

TITLE XI: BUSINESS REGULATIONS

Chapter

111. ALCOHOLIC BEVERAGES

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For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **3.2% MALT LIQUOR.** Malt liquor containing not less than 1/2% alcohol by volume nor more than 3.2% alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein).

(B) **ALCOHOLIC BEVERAGE.** Any beverage containing more than 1/2% alcohol by volume.

(C) **APPLICANT.** Any person making an application for a license under this Chapter.

(D) **APPLICATION.** A form with blanks or spaces thereon, to be filled in and completed by the applicant as their request for a license, furnished by the City Administrator's office and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

(E) **BREWER.** A person who manufactures malt liquor for sale.

(F) **CHURCH.** A building which is principally used as a place where persons of the same faith regularly assemble for the public worship of God.

(G) **CLUB.** An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes for intellectual improvement or for the promotion of sports or a congressionally chartered veterans' organization, which:

(1) Has more than 50 members;

(2) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and

(3) Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

(H) **COMMISSIONER.** The Minnesota Commissioner of Public Safety.

(I) **DISTILLED SPIRITS.** Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

(J) **HOTEL.** An establishment where food and lodging are regularly furnished to transients and which has:

(1) A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and

(2) At least 50 guest rooms.

(K) **INTOXICATING LIQUOR.** Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2% of alcohol by weight.

(L) **LICENSE.** A document, issued by the City, to an applicant permitting them to carry on and transact the business stated therein.

(M) **LICENSEE.** An applicant who, pursuant to their approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.

(N) **LICENSE FEE.** The money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

(O) **LICENSED PREMISES.** The premises described in the issued license.

(P) **MALT LIQUOR.** Any beer, ale, or other beverage made from malt by fermentation and containing not less than 1/2% alcohol by volume.

(Q) **MANUFACTURER.** Every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces alcoholic beverages for sale.

(R) **MINOR.** Any natural person who has not attained the age of 21 years.

(S) **OFF-SALE.** The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

(T) **ON-SALE.** The sale of alcoholic beverages for consumption on the licensed premises only.

(U) **PACKAGE** and **ORIGINAL PACKAGE.** Any container or receptacle holding alcoholic beverages, which container, or receptacle holding alcoholic beverages is corked, capped, or sealed by a manufacturer or wholesaler.

(V) **RESTAURANT.** Any establishment, other than a hotel, under the control of a single proprietor or manager having appropriate facilities for the serving of meals and where, in consideration of payment therefor, meals are regularly prepared on the premises and served at tables to the general public, which employs an adequate staff to provide the usual and suitable service to its guests, the principal part of the business being the serving of foods and which shall have seating facilities for seating not less than 40 guests at one time. For the purpose of this definition, the term **PRINCIPAL PART OF THE BUSINESS** shall mean over 50% of gross sales as follows: for 3.2 percent malt liquor licenses seating for not less than 25 guests at one time; for wine licenses seating for not less than 25 guests at one time; and for on-sale intoxicating liquor licenses seating for not less than 40 guests at one time. For the purpose of this definition, the term **PRINCIPAL PART OF BUSINESS** shall mean over 50% of gross sales.

(W) **SALE, SELL, and SOLD.** All barbers and all manners or means of furnishing malt liquor, wine, or liquor to persons, including such furnishing in violation or evasion of law.

(X) **WHOLESALER.** Any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse in Minnesota.

(Y) **WINE.** The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than 1/2% nor more than 24% alcohol by volume for nonindustrial use. *WINE* does not include distilled spirits.

(Ordinance No. 16, 3rd Series – adopted May 10, 2005)

(Ordinance No. 36, 3rd Series – adopted February, 2008)

LICENSES

§ 111.015 APPLICATION.

All applications for licenses required by this Chapter shall be made at the office of the City Administrator upon forms prescribed by the City and by the Commissioner, if required, together with

such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application shall be answered fully and completely by the applicant. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under M.S. § 340A.802.

§ 111.016 FALSE STATEMENTS.

It is unlawful for any applicant to intentionally make a false statement or omission upon any application. Any false statement in the application or any willful omission to state any information called for on the application form shall, upon discovery of the falsehood, work an automatic refusal of license or, if already issued, shall render any license issued pursuant thereto void.

