

## **700 Liquor, Wine and Beer**

### **701. Municipal Liquor Stores**

701.01 Establishment. There are hereby established municipal liquor dispensaries for the off-sale of intoxicating liquor at such locations as the council may determine.

701.02 Manager.

Subdivision 1. Appointment. The municipal liquor dispensaries shall be in the immediate charge of a liquor dispensary manager selected by the council and paid such compensation as the council may determine. He shall, at the option of the council, furnish a surety bond to the municipality, in such sum as the council specified, conditioned upon the faithful discharge of his duties. The premium on such bond shall, at the discretion of the council, be paid by the city or by the manager personally.

Subd. 2. Duties. The manager shall manage and operate the municipal liquor dispensaries.

701.03 Fund. A municipal liquor fund is established into which all revenues received from the operation of the store shall be paid, and from which all operating expenses shall be paid. Any surplus in the municipal liquor fund may be transferred to such other fund as the council may, by resolution, determine, and expended for any municipal purpose. Any transfer of money to the municipal liquor fund from any other fund shall be subject to the provisions of M.S. 426.19. A financial statement for the municipal liquor fund shall be prepared annually in accordance with M.S. 471.6985.

701.04 Regulations. The municipal liquor stores shall not have swinging doors. All windows in front of the municipal liquor stores shall be of clear glass and the public view of the whole interior shall be unobstructed by screens, curtains, or partitions. There shall be no partition, box, stall, screen, curtain, or other device to obstruct the general observation of any part of the room by persons in the room.

701.05 Minors. No minor shall be employed in a municipal liquor dispensary. No minor shall be permitted to remain on the municipal liquor dispensary premises.

## 702. Liquor and Wine Licensing

702.01 Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, are adopted by reference.

702.02 License Required.

Subdivision 1. General Requirement. 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 as provided in this chapter. Liquor licenses shall be of seven kinds: "on-sale," "Sunday on-sale," "club," "wine", "on-sale brewer taproom", "on-sale brew pub malt liquor", and "off-sale brewer malt liquor". **Amended: 2/6/90 Ord. No. 39, Added: 1/13/15 Ord. No. 386**

Subd. 2. On-Sale Liquor Licenses. "On-sale" liquor licenses shall be issued only to hotels, motels, restaurants and bowling centers, and shall permit "on-sale" of liquor only. Any restaurant licensed hereunder must have a **minimum seating capacity of 90** in its formal dining area. Any hotel-motel licensed hereunder must have a minimum seating capacity of 90 in its formal dining area and have at least 60 rooms available for guests. **Amended: 11/5/86 Ord. No. 14**

Subd. 3. On-Sale Wine Licenses. "On-sale wine" licenses shall be issued only to restaurants meeting the qualifications of M.S. 340A.404, Subd. 5, and shall permit only the sale of wine not exceeding fourteen percent (14%) alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. Any restaurant licensed hereunder shall have **seating capacity for no fewer than 25 guests** at one time.

Subd. 4. Club Licenses. Club licenses shall be issued only to incorporated clubs which have been in existence for fifteen years or more or to congressionally chartered veterans' organizations which have been in existence for ten years.

Subd. 5. Sunday On-Sale. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, motel, or restaurant which has an on-sale license.

Subd. 6. Temporary On-Sale. Temporary on-sale license shall be granted to a club or charitable, religious, or other non-profit organization in existence for at least three years. A temporary license for the on-sale of wine or intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of wine or intoxicating liquor for not more than three consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license. **Added: 6/7/94 Ord. No. 109**

Subd. 7. On-Sale Brewer Taproom. The city may issue an On sale Brewer Taproom license to a brewer licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (c), (i) or (j) for the ‘on-sale’ of malt liquor produced on the licensed premises for consumption on the premises of or adjacent to the brewery location owned by the brewer, subject to the following conditions:

(1) 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 and this chapter. Notwithstanding the provisions of Min. Stat. §340A.504 Subd. 3, a taproom may be open and may conduct on-sale business on Sundays if authorized by the City in the license.

(2) A brewer may hold only one (1) On sale Brewer Taproom license.

