels off-sale.
- **On-Sale 3.2% Malt Liquor License** - Language is similar to Hastings' City Code
- **Temporary On-Sale License** - Language is from the League's template. The City already issues this license for Booya and Pioneer Day.
- **Temporary On-Sale 3.2% Malt Liquor Licenses** - Language is from Hastings' City Code.
- **Off-Sale 3.2% Malt Liquor License** - Language is from Hastings' City Code. The City already issues this license to Super America.

The City Council will need to discuss whether or not they would like to add all of these licenses and if they would like to add any other restrictions on them. The hours of operation for Sunday On-Sale License have been amended to reflect what

is currently allowed per Section 500.09, Subd. 2. The hours of operation for all licenses are listed in Section 500.08 and will be up for discussion as well.

It has been requested that the City Council add a 2:00 a.m. license to this Section. If a business was granted a 2:00 a.m. license they would be able to sell intoxicating liquor until 2:00 a.m. The City Council will need to discuss whether or not they would like to add a 2:00 a.m. license to this Section.

**Section 500.06, Subd. 4, Refunds** - This Subdivision contradicts Subdivision 2 which states that if an application is rejected, the City will refund the amount paid. The City Council will need to discuss if they would like to amend the language in Subd. 4 to state "No refund of any fee shall be made except as authorized by this Chapter or State Statutes."

**Section 500.08, Conditions of License** - Staff moved several of the regulations that were under Section 500.09 to this Section including Hours of Sale, Hours of Consumption, Entertainment, and After Hours. Below are some other points for discussion regarding this Section.

- **Subd. 7, Hours of Sale** - The current Ordinance does not allow businesses to sell on-sale on any election day or after 5:45 p.m. on Christmas Eve and off-sale on New Year's Day or the 4th of July. State Statutes have been updated to allow for on-sale on all of Christmas Eve and election days and off-sale on New Year's Day and the 4th of July. Staff have amended the hours of sale to allow for on-sale on election days and until 8:00 p.m. on Christmas Eve (St. Paul Park permits on-sale until this time as well). Staff have also amended the hours to allow for off-sale on New Year's Day and the 4th of July. The City Council will need to discuss if they would like to keep the amended hours of operation or continue the current hours of operation. I've attached a spreadsheet outlining what surrounding cities have for on and off-sale. As you can see from the spreadsheet, most cities have the same hours of operation allowed by the State regulations.
- **Subd. 10 - 12, Illegal Sales, Restrictions on Employment of Minors, and Minors Prohibited on Premises** - This language was added from Hastings' Code. The City Council will need to discuss whether or not they would like to keep this language.

**Section 500.09, Restrictions on Purchase and Consumption** - Several of the subdivisions listed under this Section were moved to Section 500.08.

**Section 510, Beer Licensing** - Staff would like direction from the City Council on whether or not this Section is needed. Per the definition of beer in Section 510.01, Subd. 1, this Section is regulating 3.2% beer or malt liquor which is already regulated in Section 500. As such, staff is recommending that this Section be removed.

**Section 520, Liquor Entertainment Licenses** - Staff would like direction from the City Council on whether or not this Section is needed. Staff looked through past agendas and could not find an instance where the City issued a Liquor Entertainment License. If the City Council feels that it is needed, staff would like direction from the City Council to clarify what would need a license. For instance, would a license be required for a wedding reception or live band if it was held inside? South St. Paul requires a business with a liquor license to get a special event license if they are going to have dancing, singing, or a concert outside (see attached language). Other cities such as Cottage Grove, St. Paul Park and West St. Paul do not require a liquor entertainment license but do require special event licenses if an event (concert, parade, fair, etc) is being held on public property or if it's on private property but requires city services.

**Fees** - The City Council will also need to discuss fees for the Brewer Taproom, On-Sale Brew Pub and Off-Sale Brew Pub Licenses. The City is allowed to set these fees and the only fee that is capped by the State is the Off-Sale Brew Pub License, which cannot exceed \$240. Staff found that brewer taproom license fees range between \$200 and \$600 across the State. Staff could not find many cities that have an on-sale brew pub license but looked at Duluth, who has several, and found that they charge \$210 for an on-sale brew pub license. Staff recommend charging \$200 for the On-Sale Brew Pub License since any business that applies for this will also need to apply and pay for an On-Sale License which is \$2,500.

## **RECOMMENDATION**

It is recommended that the City Council provide direction on the items listed above. Once direction is received, staff will bring a draft ordinance before the City Council for approval. Attorney Knaak is recommending that the City Council hold a public hearing for the ordinance amendments. As such, it won't be before the City Council until May 1, 2014 so that the publication requirements are met.

CHAPTER 5. ALCOHOLIC BEVERAGES

Section 500 - ~~Intoxicating Liquor~~ General Provisions

**500.01 Provisions of State Law Adopted.** Except to the extent the provisions of this Chapter are more restrictive, the provisions of Minnesota Statutes, Chapter 340A, now in effect and as it may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sales, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor, 3.2% malt liquor and wine, shall be adopted and made a part of this Chapter as if fully set out herein.

**500.02 City may be More Restrictive than State Law.** The City Council is authorized by the provisions of Minnesota Statute 340A.509 as it may be amended from time to time, to impose, and has imposed in this Chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minnesota Statutes, Chapter 340A as it may be amended from time to time.

**500.03 Definitions.** The terms in this chapter shall have the same definitions given in Minnesota Statutes, Chapter 340A, now in effect, as it may be amended from time to time.

**500.0204 Licenses.**

**Subd. 1 License Required.** No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so. ~~Licenses shall be of four kinds: on-sale, Sunday on-sale, on-sale wine and off-sale.~~

**Subd. 2 On-sale Sale Licenses.** On-sale licenses shall be issued only to hotels, clubs, restaurants, or exclusive liquor stores, and shall permit the sale of liquor only for consumption on the licensed premises. No more than five on-sale licenses shall be issued.