§ 111.017 APPLICATION AND INVESTIGATION FEES.

At the time of the initial application, an applicant for an on-sale intoxicating liquor license or 3.2% malt liquor license shall pay to the City a fee to be established by the Council by resolution, which fee may be changed from time to time. The fee shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. However, in the case of a new application for an on-sale intoxicating liquor license caused by change in ownership or control of a corporation or due to enlargement, alternation, or extension of premises previously licensed, an additional investigation fee to be established by the Council by resolution, which fee may be changed from time to time, shall be paid by the applicant.

§ 111.018 ACTION.

(A) *Granting.* The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter.

(B) *Issuing.* If an application is approved, the City Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the City or the proper agency of the state, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the calendar year, the fee to be paid with the application shall be a pro-rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

(C) *License refundment in certain cases.* In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee shall cease by reason of illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under their license, except when the license is revoked, the City shall, upon the happening of any such event, refund to the licensee, or to their estate, such part of the license fee paid by them as corresponds to the time the

license had yet to run. In the event of death of the licensee, their personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

(D) *Transfer.* No license shall be transferable between persons or to a different location without prior consent of the Council and the filing of a new application with required fee. It is unlawful to make any transfer in violation of this Section.

(E) *Refusal and termination.* The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. Licenses shall terminate only by expiration or revocation.

(F) *Revocation or suspension.* The Council shall revoke or suspend, for a period not to exceed 60 days, a license granted under the provisions of this Chapter or impose a civil fine not to exceed \$2,000 for each violation on a finding that the licensee has failed to comply with a statute, regulation, or provision of the City Code relating to alcoholic beverages. The Council shall revoke the license upon conviction of the licensee or agent or employee of a licensee for violating any law relating to the sale or possession of 3.2% malt liquor, wine, or intoxicating liquor upon premises of the licensee or if the revocation is mandatory by statute. If it shall be made to appear at the hearing thereon that the violation was not willful, the Council may order suspension, provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a Committee of the Council or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. The hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place, and the purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or statute, the following shall also be grounds for such action:

(1) That the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of 3.2% malt liquor, wine, or intoxicating liquor;

(2) That the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police;

(3) That the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts upon licensed premises; or

(4) That the activities of the licensee created a serious danger to public health, safety, or welfare.

§ 111.019 RENEWAL OF LICENSES.

Applications and payment of fees of an existing intoxicating liquor license shall be made at least 60 days prior to the date of the expiration of the license and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

§ 111.020 DUPLICATE LICENSES.

Duplicates of all original licenses may be issued by the City Administrator, without action by the Council, upon the payment of a fee of \$20 for issuance of this duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

§ 111.021 POSTING.

All licensees shall post their licenses in a conspicuous place in the premises for which it is used.

§ 111.022 PERSONS DISQUALIFIED.

(A) No license under this Chapter may be issued to:

- (1) A person not a citizen of the United States or a resident alien;
- (2) A person who within five years of the license application has been convicted of a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages;
- (3) A person who has had an alcoholic beverage license revoked within five years of the license application or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- (4) A person not of good moral character and repute; or
- (5) A person under the age of 21.

(B) No person holding a license from the Commissioner as a manufacturer, brewer, or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the City.

§ 111.023 LIMITATION ON OWNERSHIP.

The City may not issue more than one off-sale intoxicating liquor license to any one person or for any one place.

§ 111.024 CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

§ 111.025 FINANCIAL RESPONSIBILITIES OF LICENSES.

(A) Proof. No 3.2% malt liquor, wine, or intoxicating liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by statute, by filing with the City a certificate that there is in effect an insurance policy or pool providing minimum coverage of at least \$50,000 because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence and \$100,000 for loss of means of support of two or more persons in any one occurrence; an aggregate of \$300,000 may be included in the insurance coverage.

(B) Documents submitted to Commissioner. All proofs of financial responsibility filed with the City under this Section shall be submitted by the City to the Minnesota Commissioner of Public Safety.

§ 111.026 INSURANCE CERTIFICATE REQUIREMENTS.