(3) The holder of an On sale Brewer Taproom license who also holds an Off sale Brewer Malt Liquor License is permitted to sell malt liquor in containers with a capacity of up to 64 ounces commonly called “Growlers” or in 750 milliliter bottles for the take-out or off-sale of craft malt liquor. The containers or bottles shall bear a twist-type closure, cork, stopper or plug and at the time of sale must be sealed by a paper or plastic adhesive band strip or sleeve that is applied over the top of the closure of the container or bottle in such a manner that the seal must be broken in order to open the container or bottle. The adhesive band, strip or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor. A brewer may, but is not required to refill any such container or bottle with malt liquor for off-sale at the request of the customer. A brewer refilling a container or bottle must do so at its licensed premises and the container or bottle must be filled at the tap at the time of sale and sealed and labeled in the manner described in this paragraph.

(4) An On sale Brewer 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. §340A.301.

Nothing in this subdivision requires, precludes or prohibits the holder of an On sale Brewer Taproom license from also holding a license to operate a restaurant on

the premises of the brewery. The City shall, within ten (10) days of the issuance of an On sale Brewer Taproom license, inform the commissioner of the licensee's name, address and trade name and the effective date and expiration date of the license. The City shall also inform the commissioner of a license transfer, cancellation, suspension or revocation during the license period. **Added: 1/13/15 Ord. No. 386**

Subdivision 8. On-Sale Brew Pub Malt Liquor. As permitted by Minn. Stat. §340A.301 Subd. 7 (b), a brewer licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (d) may be issued an On sale Brew Pub Malt Liquor license by the City for the 'on-sale' of malt liquor produced on the licensed premises for consumption on the licensed premises owned by the brewer, or for off sale from the licensed premises as permitted in Subdivision 9, subject to the following conditions:

(1) The holder of an On sale Brew Pub Malt Liquor license must operate a restaurant at the licensed premises where the malt liquor is manufactured and sold. The holder of an On sale Brew Pub Malt Liquor license may hold or have an interest in other retail on-sale licenses.

(2) 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 and this chapter. Notwithstanding the provisions of Min. Stat. §340A.504 Subd. 3, a Brew Pub may be open and may conduct on-sale business on Sundays if authorized by the City in the license. The off-sale of malt liquor may only be made during the days and hours of off-sale at the exclusive liquor store in the City, and all malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at the City exclusive liquor store.

(3) A brewer may hold only one (1) On sale Brew Pub Malt Liquor license.

(4) The holder of an On sale Brew Pub Malt Liquor license who also holds an Off sale Brewer Malt Liquor License is permitted to sell malt liquor in containers with a capacity of up to 64 ounces commonly called "Growlers" or in 750 milliliter bottles for the take-out or off-sale of craft malt liquor. The containers or bottles shall bear a twist-type closure, cork, stopper or plug and at the time of sale must be sealed by a paper or plastic adhesive band strip or sleeve that is applied over the top of the closure of the container or bottle in such a manner that the seal must be broken in order to open the container or bottle. The adhesive band, strip or sleeve shall bear the name and address of the brewer. The containers

or bottles shall be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor. A brewer may, but is not required to refill any such container or bottle with malt liquor for off-sale at the request of the customer. A brewer refilling a container or bottle must do so at its licensed premises and the container or bottle must be filled at the tap at the time of sale and sealed and labeled in the manner described in this paragraph.

(5) An On sale Brew Pub Malt Liquor 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 3,500 barrels of malt liquor annually, provided that off-sales may not total more than 500 barrels annually.

(6) A brewer holding an On sale Brew Pub Malt Liquor license may not have an ownership interest in whole or in part, or be an officer, director, agent or employee of any other manufacturer, brewer, importer or wholesaler of intoxicating liquor or wine or be an affiliate thereof, except as may be permitted by Minn. Stat. §340A.301 Subd. 7 (b). **Added: 1/13/15 Ord. No. 386**

Subdivision 9. Off-Sale Brewer Malt Liquor. A brewer licensed to manufacture by the State of Minnesota under Minn. Stat. §340A.301 Subd. 6 clause (c), (d), (i) or (j) and licensed for “on-sale” by the City under Section 702 Subdivision 7 or Section 702 Subdivision 8 of this ordinance may be issued an Off sale Brewer Malt Liquor license by the City for the ‘off-sale’ of malt liquor produced and packaged by the brewer on the licensed premises, subject to the following conditions:

(1) The amount of malt liquor sold at off-sale may not exceed 500 barrels annually.