**Subd. 3 Sunday On-sale Sale Licenses.** A Sunday on-sale license authorizes the licensee to sell or serve liquor between the hours of ~~12:00 noon-a.m. on Sundays~~ and ~~11:45 p.m. 12:00 o'clock midnight~~ on Sundays to persons who are seated at tables. Sunday on-sale licenses shall be issued only to a hotel or restaurant having facilities for serving at least thirty guests at a time, and which has an on-sale license. No Sunday on-sale license shall be valid unless a valid on-sale license is also in effect for the same premises.

**Subd. 4 On-sale Sale Wine Licenses.** On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statute 340A.404, Subd. 5, and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only in conjunction with the sale of food.

**Subd. 5 On-Sale 3.2% Malt Liquor License.** On-sale 3.2% malt liquor licenses shall be issued only to hotels, clubs, restaurants, or exclusive liquor stores, and shall permit the sale of 3.2% malt liquor only for consumption on the licensed premises.

**Subd. 6 Brewer Taproom License.** A Brewer licensed under Minn. Stat. §340A.301 may be issued a Brewer Taproom License for the “on-sale” of malt liquor produced on the licensed premises, subject to the following conditions:

- A. The on-sale of malt liquor may only be made during the days and hours that “on-sale” of liquor may be made, as prescribed by State Law or within this Chapter.

- B. A Brewer may only hold one (1) Brewer Taproom License within the City.
- C. The only alcoholic beverage that may be sold or consumed on the premises of a licensed Brewer Taproom will be the malt liquor produced by the Brewer upon the Brewer Taproom premises.
- D. Nothing in this subdivision precludes the holder of a Brewer Taproom License from also holding a license to operate a restaurant on the premises of the brewery.
- E. A Brewery Taproom License may not be issued to a Brewer if the Brewer seeking the license, or any person having an economic interest in the Brewer seeking the license or exercising control over the Brewer seeking the license, is a Brewer that brews or produces more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually, as defined and prescribed by Minn. Stat. §340.301.

**Subd. 7 On-Sale Brew Pub License.** On-sale Brew Pub Licenses shall be issued only to hotels, clubs, restaurants or exclusive liquor stores and shall permit the sale of malt liquor produced on the licensed premises. A licensee cannot sell more than 3,500 barrels of the malt liquor produced on the licensed premises per year. A licensee may hold both an On-Sale License and an On-Sale Brew Pub License.

**Subd. 8 Temporary On-Sale License.** Temporary on-sale licenses shall only be issued to a club, charitable, religious, or nonprofit organization duly incorporated as a religious or nonprofit corporation under the laws of Minnesota, in connection with a social event within the City. The City may authorize the temporary on-sale license for no more than four (4) days and cannot issue more than 12 days worth of temporary licenses to any one organization in a calendar year. The applicant for a temporary on-sale license shall comply with all other State laws and rules and City ordinances governing the sale of liquor.

**Subd. 9 Temporary On-Sale 3.2% Malt Liquor License.** Temporary on-sale 3.2% malt liquor licenses shall only be issued to a club, charitable, religious, or nonprofit organization, duly incorporated as a religious or nonprofit corporation under the laws of Minnesota. The applicant for a temporary on-sale 3.2% malt liquor license shall comply with all other State laws and rules and City ordinances governing the sale of 3.2% malt liquor.

**Subd. 5-10 Off-sale Sale Licenses.** Off-sale licenses shall be issued only to restaurants or exclusive liquor stores, and shall permit the sale of liquor only in its original container or packaging and for consumption off of the licenses premises. Off-sale licenses may not be located within 1,000 feet of an existing off-sale license.

**Subd. 11 Off-Sale Brew Pub License.** A licensee that holds a Brewer Taproom License or On-Sale Brew Pub License may also be issued an Off-Sale Brew Pub license to sell Growlers of the malt liquor produced on the licensed premises, subject to the following conditions:

- A. The Growler must be a 64 ounces.
- B. The Growler must be properly sealed with a twist type closure, cork stopper or plug.

C. The Growler must also bear a plastic or paper adhesive band, strip or sleeve that extends over the top of the container forming a seal that must be broken upon opening the Growler.

D. The seal and the Growler must bear the name and address of brew pub and will be considered intoxicating liquor.

E. Off-sale brew pub hours are the same as the hours for off-sale liquor stores as defined in Section 500.09, Subd. 2.

F. Not more than 500 barrels or 50 percent of the brew pub’s annual production may be sold at off-sale.

Subd. 12 Off-Sale 3.2% Malt Liquor License. Off-sale 3.2% malt liquor licenses shall permit only the sale of 3.2% malt liquor at retail, in the original package, for consumption off the premises.

~~Subd. 6 Licensed Area. No license shall be effective beyond the compact and contiguous space named in the license. All licenses shall state the exact location within the building structure where sales shall be permitted.~~

Comment [RH1]: Moved to Section 500.08.

**500.0305 Application for License.**

**Subd. 1 Form.** Every application for a license ~~to sell intoxicating liquor~~ issued under this Chapter shall ~~be on a form provided by the City. Every application shall~~ state the name of the applicant, his or her age, representations as to his or her character, with such references as the Council may require, his or her citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in business at that place, and such other information as the Council may require from time to time. In addition to containing the information, the application shall be in the form prescribed by the Commissioner of Public Safety, and shall be verified and filed with the Clerk-Administrator. ~~No person shall make a false statement in an application.~~

**Subd. 2 Bond.** Each application for a license shall be accompanied by a surety bond, or in lieu thereof cash or United States Government bonds. The surety bond or other security shall be in the sum of \$3,000.00 for an on-sale or an on-sale wine license and \$1,000.00 for an off-sale license. If a liability insurance policy is made subject to all the conditions of a bond under that statute, the policy may be accepted by the Council in lieu of a bond.