(A) Whenever an insurance certificate is required by this Chapter, the applicant shall file with the City Administrator a certificate of insurance showing:

- (1)** That the limits are at least as high as required;
- (2)** That coverage is effective for at least the license term approved; and
- (3)** That the insurance will not be canceled or terminated without 30 days written notice served upon the City Administrator.

(B) Cancellation or termination of the coverage shall be grounds for license revocation.

§ 111.027 DELINQUENT TAXES AND CHARGES.

No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments or installments thereof, or other financial claims of the City, are owed and are delinquent and unpaid.

§ 111.028 CONDUCT ON LICENSED PREMISES.

Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order therein.

§ 111.029 LICENSE CONDITION AND UNLAWFUL ACT.

(A) All premises licensed under this Chapter shall at all times be open to inspection by any peace officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued the license, consent to the inspection by the officers and without a warrant for searches or seizures.

(B) It is unlawful for any licensee, agent, or employee of a licensee to hinder or prevent a peace officer from making the inspection.

§ 111.030 ON-SALE WINE LICENSE.

(A) *License required.* It is unlawful for any person to sell or offer for sale any wine, which shall not exceed 14% alcohol by volume, without a license therefor from the City and with the approval from the Commissioner.

(B) *Applicant.* No on-sale wine license shall be issued to an applicant other than a restaurant, as defined in this Code.

(C) *Application.* Application for an on-sale wine license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(D) *License fee.* The fee for an on-sale wine license shall be established by the Council by resolution, which fee may be changed from time to time.

(E) *Restrictions.*

(1) No on-sale of wine shall be made between 1:00 a.m. and 12:00 noon on Sunday, nor between 12:00 midnight and 8:00 a.m. on Monday, nor between the hours of 1:00 a.m. and 8:00 a.m. on Tuesday through Saturday.

(2) It is unlawful to consume or display or allow consumption or display of wine on any premises between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 1:00 a.m. and 12:00 noon on Sunday.

- (3) It is unlawful to sell wine to persons to whom intoxicating liquor sales are not permitted by this Code.
- (4) It is unlawful for any licensee to make any sale of wine except for consumption on the licensed premises and in conjunction with the sale of food.
- (5) No person under 18 years of age may sell or serve wine on licensed premises.

§ 111.032 ON-SALE INTOXICATING MALT LIQUOR IN CONJUNCTION WITH WINE LICENSE.

(A) *Authorization.* The holder of an on-sale wine license issued by the City pursuant to Section 111.030 who is also licensed by the City to sell 3.2 percent malt liquor at on-sale pursuant to Section 111.065, and whose gross receipts are at least 60% attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional license from the City.

(B) *Restrictions.*

(1) No on-sale of intoxicating malt liquors shall be made between 1:00 a.m. and 12:00 Noon on Sunday, nor between the 12:00 Midnight and 8:00 a.m. on Monday, nor between the hours of 1:00 a.m. and 8:00 a.m. on Tuesday through Saturday.

(2) It is unlawful to consume or display or allow consumption or display of intoxicating malt liquors on any premises between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 1:00 a.m. and 12:00 Noon on Sunday.

(3) It is unlawful to sell intoxicating malt liquors to persons to whom intoxicating liquor sales are not permitted by the Code.

(4) It is unlawful for any licensee to make any sale of intoxicating malt liquors pursuant to this Section except for consumption on the licensed premises and in conjunction with the sale of food.

(5) No person under 18 years of age may sell or serve intoxicating malt liquors on licensed premises.

(Ord. No. 13, 3rd Series – Adopted 09/28/04)

GENERAL REGULATIONS

§ 111.045 MINORS; UNLAWFUL ACTS.

(A) *Consumption.* It is unlawful for any:

- (1) Licensee to permit any minor to consume alcoholic beverages on licensed premises; or

(2) Minor to consume alcoholic beverages except in the household of the minor's parent or guardian and then only with the consent of the parent or guardian.

(B) *Purchasing.* It is unlawful for any person:

(1) To sell, barter, furnish, or give alcoholic beverages to a minor unless the person is the parent or guardian of the minor and then only for consumption in the household of the parent or guardian;

(2) Minor to purchase or attempt to purchase any alcoholic beverage; or

(3) To induce a minor to purchase or procure any alcoholic beverage.