(2) The off-sale of malt liquor may only be made during the days and hours of off-sale at the exclusive liquor store in the City, and all malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at the City exclusive liquor store.

(3) A brewer may hold only one (1) Off sale Brewer Malt Liquor license.

(4) The holder of an Off sale Brewer Malt Liquor License is permitted to sell malt liquor in containers with a capacity

of up to 64 ounces commonly called “Growlers” or in 750 milliliter bottles for the take-out or off-sale of craft malt liquor. The containers or bottles shall bear a twist-type closure, cork, stopper or plug and at the time of sale must be sealed by a paper or plastic adhesive band strip or sleeve that is applied over the top of the closure of the container or bottle in such a manner that the seal must be broken in order to open the container or bottle. The adhesive band, strip or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, and bear the name and address of the brewer selling the malt liquor. A brewer may, but is not required to refill any such container or bottle with malt liquor for off-sale at the request of the customer. A brewer refilling a container or bottle must do so at its licensed premises and the container or bottle must be filled at the tap at the time of sale and sealed and labeled in the manner described in this paragraph.

(5) An off sale Brewer Malt Liquor 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 20,000 barrels of its own brands of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(6) The City shall impose a licensing fee for an Off sale Brewer Malt Liquor license subject to the limitations applicable to off sale license fees under Minn. Stat. §340A.408, Subd. 3 (a).

**Added: 1/13/15 Ord. No. 386**

### **702.03 Application.**

Subdivision 1. Form. Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character, with such representations as to his character, with such 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, whether the applicant is owner and operator of the business, how long he has been in that business at that place, a description of that portion of the premises to be licensed and such other information as the council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the city administrator. No person shall make a false statement in an application.

Subd. 2. Financial Responsibility. Applicants for licenses shall comply with M.S. 340A.409, Subd. 1, prior to issuance of a license.

#### **702.04 License Fees.**

Subdivision 1. Fees. The annual fee for an on-sale liquor license, wine license, club license for clubs having 500 or fewer members, and a club license for clubs having 501 or more members, on-sale brewer taproom license, on-sale brew pub malt liquor license and off-sale brewer malt liquor license is as set forth in Chapter 210.

**Amended: 01/13/15 Ord. No. 386**

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 702.05, Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the license fee shall be refunded.

Subd. 3. Term. Each license shall be issued for a period of one year except that if the application is made during the license year, a license shall be issued for the remainder of the year, with any unexpired fraction of a month being counted as one month. Liquor license fees and investigative fees shall not be prorated. Every license shall expire on the last day of December. **Amended: 10/14/14 Ord. No. 383**

Subd. 4. Refunds. No refund of any fee shall be made. **Amended: 10/14/14 Ord. No. 383**

#### **702.05 Granting of License.**

Subdivision 1. Preliminary Investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal apprehension for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. The applicant shall be charged the cost of investigation not to exceed \$10,000 if investigation outside the state is required or \$500 otherwise. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and Issuance. The council liquor control committee shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1, including a consideration of the building with regard to building and zoning ordinances and proximity to schools and churches. 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 discretion, grant or refuse the application. No wine license shall become effective until it, together with the security furnished by the applicant, and has been approved by the commissioner of public safety.

Subd. 3. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

702.06 Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by state law.

702.07 Places Ineligible for License.

Subdivision 1. General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law. No licensed premises shall have swinging doors or opaque windows. No license shall be issued for any premises where a licensee has been convicted of violation of any law or ordinance regulating the sale of liquor, or where any license has been revoked for cause until six months have elapsed after such conviction or revocation.

Subd. 2. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

702.08 Conditions of License.

Subdivision 1. In General. Every license is 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. Insurance. Compliance with financial responsibility requirements of M.S. 340A.409, Subd. 1, and of this chapter is a continuing condition of any license granted pursuant to this chapter.

Subd. 3. Licensee's Responsibility. Every licensee is responsible for the conduct of his 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 is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

Subd. 4. Inspections. Every licensee shall allow any peace officer, health officer, or 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. Federal Stamps. No licensee shall possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp.