**Subd. 3 Approval of Security.** The security offered under Subd. 2 shall be approved by the Council, and in the case of applicants for on-sale wine licenses and off-sale licenses, by the State Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subd. 2 shall be a cause for revocation of the license.

**500.0406 License Fees.**

**Subd. 1 Fees.** The annual fees for ~~on-sale liquor licenses, Sunday on-sale liquor licenses, on-sale wine licenses, and off-sale~~ liquor licenses shall be as established from time to time by the Council. ~~There is a \$1,250.00 annual fee for an on-sale wine license.~~

**Subd. 2 Payment.** Each application for a license shall be accompanied by payment in full of the license fee and the investigation fee required under 500.05, Subd. 1. If an application for a license is rejected, the Clerk-Administrator shall refund the amount paid as the license fee.

**Subd. 3 Term; Pro Rata Fee.** Each license shall be issued for a period of one year, except that if the application is made during the license year, the license may be issued for the remainder of the year. Where a license is granted and a period of less than one year remains before the license shall expire, one-twelfth of the annual license fee shall be charged for each month, or fraction of a month of one-half or more remaining. Every license shall expire on June 30 of each year.

**Subd. 4 Refunds.** No refund of any fee shall be made except as authorized by statute.

**500.0507 Granting of Licenses.**

**Subd. 1 Investigation.** ~~At the time of making an initial application, renewal application, application for transfer, and where the City Council deems it in the public interest, -On an initial application for an on-sale license and on any application for transfer of license, and, where the Council deems it in the public interest, on any renewal of an on-sale license,~~ the City shall conduct a preliminary background and financial investigation of the applicant as provided by Minnesota Statutes 340A.412. The application in such case shall be on a form prescribed by the ~~State Bureau of Criminal Apprehension~~City with such additional information as the Council may require. If the Council determines that a comprehensive background and financial investigation of the applicant is needed, it may conduct the investigation or contract with the Bureau of Apprehension to do so. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Council that it would not be in the public interest to do so. The applicant shall pay the actual cost of the investigation, not to exceed \$500.00, or, if investigation outside the State is required, \$10,000.00. The investigation fee shall not be refunded, whether or not the license is granted. Payment of the maximum investigation fee shall be made prior to the investigation with any difference refunded when the investigation is completed.

**Subd. 2 Hearing and Issuance.** The Council shall investigate all facts set out in the application, and not covered by the preliminary background and financial investigation conducted pursuant to Subd. 1. Opportunity may be given to any person to be heard for or against the granting of the license. After the investigation, the Council shall in its discretion grant or refuse the application. No on-sale wine license, ~~or~~ off-sale license, or off-sale brew pub license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

**Subd. 3 Persons and Premises Licensed.** Each license shall be issued only to the applicant and for the premises described in the application.

**Subd. 4 Transfers.** No license may be transferred to another person or place without Council approval. Any transfer of a controlling interest or any lesser transfer of at least ten percent in stock of a corporate licensee shall be deemed a transfer of the license, and a transfer of stock without Council approval shall be a ground for revocation of the license. The Council shall be informed of any change in the officers of a corporation holding a license.

~~500.06~~ **Subd. 5 Persons Ineligible for License.** No license shall be granted to any person made ineligible for the license by State law.

~~500.07~~ **Subd. 6 Places Ineligible for License.**

- A. **Subd. 1 General Prohibition.** No license shall be issued for any place or any business ineligible for the license under State law. No license shall be issued for premises located within 800 feet of an existing church or public school or in an area where the use of the premises for sale of liquor is forbidden by the Zoning Ordinance or any other Ordinance or provision of this Code.
- B. **Subd. 2 Delinquent Taxes or Charges.** No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent or unpaid.

**500.08 Conditions of License.**

**Subd. 1 In General.** Every license shall be subject to the conditions in the following Subdivisions and all other provisions of this Chapter and of any other applicable Ordinance, State law or regulation.

**Subd. 2 Posting.** Every licensee shall post their license in a conspicuous place in the licensed establishment.

**Subd. 2-3 Licensee's Responsibility.** Every licensee shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor shall be deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by the Code and the law equally with the employee.

**Subd. 3-4 Inspections.** Every licensee shall allow any peace officer, health officer, or other properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

**Subd. 5 Licensed Area.** No license shall be effective beyond the compact and contiguous space named in the license. All licenses shall state the exact location within the building structure where sales shall be permitted.

**Subd. 4-6 Federal Stamps.** The licensee shall not apply or possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp.

**Subd. 7 Hours of Sale.**

- A. No on-sale of liquor shall be made:
  - 1. Between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.
  - 2. Between 12:45 a.m. on Sunday until 8:00 a.m. on Monday, except that holders of Sunday on-sale licenses may sell liquor between 10:00 a.m. and 11:45 p.m. on Sunday.
  - 3. Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25.
- B. No off-sale of liquor shall be made:
  - 1. On Sundays
  - 2. Before 8:00 a.m. on Monday through Saturday.
  - 3. After 10:00 p.m. on Monday through Saturday.
  - 4. On Thanksgiving Day.
  - 5. After 8:00 p.m. on December 24.
  - 6. On December 25

**Subd. 8 Hours of Consumption.** No person shall consume, and no On-Sale licensee shall permit any person to consume liquor on his or her premises prior to the authorized time of sale, or more than fifteen

minutes after the time for the last authorized sale.

**Subd. ~~5-9~~ After Hours.**

- A. Every licensee shall display, at all times, in the licensed premises, a sign of such size and placed in such a position as to be clearly visible to all patrons, reading substantially as follows:

"The laws of Newport prohibit drinking and or loitering in this establishment and its parking lots after the hour of sale authorized by State Law"

Except as provided in Subsection 500.~~0908~~, Subd.~~5-9(B)~~ of this Code, no person shall remain in the licensed premises after the legal hour of sale.