(C) *Possession.* It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of their parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

(D) *Entering licensed premises.* It is unlawful for any minor to enter the municipal liquor store unless accompanied by a parent or legal guardian or to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of 18 years to enter licensed premises for the following purposes:

(1) To perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute;

(2) To consume meals; and

(3) To attend social functions that are held in a portion of the establishment where liquor is not sold. It is not unlawful for a licensee to employ as a musician a person under 18 years of age to perform on licensed premises. It is unlawful for a licensee to permit a person under the age of 18 years to enter licensed premises unless as permitted herein or attending a social event at which alcoholic beverages are not served or in the company of a parent or guardian.

(E) *Misrepresentation of age.* It is unlawful for a minor to misrepresent their age for the purpose of purchasing or consuming alcoholic beverage.

(F) *Proof of age.* Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license issued by Minnesota, another state or a province of Canada and including the photograph and date of birth of the licensed person; by a valid Minnesota identification card; by a valid Canadian identification card with the photograph and date of birth of the person, issued by a Canadian province; in the case of a foreign national, from a nation other than Canada, by a valid passport; or a valid military identification card issued by the United States Department of Defense.

§ 111.046 GAMBLING PROHIBITED.

It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession or operation on licensed premises of dice or any other gambling device or permit raffles to be conducted, except as are licensed by the Charitable Gambling Control Board and then only except as it complies with the established policy of the City.

§ 111.047 SALE BY EMPLOYEE.

Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make the sale in or from the place is the act of the employer as well as of the person actually making the sale; and every employer is liable to all of the penalties, except criminal penalties, provided by law for the sale, equally with the person actually making the sale.

§ 111.048 CONSUMPTION AND POSSESSION ON STREETS, PUBLIC PROPERTY AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.

(A) It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage as that term is defined in § 111.001, on any:

- (1) City park, except where permission has specifically been granted or licensed by the Council;
- (2) Street;
- (3) Public property; or

(4) Private parking lot to which the public has access, except on such premises when and where permission has been specifically granted, or licensed by the Council.

(B) This Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of the vehicle if it is equipped with a trunk or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

§ 111.049 ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.

It is unlawful for any person to introduce upon, or have in their possession upon, or in, any public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.

§ 111.050 MUNICIPAL LIQUOR STORE.

(A) *Establishment.* A municipal liquor store is established to be operated within the City for the sale of liquor potable as a beverage and containing more than 3.2% of alcohol by weight. The municipal liquor store shall be at such place or places as the Council shall determine and may be either leased or owned by the City. The municipal liquor store shall be in the charge of a person known as the Liquor Store Director who shall have such assistants as may be necessary. All employees, including the Director, shall hold their positions at the pleasure of the Council.

(B) *Liquor Fund.* A Liquor Fund is created into which all revenues received from the operation of the municipal liquor store shall be paid and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the Council and expended for any municipal purpose.

§ 111.051 CLUBS.

(A) *License required.* It is unlawful for any club to sell or keep or offer for sale any liquor without a license therefor from the City.

(B) *Applicant.* The applicant for a license under this Section must be a club, as defined in § 111.001.

(C) *Application.* Application for a club liquor license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(D) *License fee.* The fee for a club liquor license shall be established by the Council by resolution, which fee may be changed from time to time.

(E) *Club license restrictions and regulations.*

(1) No club shall sell intoxicating liquor to persons other than its members and their bona fide guests.

(2) All intoxicating liquor license restrictions, intoxicating liquor sale regulations and hours and days of intoxicating sales, as stated in this Chapter and relating to the on-sale of intoxicating liquor, shall be binding upon all club liquor licenses.

(3) It is unlawful for any club liquor licensee to fail to strictly comply with the provisions of this Section.

§ 111.052 CONSUMPTION AND DISPLAY.**(A) General.**

(1) *License required.* No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner and a license from the Council.

(2) *Application.* Application for a consumption and display permit shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(3) *License fee.* The fee for a consumption and display license shall be established by the Council by resolution, which fee may be changed from time to time.