702.09 Suspension and Revocation.

Subdivision 1. General. The council may either suspend for a period not to exceed sixty days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. Except as provided in Subd. 2, and except in the case of a suspension pending a hearing on revocation, revocation or suspension of a license by the council shall be preceded by written notice to the licensee and a public hearing. The notice shall be given at least ten days in advance of the hearing, and shall state the time and place of the hearing and the nature of the charges against the licensee. The council may, without any advance notice or hearing, suspend any license pending a hearing on revocation for a period not exceeding thirty days.

Subd. 2. Violation of Security Agreement. Lapse of required dram shop insurance shall effect an immediate suspension of any license issued pursuant to this chapter without further action 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. Any suspension under this subdivision shall continue until the council determines that the financial responsibility requirements of M.S. 340A.409, Subd. 1, and this chapter have again been met. **Amended, Ord. No. 39, 2/6/90**

702.10 Sale of Liquor at Sports or Convention Facilities.

Subdivision 1. Special License. Any holder of an on-sale intoxicating liquor license issued by the City or by an adjacent municipality may apply to the council for a **Special License** to dispense intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the City and located within the City. **Amended 3/11/14 Ord. No. 376**

Subd. 2. Conditions to Granting Special License.

Applicants for such special license must make application for each such convention, banquet, conference, meeting or social affair on forms to be prepared and furnished by the city administrator. The licensee must be engaged to dispense intoxicating liquor at such an event held by a person or organization permitted to use the premises and may dispense intoxicating liquor only to the persons attending the event. The licensee shall not dispense intoxicating liquor to any person attending or participating in any amateur athletic event held on the premises. The dispensing of intoxicating liquor shall be subject to all laws and ordinances governing the dispensing of intoxicating liquor as are not inconsistent herewith. The council may adopt additional uniform terms and conditions for such special licenses and such terms and conditions may include limitations upon the areas within such facility where intoxicating liquor may be dispensed.

Subd. 3. License Fee. The applicant shall pay the fee as set forth in Section 210 for each such special license issuance.

Subd. 4. Insurance. Prior to receiving such special license the applicant shall furnish proof in such form as required by the city administrator that the insurance required by the provisions of this chapter covers operations on the premises of the sports or convention facility for which application is made.

702.11 Sale of Intoxicating Malt Liquor by Holders of a Wine and 3.2 Malt Liquor License

Subdivision 1. The holder of an on-sale wine license issued pursuant to Minnesota Statutes 340A.404, Subd. 5(a), who is also licensed to sell 3.2 malt liquors at on-sale pursuant to Minnesota Statutes Section 340A.411 and whose gross receipts are at least 60 percent attributable to the sale of food in a restaurant, may, upon applying for and receiving authorization as provided in this section, sell intoxicating malt liquor at on-sale without an additional license. Such sales shall not be made until such licensee receives written confirmation of authority to make such sales after verification by the Office of the City Administrator of information required to be submitted to the City as provided in this ordinance.

Subd. 2. Licensees referred to in Subdivision 1 above who desire to sell intoxicating malt liquor as provided in that Subdivision shall first submit to the City Administrator copies of their Minnesota Sales Tax Returns in such detail as may be required by the City Administrator to verify that 60 percent of the licensee's sales are attributable to sale of food in a restaurant.

Subd. 3. The City Administrator, upon receipt of records in sufficient detail to permit the Administrator to verify that a licensee qualifies to sell intoxicating malt liquor pursuant to Subdivision 1, shall provide the licensee written notification of such verification and authorization to sell intoxicating malt liquor.

Subd. 4. Wholesale sellers of intoxicating malt liquor shall not sell intoxicating malt liquor to on-sale retailers who have not received written verification and authorization from the City Administrator to sell intoxicating malt liquor at on-sale.