- B. It shall be unlawful for any person, except the licensee, his or her agents, servants and employees in the performance of their official duties to remain on the licensed premises, or to permit any person, other than the licensee, his or her agents, servants and employees to remain on the licensed premises, more than fifteen minutes after the time of the last authorized on-sale, or at any time following the time for the last authorized off-sale.

**Subd. 10 Illegal Sales.** No intoxicating liquor or 3.2% malt liquor shall be sold, furnished, delivered, or provided to any obviously intoxicated person, to any underage person, or to any person to whom the sale of intoxicating liquor or 3.2% malt liquor is prohibited by State Law.

**Subd. 11 Restriction on Employment of Minors.** No person under 18 years of age shall be employed to sell or serve intoxicating liquor or 3.2% malt liquor in any on-sale or off-sale license premises. Provided, however, that a person who has attained the age of 17 years may be employed in any restaurant licensed to sell intoxicating liquor or 3.2% malt liquor, in which the principal part of the business is serving food.

**Subd. 12 Minors Prohibited on Premises.** Except as otherwise provided by this Chapter, it is unlawful for a licensee to permit any person under the age of 21 to be in or upon a licensed premises, unless accompanied by at least one (1) parent or guardian.

**Subd. 13 Entertainment** No dancing wherein the public participates and no dancing, singing or other live entertainment shall be permitted on the premises for which an On-Sale or On-Sale wine license has been issued unless an entertainment license has also been issued for the premises as provided in this Code.

**500.09 Restrictions on Purchase and Consumption.**

**Subd. 1 Liquor in Unlicensed Places.** No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell such liquor on-sale or a Consumption and Display permit from the Commissioner of Public Safety under Minnesota Statutes 340A.414, and no person shall consume liquor in any such place.

~~**Subd. 2 Hours of Sale.** No on-sale of liquor shall be made after 12:45 a.m. on Sunday until 8:00 a.m. on Monday, except that holders of Sunday On-Sale licenses may sell liquor between 10:00 a.m. and 11:45 on Sunday; nor after 5:45 p.m. on Christmas Eve; nor between 1:00 a.m. and 8:00 p.m. on any election day. No On-Sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any other weekday.~~

~~No Off-Sale shall be made before 8:00 a.m. or after 10:00 p.m. Monday through Saturday. No Off-Sales shall be made on Sundays. No Off-Sale shall be made on New Year's Day, January 1; Independence Day, July 4; Thanksgiving Day, or Christmas Day, December 25; and no Off-Sale shall be made on December~~

~~24 after 8:00 p.m.~~

Comment [RH2]: Moved to Section 500.08

~~Subd. 3 Hours of Consumption. No person shall consume, and no On-Sale licensee shall permit any person to consume liquor on his or her premises prior to the authorized time of sale, or more than fifteen minutes after the time for the last authorized sale.~~

Comment [RH3]: Moved to Section 500.08

~~Subd. 4 Entertainment. No dancing wherein the public participates and no dancing, singing or other live entertainment shall be permitted on the premises for which an On-Sale or On-Sale wine license has been issued unless an entertainment license has also been issued for the premises as provided in this Code.~~

Comment [RH4]: Moved to Section 500.08

~~Subd. 5 After Hours. It shall be unlawful for any person, except the licensee, his or her agents, servants and employees in the performance of their official duties to remain on the licensed premises, or to permit any person, other than the licensee, his or her agents, servants and employees to remain on the licensed premises, more than fifteen minutes after the time of the last authorized on-sale, or at any time following the time for the last authorized off-sale.~~

Comment [RH5]: Moved to Section 500.08

~~Subd. 6~~ **Subd. 2 Consumption on Public Streets or Licensed Premises.** It shall be unlawful for any person to drink or consume any beverage containing alcohol in any amount whatsoever, at any time, upon the public streets of the City of Newport, Minnesota. Furthermore, it shall be unlawful for any person to drink or consume any beverage containing alcohol in any amount, except in the building in which a licensee dispenses and sells alcoholic beverages.

**Section 510 - Beer Licensing**

**510.01 Definitions.** For purposes of this Section, the following definitions shall apply.

**Subd. 1 Beer.** "Beer" or "3.2 malt liquor" shall mean any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

**Subd. 2 Cafe.** "Cafe" shall mean any place where preparing and serving lunches or meals to the public to be consumed on the premises constitutes the main business thereof.

**Subd. 3 Beer Store.** "Beer Store" shall mean an establishment for the sale of beer, and the incidental sale of cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

**510.02 License Required.**

**Subd. 1 Licenses.** No person, except wholesalers and manufacturers to the extent authorized by law, shall directly or indirectly deal in, sell or keep for sale any beer within the City without having received a license as provided in this Chapter. Licenses shall be of three kinds: "on-sale", "temporary on-sale", and "off-sale".

**Subd. 2 On-Sale.** On-sale licenses shall be granted only to bona-fide clubs, beer stores, cafes, and hotels where food is prepared and served for consumption on the premises, and shall permit the sale of beer for consumption on the licensed premises only.

**Subd. 3 Temporary On-Sale.** Temporary on-sale licenses shall be granted only to bona-fide clubs and charitable, religious, and non-profit organizations for the sale of beer for consumption on the licensed premises only.

**Subd. 4 Off-Sale.** Off-sale licenses shall permit the sale of beer at retail in the original package or

container for consumption off the licensed premises only.

**510.03 License Applications.** All applications for any license to sell beer shall be made on forms supplied by the City, setting forth the name of the person asking for the license, his or her age, representations as to his or her character with such references as may be required, his or her citizenship, the location where the business is to be carried on, the type of license applied for, the business in connection with which the proposed license will operate, whether the applicant is owner and operator of such business, the time the applicant has been in business in that place, and any other information as the Council may require from time-to-time. No person shall make any false statement on an application.