(4) Regulations and restrictions.

(a) Every bottle, container, or other receptacle containing liquor stored by a member of a bottle club shall have attached to it a label signed by the member of the club, shall be kept in a locker assigned to the use of such member, and no other liquor shall be on bottle club premises.

(b) It is unlawful for any minor to be assigned a locker for the storage of liquor or to consume or display liquor on any premises under the control of such club.

(c) It is unlawful to consume or allow consumption or display of liquor in any bottle club or business establishment during days and hours other than those permitted for on-sale liquor by any other liquor license.

(d) Any bottle club or business establishment allowing the consumption or display of liquor shall be open for inspection at all times by the Commissioner and the Commissioner's representatives and by authorized peace officers and it is unlawful to refuse to permit such peace officers to inspect such premises.

(B) One-day license.

(1) *License required.* Any nonprofit organization desiring to serve liquids for the purpose of mixing with liquor and permit the consumption and display of liquor in conjunction with a social activity sponsored by it shall first obtain a license from the Commissioner and a license from the Council. It is unlawful for any such organization to fail to obtain the license.

(2) *Application.* Application for a one-day consumption and display license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of

(3) *License fee.* The fee for a one-day consumption and display license shall be established by the Council by resolution, which fee may be changed from time to time.

(4) *Regulations and restrictions.*

(a) The term of the license shall be one day only.

(b) The City may not issue more than ten consumption and display permits in any calendar year.

§ 111.053 NUDITY OR OBSCENITY PROHIBITED.

(A) The City Council finds it be in the best interests of the public health, safety, and general welfare of the people of this City that certain types of activities are prohibited as provided in this Section upon the premises of licensed liquor, wine, and 3.2% malt liquor establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The Council also finds that the standard set forth in this Section reflect the prevailing community standards of the City. The provisions of this Section are intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council also 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.

(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, breast, and genitals covered with a nontransparent material.

(C) A violation of this Section is a misdemeanor and is justification for revocation or suspension of any liquor, wine or 3.2% malt beverage license.

MALT LIQUOR REGULATIONS

§ 111.065 MALT LIQUOR LICENSE REQUIRED.

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of 3.2% malt liquor, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding 3.2% malt liquor licenses from the City. Annual on-sale 3.2% malt liquor licenses may be issued only to restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks. Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale 3.2% malt liquor license and may sell 3.2% malt liquor on-sale without an additional license.

§ 111.066 FEES.

(A) The annual on-sale 3.2% malt liquor license fee shall be established by the Council by resolution, which fee may be changed from time to time.

(B) The annual off-sale 3.2% malt liquor license fee shall be established by the Council by resolution, which fee may be changed from time to time.

§ 111.067 RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.

(A) No person under the age of 18 years shall be employed to sell or serve 3.2% malt liquor in any on-sale establishment. However, a person who has attained the age of 17 years may be employed in any restaurant licensed to sell 3.2% malt liquor in which the principal part of the business is the serving of food.

(B) No person under the age of 18 years shall be employed to sell 3.2% malt liquor in any off-sale establishment except in the capacity of a cashier at a check-out counter.

(C) It is unlawful for any:

(1) Person to knowingly induce another to make an illegal sale or purchase of 3.2% malt liquor;

(2) Licensee to sell 3.2% malt liquor on any day, or during any hour, when such sales are not permitted by this Code;

(3) Licensee to allow consumption of 3.2% malt liquor on licensed premises on any day, or during any hour, when sales of 3.2% malt liquor are not permitted by this Code;

(4) Person to purchase or consume 3.2% malt liquor on licensed premises on any day, or during any hour, when sales of 3.2% malt liquor are not permitted by this Code; or

(5) Licensee, or employee of a licensee, to sell or serve 3.2% malt liquor to any person who is obviously intoxicated.

§ 111.068 HOURS OF SALE.

No sale of 3.2% malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between the hours of 1:00 a.m. and 12:00 noon on Sunday.

§ 111.069 CLOSING.