Subd. 5. Authorization to sell intoxicating malt liquors at on-sale, as provided in this Section, shall be for the same period of time as is set forth in the licensee's non-intoxicating malt liquor license and may be renewed by application as provided in this Section; provided, however, that such authorization may be revoked by the City upon a determination by it that the licensee no longer meets the qualifications provided in this Section and as otherwise provided by law. The City may, in its discretion and upon an articulable reason therefore, request that a licensee selling intoxicating malt liquor at on-sale as authorized by the City, provide verification that the said licensee continues to meet the requirements provided above. Such verification must be provided to the City within ten (10) days of a request for the same and failure of a

licensee to provide such verification on request by the City shall be cause for revocation of authority to sell intoxicating malt liquor at on-sale. **Amended, Ord. 25, 11/3/87**  
**Revised, Ord. 23, 9/1/87**

702.12 Temporary Expansion Permit for Sidewalk Café

Section 1. That Section 702.12, Sidewalk Café, be added to the City Code and reads as follows:

The City Council may allow for the issuance of a temporary expansion of premises license ("Temporary Expansion Permit" or "Permit") to a licensee with a valid and pre-existing on-sale intoxicating liquor license. The Temporary Expansion Permit is subject to these requirements:

1. The premises may only be expanded to an area that is compact and contiguous to the permanently licensed premises in a sidewalk café on a part of the public way immediately adjoining the licensed premises ("Expanded Premises")

2. The Permit is temporary for the time period set by the City Council inclusive without any right to renewal thereafter.

3. The Permit applicant shall provide the following information on forms provided by the City Administrator. Information provided must be complete, sufficient and acceptable to the City Administrator.

a. The name and addresses of the on-sale license holder and if the holder is a company, the name and addresses of its owners, officers or partners.

b. A specific description and diagram of the Expanded Premises in which the temporary expansion activity is to occur. This area must be compact and contiguous to the permanently licensed premises, and be surrounded by physical enclosure devices if required by City Council. The diagram shall indicate how the area will be physically enclosed, and show the location of tables, chairs, food and beverage stations, and any other important features.

c. The purpose for which the temporary expansion is sought, and a description of the planned activities including projected attendance, food and beverage service, security plans, parking, and hours of operation.

d. Such other information as the City Council or City Administrator may deem necessary.

4. The Temporary Expansion Permit does not allow outdoor music or other outdoor entertainment or noise amplification.

5. The City Council may, from time to time, restrict the sale and consumption of alcoholic beverages pursuant to a Temporary Expansion Permit to certain hours after notice to the Permit holder.

6. The Permit shall specify the area in which the sidewalk café may be operated provided that no sale or service shall be permitted in any portion of the street designated for vehicular travel and sufficient sidewalk space shall remain open at all times for pedestrian traffic as required by the City Administrator.

7. Issuance of the Permit shall not be construed as authorizing any permanent installation to be placed in the public way.

8. The Permit does not authorize a sidewalk cafe in violation of state law.

9. No authorized Permit is effective until the applicant has filed with the City Administrator evidence of the following insurance in force:

a. insurance required by Minnesota Statutes Chapter 340A.509;

b. general public liability and property damage insurance with respect to the Expanded Premises in which the limits of public liability for \$1.2 million combined single limit. The insurance policy shall name the City and any additional person, firms or entities designated by it, as additional insureds, and shall contain a clause providing that the insurer will not cancel or change the insurance without first giving the City at least 10 days prior written notice. The insurance shall be issued by a responsible company qualified to do business in Minnesota, approved by the City, and a copy of the policy or a certificate of insurance shall be delivered to and approved by the City Administrator before the Permit is effective.

10. The Permit holder shall provide proper containers for the collection of waste and trash and shall be responsible for keeping the outdoor area clean of garbage, trash, or litter associated with the operation of the permitted business and shall be responsible for clean up and/or repair of the sidewalk caused by the use of the area.

11. The Permit holder's products, tables, chairs, equipment and other property:

a. shall be located so that a minimum of (to be set by the City Council) of unobstructed sidewalk is provided for passage of

pedestrians, or the minimum required by the City building code or the Americans with Disabilities Act, whichever requirement is more restrictive;

b. shall not block regulatory signs, crosswalks, intersections, fire hydrants, handicap loading zones, or other public structures or facilities;

c. shall be sufficiently lit during times of low light in order to provide for safe pedestrian passage alongside the areas and shall not impede, endanger or interfere with pedestrian or vehicular traffic;

d. shall be stable and not easily tipped and shall not include sharp edges, protrusions, or other features that may be hazardous to the public;

e. shall not shall remain in the Expanded Premises when the sidewalk café is not open and being operated;

f. shall be moved inside the adjoining building during inclement weather; and

g. shall be immediately removed from the Temporary Expansion Premises at any time that the Permit is suspended, revoked or expires.