**510.04 License Fees.**

**Subd. 1 Fees.** All beer licensing fees shall be as established from time to time by the Council.

**Subd. 2 Payment.** Each application shall be accompanied by payment in full of the license fee. If an application is rejected, the fee shall be refunded.

**Subd. 3 Term; Reduced Fee.** Every license, except a temporary on-sale license, shall expire on June 30 of each year. For any license, except a temporary on-sale license, issued on or after March 1, the license fee shall be reduced to one-half of the regular fee.

**510.05 Investigation.** The Council shall cause an investigation to be made of all facts set forth in the application. Opportunity shall be given for any person to be heard for or against the granting of any license. After the investigation and hearing, the Council shall grant or refuse the license in its discretion.

**510.06 Persons Ineligible for License.** No license shall be granted to or held by any person who comes within the following categories.

**Subd. 1 Age.** Is under the legal drinking age as established by State law.

**Subd. 2 Criminal Record.** Has within five years prior to the application been convicted of a felony, or of violating any law of this State or local Ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor or beer, and cannot show competent evidence under Minnesota Statute 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee.

**Subd. 3 Manufacturer.** Is a manufacturer of beer or is interested in the control of any place where beer is manufactured.

**Subd. 4 Citizenship.** Is an illegal alien.

**Subd. 5 Morals.** Is not of good moral character.

**Subd. 6 Federal Stamp.** Is or during the period of this license becomes the holder of a Federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at such place.

**Subd. 7 Non-Proprietor.** Is not the proprietor of the establishment for which the license is issued.

**510.07 Places Ineligible for License.**

**Subd. 1 Conviction or Revocation.** No license shall be granted for any premises where a licensee has been convicted of a violation of this Chapter, or the State beer or liquor laws, or where any beer license has been revoked for cause, until one year has elapsed after such conviction or revocation.

**Subd. 2 Church and Schools.** No license except a temporary on-sale license shall be granted for any premises within 800 feet of an existing church or public school.

**Subd. 3 Delinquent Taxes.** No license shall be granted for any premises upon which taxes or assessments or other financial claims of the City are delinquent and unpaid.

**510.08 Conditions of License.**

**Subd. 1 General.** Every license shall be granted subject to the conditions in the following Subdivisions and all other provisions of this Chapter and of any other applicable provision of the Code or State law.

**Subd. 2 Sales to Minors.** No beer shall be sold to any person under the legal drinking age as set by State law, or to any person under guardianship.

**Subd. 3 Intoxicated Persons.** No beer shall be sold to any intoxicated person.

**Subd. 4 Intoxicating Liquor.** No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption and display permit shall sell or permit the consumption and display of intoxicating liquor on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquor on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquor 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 Chapter.

**Subd. 5 Inspection.** Every license shall allow any peace officer, health officer, or other properly designated officer or employee of the City to enter, inspect and search the premises of the licensee without a warrant. Any such officer or employee may seize any intoxicating liquors found on the premises in violation of Subd. 4.

**Subd. 6 Licensee Responsibility.** Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order. The act of any employee on the licensed premises authorized to sell or serve beer shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Code equally with the employee.

**Subd. 7 Hours of Sale.** No sale of beer shall be sold between the hours of 1:00 a.m. and 8:00 a.m. Monday through Saturday; nor between 1:00 a.m. Sunday and 12:00 noon Sunday; nor between 12:00 midnight Sunday and 8:00 a.m. Monday; nor after 5:45 p.m. on Christmas Eve and 5:45 p.m. New Years Eve; nor between 1:00 a.m. and 8:00 p.m. on any election day.

**Subd. 8 Entertainment.** No dancing wherein the public participates, and no dancing, singing, or other entertainment shall be permitted on the premises of any on-sale licensee unless an entertainment license has been issued for the premises.

**Section 520 - Liquor Entertainment Licenses**

**520.01 License Required.** No person to whom a beer or intoxicating liquor license has been issued shall permit, on the premises for which the beer or intoxicating liquor license has been issued, any dancing in which

the public participates, or any dancing, singing, or other entertainment, unless an entertainment license has also been issued for the premises. However, in order to protect the health, safety, and welfare of the public against the problems associated between alcohol and nudity, no person shall be allowed on, nor shall the licensee allow any person to remain on, the licensed premises without having his or her buttocks, anus, genitals, and breasts covered by a non-transparent material.

#### **520.02 Licensing Procedure.**

**Subd. 1 Application.** Every application for an entertainment license shall be made to the Clerk-Administrator, on a form supplied by the City, setting forth the name and place of residence of the applicant, the location of the premises for which the license is desired, whether the applicant has ever been engaged in a similar business, and if so, the date and location thereof, and whether the applicant proposes to offer public dancing. The application shall also state the amount of floor space to be provided and maintained for dancing.

**Subd. 2 Fee.** The annual fee for an entertainment license shall be as set from time to time by the Council.

**Subd. 3 Term.** Every entertainment license shall be issued for a term concurrent with the beer or intoxicating liquor license in conjunction with which it shall be issued. Where a license shall be issued for a period of less than one year, the fee shall be reduced in the same manner as the fee for the beer or intoxicating liquor license in conjunction with which the entertainment license shall be issued.

#### **520.03 Premises Ineligible.**

**Subd. 1 Consent Required.** Except for premises located in an industrial zone, no entertainment license shall be issued for any premises within two hundred feet of a residential zone unless the applicant shall present with the application a statement in writing signed by the owners and tenants of all private residences, dwelling or apartment houses located within two hundred feet of the premises for which the application is made, to the effect that the owners and tenants have no objection to the granting of an entertainment license or the operation of a tavern at that location.

**Subd. 2 Dance Floor.** No dancing in which the public participates shall be permitted unless at least 400 square feet of floor space shall be available and maintained for dancing.

**520.04 Hours of Operation.** Any beer store or exclusive liquor store for which an entertainment license has been issued shall be closed during the hours when beer or liquor sales are prohibited.