(A) *Consumption.* It is unlawful to consume or display or allow consumption or display of 3.2% malt liquor on any premises between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through

Saturday, nor between the hours of 1:00 a.m. and 12:00 noon on Sunday.

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(B) Closing. It is unlawful for any person, other than a licensee or their bona fide employee actually engaged in the performance of their duties, to be on the premises licensed under this Chapter more than 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

§ 111.070 TEMPORARY LICENSE PERMITTED; TERMS AND FEES.

(A) Applicant. A club or charitable, religious, or nonprofit organization, duly incorporated as a nonprofit or religious corporation under the laws of the state and having its registered office and principal place of activity within the City may qualify for a temporary on-sale 3.2% malt liquor license.

(B) Application. Application for a license shall be made to the City Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(C) Fees. The fee for a temporary on-sale 3.2% malt liquor license shall be established by the Council by resolution, which fee may be changed from time to time.

(D) Restrictions.

(1) An application for a temporary on-sale 3.2% malt liquor license shall state the exact dates and place of temporary sale. Sales may be in any school or school buildings.

(2) No applicant shall qualify for a temporary 3.2% malt liquor license for more than a total of seven days in any calendar year.

(3) The applicant shall comply with all other restrictions, limitations, and regulations for the sale of 3.2% malt liquor under the City Code and Statutes.

INTOXICATING LIQUOR REGULATIONS

§ 111.080 INTOXICATING LIQUOR LICENSE REQUIRED.

(A) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of intoxicating liquor, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply:

(1) To such potable liquors as are intended for therapeutic purposes and not as a beverage;

(2) To industrial alcohol and its compounds not prepared or used for beverage purposes;

(3) To wine in the possession of a person duly licensed under this Chapter as an on-sale wine

licensee;

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- (4) To sale by manufacturers to wholesalers duly licensed as such by the Commissioner;
- (5) To sales by wholesalers to persons holding intoxicating liquor licenses from the City; or,
- (6) To the municipal liquor store.

(B) The City may issue on-sale intoxicating liquor licenses to:

- (1) Hotels;
- (2) Restaurants;
- (3) Bowling centers; and

(4) Clubs or congressionally chartered veterans organizations, provided that liquor sales will be made only to members and bona fide guests.

(C) Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale 3.2% malt liquor license and may sell 3.2% malt liquor on-sale without an additional license.

§ 111.081 FEES.

(A) The fees for an intoxicating liquor license and a Sunday intoxicating liquor license shall be established by the Council by resolution, which fees may be changed from time to time by resolution. One-fourth of the fee shall be paid with the application and the balance upon issuance of the license. Upon rejection of any application for a license, or upon withdrawal of an application before approval of the issuance by the Council, the license fee shall be refunded to the applicant except where rejection is for a willful misstatement in the license application.

(B) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be 90 days after approval of the license by the Council or upon the date the building is ready for occupancy, whichever is sooner.

(C) Where a new application is filed as a result of incorporation by an existing licensee and the ownership, control, and interest in the license are unchanged, no additional license fee shall be required.

§ 111.082 RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.

(A) *Licenses; places ineligible.*

(1) No license shall be granted for any place which operates a "drive-in" facility for the service of food or beverages.

(2) No license shall be granted for any place which has a common entrance or exit between any two establishments, except that a public concourse or public lobby shall not be construed as a common

entrance or exit.

(3) No license shall be granted for any place which does not have an investment in land, buildings, and building fixtures in excess of \$100,000 for a restaurant, \$500,000 for a hotel/motel and for an intoxicating liquor-only establishment \$100,000. For the purposes of this Section, an applicant lessee may include the reasonable market value of the premises in determining their investment in land, buildings, and building fixtures.

(B) *Restriction of number of licenses.* The Council may issue the number of intoxicating liquor licenses authorized by statute or restrict the number from time to time as it may, in its discretion, deem proper.

(C) *Conditions of license.*

(1) The business records of the licensee, including federal and state tax returns, shall be available for inspection by the City Administrator or any duly authorized representative of the City or the Council at all reasonable times.

(2) Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws or partnership agreement, as the case may be, shall be submitted to the City Administrator within 30 days after such changes are made.