11. The Permit holder's staff, agents and employees shall not operate or provide services outside of the Expansion Premises.

12. The granting of a permit shall in no way be considered a relinquishment by the City of that portion of said public right of way, or be of any force or effect beyond the time herein provided. Additional conditions may be imposed from time to time to protect the health, safety or welfare of the public or to protect nearby property owners from hardship or damage or to protect other public interests as determined by the City Administrator or Police Chief.

13. No Temporary Expansion Permit shall be valid at any time that the insurance required herein is not maintained and evidence of its continuance filed with the City Administrator.

14. Suspension and revocation. This Temporary Expansion Permit may be cancelled, suspended or revoked at any time by the City Council for such period as the council shall determine for violation of these restrictions, or any code or law, or for nuisance resulting from the Temporary Expansion Permit.

15. Upon the conviction of the Permit holder or the holder's agent, servant or employee for the violation of any City ordinance or state law in connection with the ownership, maintenance, or operation of the sidewalk café or the sale or service of beer or liquor, this Permit shall automatically become suspended, which suspension shall continue until the council has acted thereon.  
**Added Ord. 336, 8/11/09**

## 703. Beer Licensing

703.01 Beer Defined. "Beer" or "3.2 malt liquor" means 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.

### 703.02 License Required.

Subdivision 1. Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall be of three kinds: regular "on-sale," temporary "on-sale," and "off-sale."

Subd. 2. Regular On-Sale. Regular "on-sale" licenses shall be granted only to drug stores, restaurants, hotels and bowling centers. "On-sale" licenses shall permit the sale of beer for consumption on the premises only.

Subd. 3. Temporary On-Sale. Temporary "on-sale" licenses may be granted to a club or charitable, religious, or nonprofit organization and shall permit the sale of 3.2 malt liquor or beer for consumption on the premises only. Temporary licenses are subject to the terms and conditions set by the City Council. **Adopted: 6/3/97 Ord. No. 155**

Subd. 4. Off-Sale. "Off-sale" licenses shall permit the sale of beer at retail, in the original package, for consumption off the premises only. Off-sale licenses shall be granted only to persons who have been issued regular on-sale licenses, and to retail food stores having as the principals business the dispensing of groceries and meat products.

### 703.03 License Applications.

Subdivision 1. Form. Every application for a license to sell beer shall be made to the city administrator on a form supplied by the city and containing such information as the city administrator or the council may require. No person shall make any false statement in an application.

Subd. 2. Proof of Financial Responsibility. Prior to the issuance of a beer license, the applicant shall comply with M.S. 340A.409, Subd. 1.

### 703.04 License Fees.

Subdivision 1. Payment Required. Each application for a license shall be accompanied by payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the fee shall be refunded.

Subd. 2. Expiration; Pro Rata Fees. Every license, except a temporary license, shall expire on the last day of December in each year. Each license, except a temporary license, shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license. **Amended, Ord. 27, 1/5/88**

Subd. 3. Fees. The annual fee for a regular "on-sale" license, "off-sale" license when issued with an on-sale license, "off-sale" license alone, and a temporary "on-sale" license is as set forth in Section 210.

Subd. 4. Refunds. No part of the fee paid for any license issued under this chapter shall be refunded except as permitted under M.S. 340A.408, Subd. 5, upon application to the council within thirty days from the happening of the event. There shall then be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis.

#### 703.05 Granting of License.

Subdivision 1. Investigation and Hearing. The council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.

Subd. 2. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred at another place without the approval of the council.

703.06 Persons Ineligible for License. No license shall be granted to or held by any person who is ineligible for such license under state law.

#### 703.07 Places Ineligible for License.

Subdivision 1. Conviction or Revocation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this chapter, or of the state beer or liquor law, or where any license hereunder has been revoked for cause until six months have elapsed after such conviction or revocation.

#### 703.08 Conditions of License.

Subdivision 1. General Conditions. 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 ordinance of the city or state law.



Subd. 2. Insurance. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license granted pursuant to this chapter.