### **Section 530 - Revocation or Suspension of License, Penalty**

**530.01** The City Council shall either suspend for a period not to exceed sixty (60) days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter.

**530.02** The following are minimum periods of suspension or revocation which shall be imposed by the city council for violations of the provisions of this chapter or Minnesota statutes section 340A.509, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

**Subd. 1** For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor whether the only license is for 3.2 percent

malt liquor, the license shall be revoked.

**Subd. 2** After a finding under this ~~subsection A~~Subdivision 1 that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter, the license shall be suspended for at least the minimum periods as follows:

- A. For the first violation within any four (4) year period, at least one (1) day suspension.
- B. For the second violation within any four (4) year period, at least three (3) consecutive days' suspension in addition to any criminal or civil penalties which may be imposed.
- C. For the third violation within any four (4) year period, at least seven (7) consecutive days' suspension in addition to any criminal or civil penalties which may be imposed.
- D. For a fourth violation within any four (4) year period, the license shall be revoked.

**Subd. 3** The City Council shall select the day or days during which the license will be suspended.

# **League of Minnesota Cities Sample Ordinance Regulating the Possession, Sale and Consumption of Intoxicating and 3.2 percent Malt Liquor in Cities.**

**Before adopting this ordinance, a city should be familiar with the contents of the LMC information memo, *Liquor Licensing and Regulation*. (REVISED VERSION July 2010) Drafted by LMC Special Counsel Duke Addicks.**

## **Introduction and Instructions**

This model liquor licensing ordinance is very comprehensive, and covers the issuance of the vast majority of the types of licenses a city may issue. A city wishing to adopt this ordinance should review it to make sure that it wishes to adopt all of its provisions. A city can modify the ordinance to eliminate those types of licenses that it does not wish to issue. At any time, a city may also add new licenses to its ordinance so long as nothing (e.g., a municipal liquor store) prevents the city from issuing the particular license.

Because most of the provisions of this ordinance are controlled by statute, any modifications should be approved by the city attorney to make sure the changes conform to state law. The city's attorney should review the entire ordinance before it is adopted as this ordinance establishes the rights and responsibilities of both the city and the license applicants and holders. The form of this model ordinance is that used by Statutory Cities as required by Minn. Stat. § 412.191, subd. 4.

A home rule charter often contains provisions concerning how the city may enact ordinances. Home rule charter cities should consult their charter and city attorney before adopting this ordinance in order to ensure that charter provisions are complied with.

Statutory cities may publish a summary of lengthy ordinances instead of the complete ordinance, as provided by Minn. Stat. § 412, subd. 4, but the summary must meet the requirements of Minn. Stat. § 331A.01, subd. 10. In order to fully inform the public of the nature of any conduct that is prohibited, portions of the summary set out the provisions of the ordinance in greater detail than those dealing with the liquor licensing process. A suggested summary of this ordinance with instructions for its adoption and publication follows the model ordinance.

Because this ordinance will affect existing liquor licensees, a copy of the proposed ordinance should be mailed to each licensee along with a notice of the hearing on the ordinance in order to try to make them aware of the contents of the proposed ordinance and to give them an opportunity to make their views known.

Cities which do not have a municipal liquor store should not adopt those sections of this model ordinance dealing with municipal liquor stores.

Because of internal cross references, Sections 30, 31 and 32 should retain their numbering in the adopted ordinance even if Sections 24 to 29 dealing with municipal liquor stores are deleted. If Sections 24 to 29 are not adopted, the ordinance should contain a provision to read: "Sections 24 to 29 are reserved for future use." This is so that the reader of the ordinance will not be confused by the absence of these sections.

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE REGULATING**  
**THE POSSESSION, SALE AND CONSUMPTION**  
**OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR**  
**WITHIN THE CITY OF \_\_\_\_\_, MINNESOTA**

**THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, MINNESOTA DOES ORDAIN:**

**SECTION 1. ADOPTION OF STATE LAW BY REFERENCE.**

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

**SECTION 2. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized by the provisions of Minn. Stat. § 340A.509 as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minn. Stat. Ch. 340A as it may be amended from time to time.

**SECTION 3. DEFINITIONS.**

In addition to the definitions contained in Minn. Stat. § 340A.101 as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

*LIQUOR.* As used in this ordinance, without modification by the words An “intoxicating” or a “3.2 percent malt” includes both intoxicating liquor and 3.2 percent malt liquor.

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

**SECTION 4. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

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

finds that the prohibition of nudity on the premises of any establishment licensed under this ordinance, as set forth in this section, reflects the prevailing community standards of the city.

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

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 30(B).

#### SECTION 5. CONSUMPTION IN PUBLIC PLACES.

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

#### SECTION 6. RAFFLES, SILENT AUCTIONS AND FUND RAISING EVENTS FOR CHARITABLE PURPOSES OF WINE, BEER OR INTOXICATING LIQUORS

No person shall conduct a silent auction, raffle of other fund raising event pursuant to Minn. Stat. § 340A.707 with prizes or awards of wine, beer or intoxicating liquors without notifying the city clerk of the event at least ten days prior to the occurrence of the event. The event holder shall provide the city with the following information: the person or organization holding the event, the day, time and location of the event, type of fund raising event (silent auction, raffle or otherwise), type and amount of wine, beer, intoxicating liquor to be awarded as prizes, and the charitable purposes to which the event proceeds will be donated.

#### SECTION 7. NUMBER OF LICENSES WHICH MAY BE ISSUED.

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

#### SECTION 8. TERM AND EXPIRATION OF LICENSES.

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

#### SECTION 9. KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in Section 7. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in Section 29.