(3) Outdoor Patios and Decks. Service and consumption of alcohol in outdoor patios and decks in conjunction with an intoxicating liquor on-sale license, an on-sale wine license, a special club license, a special license for Sunday sales, or a 3.2 percent malt liquor on-sale license, is allowed under the following conditions:

(a) The outdoor patio or deck must be compact and contiguous to the licensed premises with a visibly defined boundary;

(b) The outdoor patio or deck area must be included within the area defined in the license holder's license area and included in the required liquor liability insurance for the premises;

(c) Music, televisions, bands, or any activity that would disturb the peace of the surrounding area and not be in compliance with §91.18, Public Nuisances Affecting Peace and Safety, is prohibited on or near outdoor patios or decks;

(d) Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, and any other type of refuse must be provided and the outdoor patio or deck, and surrounding area, must be kept free of such refuse;

(e) Lighting must be sufficient to promote public safety, shall be downward directional, and shall be compatible with the surrounding area;

(f) The licensee may allow smoking on the outdoor patio or deck, provided that the outdoor patio or deck is in compliance with M.S.A. § 144.411, et. seq., the Minnesota Freedom to Breathe Act of 2007; and

(g) Signs shall be posted in accordance with Minnesota Rule 4620.0500 to advise persons of the existence of acceptable nonsmoking and smoking-permitted areas.

(Ord. No. 37, 3rd Series – Adopted 04/01/08)

(D) *Licenses in connection with premises of another.* An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Division does not prevent the granting of a license to a property lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this Chapter.

(E) *Unlawful acts.* It is unlawful for any:

(1) Person to knowingly induce another to make an illegal sale or purchase of intoxicating liquor;

(2) Licensee, or any employee of a licensee, or employee of a City-owned dispensary, to sell intoxicating liquor on any day or during any hour when the sales are not permitted by this Code;

(3) Person to purchase or consume intoxicating liquor on licensed premises on any day, or during any hour, when sales of intoxicating liquors are not permitted by this Code; or,

(4) Licensee, or employee of a licensee, or employee of a City-owned dispensary, to sell or serve intoxicating liquor to any person who is obviously intoxicated.

(F) *Employment of minors.* It is unlawful for any person under the age of 18 years to sell or serve intoxicating liquor.

§ 111.083 HOURS AND DAYS OF SALE.

(A) *Non-Sunday liquor sales.* No on-sale shall be made after 1:00 a.m. on Sunday, nor until 8:00 a.m. on Monday, except as permitted in Division (B), nor between the hours of 1:00 a.m. and 8:00 a.m. on Tuesday through Saturday. No off-sale shall be made on Sunday nor before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday, nor on Thanksgiving Day, Christmas Day, December 25, nor after 8:00 p.m. on Christmas Eve, December 24.

(B) *Sunday liquor sales.* A restaurant, club, bowling center, or hotel with a seating capacity for

at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 1:00 a.m. on Mondays.

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intoxicating liquor on any premises between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, and on Sundays, except as provided herein.

(B) *Closing.* It is unlawful for any person, other than a licensee or their bona fide employee actually engaged in the performance of their duties, to be on the premises licensed under this Chapter more than 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

§ 111.085 SALE OF INTOXICATING LIQUOR AT SPORTS OR CONVENTION FACILITIES.

(A) *Special license.* Any holder (except a club) of an on-sale intoxicating liquor license issued by the City 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 or convention facility owned by the City and located within the City.

(B) *Conditions to granting special license.* Applicants for the 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 Code provisions governing the dispensing of intoxicating liquor as are not inconsistent herewith. The Council may adopt additional uniform terms and conditions for the special licenses and such terms and conditions may include limitations upon the areas within such facility where intoxicating liquor may be dispensed.

(C) *License fee.* The fee for a license to sell liquor at a sports or convention facility shall be established by the Council by resolution, which fee may be changed from time to time.

(D) *Insurance.* Prior to receiving the 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.

§ 111.086 TEMPORARY INTOXICATING LIQUOR LICENSE.

(A) *License authorized.* Notwithstanding any provision of this Code to the contrary, the Council may issue a license for the temporary on-sale of intoxicating liquor in connection with a social event sponsored by the licensee. The license may provide that the licensee may contract with the holder, except a club, of a full-year on-sale intoxicating liquor license, issued by the City for intoxicating liquor-catering services.