Subd. 3. Sales to Minors or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any minor as described in Minnesota Statutes 340A.502 and 340A.503, Subd. 2.

Subd. 4. Consumption by Minors. No minor as described by Minnesota Statutes 340A.503, Subd. 1, shall be permitted to consume any alcoholic beverages unless in the household of their person's parent or guardian and with the consent of the parent or guardian.

Subd. 5. Employment of Minors. No minor as described by Minnesota Statutes 340A shall be employed on the licensed premises.

Subd. 6. Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S. 340A.301, Subd. 7. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 7. Liquor Dealer's Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a Federal retail liquor dealer's special tax stamp unless he is licensed under the laws of the State of Minnesota to sell intoxicating liquors.

Subd. 8. Sales of 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 or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and, the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this chapter.

Subd. 9. Searches and Seizures. Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensed premises in violation of Subd. 8.

Subd. 10. Licensee Responsibility. Every licensee shall be responsible for the conduct of his 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 chapter equally with the employee.

703.09 Closing Hours. No sale of beer shall be made on any Sunday between the hours of 1:00 A.M. and 10:00 A.M. No sale shall be made between the hours of 2:00 A.M. and 8:00 A.M. on any other day.

703.10 Suspension and Revocation.

Subdivision 1. General. The council may either suspend for a period not to exceed sixty days or revoke any beer license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to beer or intoxicating liquor. Except as provided in Subd. 2, and except in the case of a suspension pending a hearing on revocation, suspension or revocation of a license shall be preceded by written notice to the licensee and a public hearing. The notice shall be given at least ten days in advance of the hearing, and shall state the time and place of the hearing, and the nature of the charges against the licensee. The council may, without any advance notice or hearing, suspend any license pending a hearing on revocation for a period not exceeding thirty days.

Subdivision 2. Violation of Security Requirement. Lapse of required dram shop insurance shall effect an immediate suspension of any beer license without further action of the council. Notice of cancellation or lapse of a required dram shop insurance policy shall also constitute notice to the licensee of impending suspension of the license. Any suspension under this subdivision shall continue until the council determines that the financial responsibility requirements of M.S. 340A.409, Subd. 1, and this chapter have again been met.

**Revised, Ord. 23, 9/1/87**

## 704. Consumption and Possession of Liquor and Beer

### 704.01 Regulation of Public Consumption, Possession, Sales, and Service of Intoxicating Liquor and 3.2 Malt Liquor.

Subdivision 1. Except as provided in Subd. 5 of this ordinance, and Minnesota Statute 169.A35, Subd. 6, no person may possess any intoxicating liquor or 3.2 malt liquor in or on any City Beach, City Park, City Pavilion, or Boulevard. Violation of this subdivision shall be a petty misdemeanor. **(Amended 6-22-10 Ord. No. 342)**

Subd. 2. Except provided in Subd. 5 of this ordinance and Minnesota Statute 169.A35, Subd. 6, no person may sell, serve or consume intoxicating liquor or 3.2 malt liquor while in, at, or on any public street, alley, highway, boulevard, sidewalk, vehicle, theatre, picture show, ball park, City Park, cafe, restaurant, hotel dining room, soft drink parlor, City Pavilion, dance hall, City Beach, or any public gathering for amusement or entertainment. This subdivision shall not apply to premises licensed pursuant to 702 or 703, for sales, possession and consumption in accordance with the establishment's license. Violation of this subdivision shall be a misdemeanor. **(Amended 6-22-10 Ord. No. 342)**

### Subd. 3. Alcohol Related Trespass.

- (1) Definition: The term land owner, as used in this chapter, shall include the actual owner of the land, property or buildings in question, and shall also include the lawful possessor thereof.
- (2) No person shall, without invitation of the land owner, enter into or upon the land, premises or buildings of another to consume alcohol or controlled substances.
- (3) No person shall, without the invitation of the land owner, bring a motor vehicle into or upon the land of another to facilitate the consumption of alcohol or controlled substances.
- (4) Determination of the purpose of an uninvited entry as prohibited in this chapter shall include, but not be limited to, consideration of the following factors:
  - (a) time of day
  - (b) presence of containers intended to contain, or containing alcohol
  - (c) presence of equipment used to dispense alcoholic beverages
  - (d) presence of paraphernalia containing identifiable residues of a controlled substance.
  - (e) noise level

- (f) lighting
  - (g) identified physiological responses; or
  - (h) conduct of persons in the presence of a peace officer
- (5) Defenses: Express consent, endorsement, or ratification by a land owner, of an entry into or upon land, premises or buildings, is an absolute defense to charges under this ordinance.
- (6) Authority: This ordinance is adopted pursuant to Minnesota Laws 1984, Chapter 620.
- (7) Violation: Any person violating this ordinance is guilty of a misdemeanor.