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

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

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

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section 10 shall not exceed \$240 or a greater amount which may be permitted by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by Minn. Stat. § 340A.101, as it may be amended from time to time, and this ordinance: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 10 of this ordinance shall not exceed the amounts provided for in Minn. Stat. § 340A.408, subd. 2(b) as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of Minn. Stat. § 340A.404, subd. 4(b) as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of Minn. Stat. § 340A.404, subd. 4(a) as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by Minn. Stat. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 10 of this ordinance, shall not exceed \$200, or the maximum amount provided by Minn. Stat. § 340A.504, subd. 3(c) as it may be amended from time to time.

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

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

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minn. Stat. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in section 3; to licensed bed and breakfast facilities which meet the criteria in Minn. Stat. § 340A.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of Minn. Stat. § 340A.404(b) as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 10 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

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

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 10 of this ordinance shall not exceed \$300, or the maximum amount permitted by Minn. Stat. § 340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 10.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at Minn. Stat. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 9 (O) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(O) Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 9 (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at Minn. Stat. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by Minn. Stat. § 340A.301, subd. 7 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 9 (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(P) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

#### SECTION 10. LICENSE FEES; PRO RATA.

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

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of

issuing the license and other costs directly related to the enforcement of the liquor laws and this ordinance. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

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

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

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

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. § 340A.408 if at the time of initial application or renewal they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

(4) Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to Section 23 of this ordinance.

#### SECTION 11. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

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

#### SECTION 12. APPLICATION FOR LICENSE.

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

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

#### SECTION 13. DESCRIPTION OF PREMISES.

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

#### SECTION 14. APPLICATIONS FOR RENEWAL.

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

#### SECTION 15. TRANSFER OF LICENSE.

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

#### SECTION 16. INVESTIGATION.

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

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

#### SECTION 17. HEARING AND ISSUANCE.

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

#### SECTION 18. RESTRICTIONS ON ISSUANCE.

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

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

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

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

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

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

#### SECTION 19. CONDITIONS OF LICENSE.

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

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

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

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

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

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

(F) Failure by on off-sale intoxicating liquor license who has received a fee reduction pursuant to section 10 (f) of this ordinance to abide with the provisions of section 10 (f).

#### SECTION 20. HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by Minn. Stat. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

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

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

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

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

## SECTION 21. MINORS ON PREMISES.

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

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

## SECTION 22. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

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

## SECTION 23. SUSPENSION AND REVOCATION.

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

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

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of Section 4, the license shall be revoked.

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

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

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

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

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

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

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

suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this ordinance have again been met.

(D) The provisions of Section 30 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

#### SECTION 24. APPLICATION OF SECTIONS 25-29.

Sections 25 to 29 apply only to a city that has in existence on the effective date of this ordinance a municipal liquor store.

#### SECTION 25. EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this ordinance a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in Section 29, no intoxicating liquor may be sold at retail elsewhere in the city.

#### SECTION 26. LOCATION.

The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.

#### SECTION 27. OPERATION.

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this ordinance from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this ordinance and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

(C) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

(D) *Financial statement.* The Council shall provide within 90 days following the end of the calendar year for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement shall be published in accordance with the provisions of Minn. Stat. § 471.6985, as it may be amended from time to time.

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in Section 20. No person, other than the Manager or a store employee, may remain in the

municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease.

#### SECTION 28. PROOF OF FINANCIAL RESPONSIBILITY.

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of Minn. Stat. § 340A.409, as it may be amended from time to time.

#### SECTION 29. ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under Minn. Stat. § 340A.404, subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue in its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this section is governed by Minn. Stat. § 340A.413, as it may be amended from time to time, as limited by the provisions of this ordinance. The issuance of these licenses is governed by the provisions of this ordinance.

(B) *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

(C) *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt liquor licenses in its sound discretion as provided in this ordinance.

#### SECTION 30. PENALTIES.

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

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

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

(C) The term "violation" as used in Section 23 includes any and all violations of the provisions in this section, or of Minn. Stat. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

#### SECTION 31. EFFECTIVE DATE

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

SECTION 32. SUMMARY APPROVED

The Council hereby determines that the text of the summary of this ordinance marked "Official Summary of Ordinance No. \_\_\_\_\_," and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The Clerk shall file a copy of this ordinance and the summary in the Clerk's office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the council designates.

Passed by the Council this \_\_\_\_\_, day of \_\_\_\_\_, \_\_\_\_\_.

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Mayor

Attested: \_\_\_\_\_

PUBLICATION OF A SUMMARY OF AN ORDINANCE REGULATING THE POSSESSION, SALE AND CONSUMPTION OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR WITHIN MINNESOTA CITIES.

Cities wishing to publish a summary of this ordinance instead of publishing the entire ordinance should be familiar with the following information.

**Introduction and Instructions:**

Statutory cities may publish a summary of lengthy ordinances instead of the complete ordinance, as provided by Minn. Stat. § 412.191, subd. 4, but the summary must meet the requirements of Minn. Stat. § 331A.01, subd. 10.

Before drafting, adopting and publishing a summary of an ordinance, the city should review the statutory provisions reproduced below:

Minn. Stat. § 412.191, subd. 4, provides in part as follows:

"In the case of lengthy ordinances, or ordinances which include charts or maps, if the city council determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the council may by a **four-fifths vote of its members** direct that only the title of the ordinance and a summary be published, conforming to Minn. Stat. § 331A.01, subd. 10, with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the city clerk and any other location which the council designates. A copy of the entire text of the ordinance shall be posted in the community library, if there is one, or if not, in any other public location which the council designates. Prior to the publication of the title and summary the council shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. The publishing of the title and summary shall be deemed to fulfill all legal publication requirements as completely as if the entire ordinance had been published. The text of the summary shall be published in a body type no smaller than brevier or eight-point type. Proof of the publication shall be attached to and filed with the ordinance." (*emphasis added*)

Minn. Stat. § 331A.01, subd. 10 reads in part:

"Summary" means an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, and other official actions. It shall be written in a clear and coherent manner, and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public (*emphasis added*). When a summary is published, the publication shall clearly indicate that the published material is only a summary and that the full text is available for public inspection at a designated location. A summary published in conformity with this section shall be deemed to fulfill all legal publication requirements as completely as if the entire matter which was summarized had been published. No liability shall be asserted against the local public corporation in connection with the publication of a summary or agenda."