(B) *Applicant.* The applicant for a license under this Section must be a club, a charitable, religious or other nonprofit organization in existence for at least three years or a political committee registered under M.S. § 10A.14.

(C) *Application.* Application for a temporary intoxicating liquor license shall be made to the City

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Administrator on an application provided by the City Administrator. The license may be approved by the City Council and issued by the City Administrator upon payment of required fee and completion of other requirements.

(D) *License fee.* The fee for a temporary intoxicating liquor license shall be established by the Council by resolution, which fee may be changed from time to time.

(E) *Terms and conditions of license.*

(1) No license is valid until approved by the Commissioner.

(2) No license shall be issued for more than three four-day, four three-day, six two-day or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, or for any one location, within a 12-month period.

(3) The City shall not issue more than one temporary intoxicating liquor license to any one organization or registered political committee, or for any one location, within any 30-day period, unless the licenses are issued in connection with an event officially designated a community festival by the City.

(4) All licenses and licensees are subject to all provisions of statutes and this Code relating to intoxicating liquor sale and licensing. The licensee shall provide proof of financial responsibility coverage and, in the case of catering by a full-year on-sale intoxicating liquor licensee, the caterer shall provide proof of the extension of the coverage to the licensed premises.

(5) Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

§ 111.100 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by peace officers or other authorized City officials during regular business hours. From time to time, the City shall conduct compliance checks by engaging individuals over the age of 18 years but less than 21 years to enter the licensed premises to attempt to purchase an alcoholic beverage. Individuals used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Individuals used for compliance checks shall not be guilty of unlawful possession of alcoholic beverages when those items are obtained as part of the compliance check. No individuals used in compliance checks shall attempt to use a false identification misrepresenting the individual's age, and all individuals lawfully engaged in a compliance checks shall answer all questions about the individual's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which they are asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

§ 111.119 VIOLATIONS AND PENALTY RELATED TO COMPLIANCE CHECKS AND INSPECTIONS.

(A) Violations.

(1) **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of the violator's right to be heard on the accusation.

(2) **Hearing.** If a person accused of violating this Chapter so requests, a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.

(3) **Hearing Officer.** The City official designated by the City Council shall serve as the hearing officer.

(4) **Decision.** If the hearing officer determines that a violation of this Chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Division (B) of this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings, shall be recorded and a copy provided to the acquitted accused violator.

(5) **Appeals.** Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.

(6) **Misdemeanor Prosecution.** Nothing in this Section shall prohibit the City from seeking prosecution as a criminal matter for any alleged violation of this Chapter.

(7) **Continued violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(B) Administrative penalties.

(1) **Licensees.** Any licensee found to have violated this Chapter, or whose employee shall have violated this Chapter, shall be charged an administrative fine of \$75 for a first violation of this Chapter; \$200 for a second violation at the same licensed premises within a 24-month period; and \$250 for a third or subsequent violation at the same location within a 24-month period. In addition, after the third violation in any 24-month period, the licensee's license shall be suspended for not less than three days.

(2) **Other individuals.** Other individuals, other than minors regulated by Division (B) (3) of this Section, found to be in violation of this Chapter shall be charged an administrative fee of \$75 for the first violation of this Chapter; \$200 for a second violation within a 24-month period; and \$250 for a third or subsequent violation within a 24-month period.

(3) **Minors.** Individuals under the age of 21 years found in unlawful possession of or who unlawfully purchase or attempt to purchase alcoholic beverages, shall be subject to an administrative fine or may be subject to alcohol related education classes, diversion programs, community services, or another penalty that the City believes will be appropriate and effective. The administrative fine or other penalty shall be established by the City Council resolution upon the City Council's consultation with interested parties or the courts, educators, parents, and children to determine an appropriate penalty for

individuals under the age of 21 years in the City. This administrative fine or other penalty may also be

established from time to time by resolution, which resolution may be amended from time to time.

(4) Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a criminal offense for any violation of this Chapter.

(Ord. 2, 3rd Series adopted 05/13/03)