Subd. 4. Except as provided in Subd. 5 of this ordinance and Minnesota Statute 169.A35, Subd. 6, no person shall possess while in or on any public street, alley, parking lot, highway, boulevard, vehicle, sidewalk, City Park, City Beach, or City Pavilion a bottle or receptacle containing intoxicating liquor or 3.2 malt liquor, which has been opened or the seal broken and the contents of which have been partially removed. Violation of this subdivision shall be a misdemeanor. **(Amended 6-22-10 Ord. No. 342)**

Subd. 5. Permits. The Council may, in its discretion, permit the service or consumption of intoxicating liquor or 3.2 malt liquor, or both, in the City Pavilion, Freeman Arena, Washington Ball Park or Snappy Softball Complex. Such permit shall be issued only upon written application filed with the City Administrator at least thirty days prior to the date of proposed service or consumption. The Council may, by resolution, further regulate the manner and time of consumption or service and the persons or organizations who may be eligible for such permit. **Amended: Ord. No. 58 03/05/91 and Ord. No. 153, 04/01/97**

704.02 Liquor in Beer Establishments. No person shall possess or consume any intoxicating liquor on premises licensed for the sale of 3.2 malt liquor unless the premises are also licensed for the sale of intoxicating liquor.

704.03 Minors.

Subdivision 1. Misrepresentation of Age. No minor as described by Minnesota Statutes 340A shall misrepresent his age for the purpose of obtaining intoxicating liquor or 3.2 malt liquor.

Subd. 2. Inducing Purchase. No person shall induce a minor as described in Minnesota Statutes 340A to purchase or procure intoxicating liquor or 3.2 malt liquor.

Subd. 3. Procurement. No person other than the parent or legal guardian shall procure intoxicating liquor or 3.2 malt liquor for any minor as described in Minnesota Statutes 340A.

Subd. 4. Possession. No minor as described by Minnesota Statutes 340A shall have intoxicating liquor or 3.2 malt liquor in his possession with the intent to consume it at a place other than the household of his parent or legal guardian.

Subd. 5. Consumption. No minor as described by Minnesota Statutes 340A shall consume intoxicating liquor or 3.2 malt liquor unless in the company of his parent or legal guardian. **Revised, Ord. 23, 9/1/87**

**705. Regulating Establishments Licensed for Sale, Service or Consumption of Alcoholic Beverages**

705.01 Purpose. The City of Detroit Lakes does hereby ordain that it is in the best interests of the public health, safety and general health of the people of the City of Detroit Lakes that certain types of activities, as set forth in this ordinance, are prohibited upon the premises of licensed liquor, wine and beer establishments so as to best protect and assist the owners, operators and employees of these premises as well as patrons and the public in general. Further, the City does ordain that the standards in this ordinance reflect the prevailing community standards in the City of Detroit Lakes. This ordinance is intended to prevent harm stemming from the physical immediacy, and combination of, alcohol, nudity and sex. This ordinance is further intended to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of harassment or activities likely to lead to the possibility of various acts of criminal conduct, including, without limitation, prostitution, sexual assault and disorderly conduct.

705.02 Certain Acts Prohibited. It shall be unlawful for any licensee to permit or allow any person or persons from being upon premises licensed by the City of Detroit Lakes for sale, service or consumption of liquor, wine or beer when such person does not have their buttocks, anus, breast and genitals covered with a non-transparent material.

705.03. Violation.

Subdivision 1. A violation of this ordinance is a misdemeanor.

Subdivision 2. A violation of this ordinance is cause and justification for revocation or suspension of the liquor, wine or beer license of the premises at which the violation occurs. **Adopted: 1/3/95 Ord.No. 115**

(Pages 297-311 reserved)