The following is a suggested summary of this ordinance. The summary of the ordinance adopted by the city should be reviewed by the city attorney before it is adopted by the council.

In order to fully inform the public of the nature of any conduct that is prohibited, portions of the summary set out the provisions of the ordinance in greater detail than those dealing with the liquor licensing process.

OFFICIAL SUMMARY OF ORDINANCE NO. \_\_\_\_\_,  
AN ORDINANCE REGULATING  
THE POSSESSION, SALE AND CONSUMPTION  
OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR  
WITHIN THE CITY OF \_\_\_\_\_, MINNESOTA

The following is the official summary of Ordinance No.\_\_\_\_, which was passed by the city Council on \_\_\_\_\_.

A printed copy of this ordinance is available for inspection by any person at the office of the city clerk during normal business hours, and at the community library, if there is one, or if not, in any other public location which the council designates.

The ordinance regulating the possession, sale and consumption of intoxicating and 3.2 percent malt liquor within this city contains the following provisions.

Section 1 adopts Minn. Stat. Ch. 340A, as it may be amended from time to time, by reference.

Section 2 permits the city to be more restrictive than state law concerning the sale and possession of alcoholic beverages.

Section 3 defines "liquor" and "restaurant" as those terms are used in the ordinance.

Section 4 makes it is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of Section 29(B) of this ordinance.

Section 5 provides that no person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Section 6 requires persons holding a raffle, silent auction or fundraising event where wine, beer or intoxicating liquor is awarded as a prize to register with the city ten days prior to conducting the event.

Section 7 limits the number of license which may be issued.

Section 8 establishes the term and expiration dates for licenses.

Section 9 establishes the kinds of licenses which may be issued

**Comment:** *Here the city should list the specific licenses authorized by the ordinance.*

Section 10 authorizes the establishment of license fees by ordinance or resolution.

Section 11 permits the Council, in its sound discretion, to grant or deny applications for licenses, or for the transfer or renewal of any license.

Section 12 describes the information required in an application for a license.

Section 13 requires a specific description of the premises to be licensed.

Section 14 provides that applications for renewal of licenses must be filed at least 90 days before the date of expiration, and permits the council in its sound discretion to renew or not renew a license.

Section 15 prohibits the transfer of a license without Council approval.

Section 16 requires background and financial investigations of applicants for a license, renewal of a license or transfer of a license.

Section 17 provides for a hearing on the issuance of a license.

Section 18 establishes restrictions on the issuance of a license.

Section 19 establishes the conditions of a liquor license that a licensee must follow to avoid suspension or revocation. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training of the servers shall be provided by the licensee.
- Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.
- Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.
- Compliance with the provisions an off-sale intoxicating liquor license fee reduction pursuant to Minn. Stat. § 340A.408, subd. 3(c).

Section 20 establishes the hours and days of sale which are consistent with those established by state law. In addition, the ordinance provides that:

- No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

Section 21 prohibits minors and underage persons on licensed premises except under certain conditions:

- No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
- No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

Section 22 prohibits persons from mixing or preparing liquor for consumption in any public place of business unless it has a license or permit.

Section 23 establishes the circumstances and procedures for suspension and revocation of a license. The Council is required to either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this ordinance relating to liquor. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. A schedule of minimum periods of suspension and for revocation is established.

Section 24 provides that Sections 25 to 29 apply to cities with municipal liquor stores. [Note: Cities that do not have a municipal liquor store should delete these sections before adopting this ordinance, but not renumber Sections 24 to 29. Instead a notation should be included in the summary of the ordinance indicating that "Sections 24 to 29 are reserved for future use." This is so that the reader of the ordinance will not be confused by the absence of these sections].

Section 25 provides for the continuance of municipal liquor stores.

Section 26 provides for the location of municipal liquor stores.

Section 27 provides for the operation of municipal liquor stores.

Section 28 provides for proof of financial responsibility of municipal liquor stores.

Section 29 provides for the issuance of other licenses by cities with municipal liquor stores.

Section 30 provides for penalties for violating this ordinance, including a schedule of civil penalties.

Section 31 establishes the effective date of the ordinance which is the date of the publication of this summary of the ordinance.

Section 32 approves this summary of the ordinance.

This summary was approved by the City Council of \_\_\_\_\_, Minnesota, on \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
**Mayor**

**Attest:** \_\_\_\_\_  
City Clerk



## Sec. 10-8. Special events.

- (a) *License required.* It is unlawful to permit dancing, singing, concerts with music for hire, or the use of any musical instruments with or without charge outside of any building on the same premises where intoxicating or 3.2 percent malt beverages are licensed to be sold, without a special event license being first issued. All special event licenses shall be issued by the city clerk upon approval by the city council.
- (b) *License fee.* The per-day license fee is set by [chapter 26](#) of this Code.
- (c) *Public notice.* Before issuance of a special event license, the city administrator or designee may determine that property owners within an area to be potentially impacted by the proposed special event be notified that the city council will consider the issuance of the special event license at least ten days prior to the city council meeting.
- (d) *Scope of license.* The special event license permits temporary dancing, singing, concerts with music or the use of any musical instruments only on the dates specified in the license. The city council may establish hours during which the licensed activities may occur, but then only during the hours for sale of intoxicating liquor and 3.2 percent malt liquor on such premises as provided by this Code. The license shall describe specifically where the special event will take place. The licensed activities shall comply with the noise provisions of article III of [chapter 38](#) of this Code as the same may be varied from time to time by the noise control officer pursuant to [section 38-85](#)

(Code 1992, § 1100.14)