

CITY COUNCIL

ORDINANCE NO. 2020-2

AN ORDINANCE AMENDING CHAPTER 13 OF THE CITY CODE RELATING TO
ALCOHOLIC BEVERAGE CONTROL

The City Council of the City of Bloomington, Minnesota does hereby ordain:

Section 1. That Chapter 13 of the City Code of Ordinances is amended by adding those words that are underlined and deleting those words struck through and contained in brackets [], to read as follows:

CHAPTER 13: ALCOHOLIC BEVERAGE CONTROL

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ARTICLE 1: GENERAL PROVISIONS AND LICENSES

§ 13.01 PURPOSE.

Under the authority of M.S. Ch. 340A, as amended, the City Council enacts the following regulations for the sale and consumption of alcoholic beverages within its City limits. The City Council may place more restrictions on alcoholic beverages within its City limits than those contained in M.S. Ch. 340A.

§ 13.02 DEFINITIONS.

ALCOHOLIC BEVERAGE. Any beverage containing more than 0.5% alcohol by volume. Alcoholic beverage includes intoxicating liquor, wine, and 3.2% malt liquor.

ALCOHOLIC BEVERAGE TASTING. An event of 4 hours or less in duration where a person pays a fee or donation to participate, and is allowed to consume wine, malt liquor, or both, by the glass without paying a separate charge for each glass.

BREWER. A person who manufactures malt liquor for sale.

BREW PUB. A brewer who sells on-sale intoxicating liquor or 3.2% malt liquor at a restaurant located in the same building where the brewer manufactures the intoxicating liquor or 3.2% malt liquor.

BREWER TAPROOM. A brewer who holds a brewer's license under M.S. § 340A.301, as amended, who is licensed to conduct on-sale intoxicating or 3.2% malt liquor sales on the premises of or adjacent to one brewery location owned by the brewer.

COCKTAIL ROOM. A microdistillery who is licensed to sell on-sale intoxicating liquor on the premises of or adjacent to one distillery location owned by the distiller.

CONTIGUOUS. Touching or connected throughout in an unbroken sequence.

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

(1) Has 50 or more members;

(2) Has owned or rented a building or space in a building for more than 1 year that is suitable and adequate for the accommodation of its members; and

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

DINNER THEATER. Any establishment that provides live entertainment in a theater setting, provides a meal for at least 75% of those in attendance, and has a seating for at least 300 guests at tables. A performance within the *DINNER THEATER* may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a theater under this definition.

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.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, 3.2% malt liquor, beverages for mixing with intoxicating liquor, soft drinks, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food.

FIRE SAFETY PLAN. A site plan of the premises for a special event license or a temporarily expanded area covered by a license, issued under this Chapter, that shows all points of entry and exits, the location of all life safety devices, tents, temporary structures, any appurtenant equipment, including propane storage tanks and vaporizer, and the total occupancy limits for the licensed premises.

GAMBLING DEVICE. A device that for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. It includes any video game of chance, as defined by M.S. § 609.75, subd. 8, as amended, that is not in compliance with M.S. Ch. 349, as amended.

HOTEL. An establishment where food and lodging are regularly furnished to transients and that has:

- (1) A resident proprietor or manager;
- (2) A dining room serving the general public at tables with seating for at least 30 guests at one time; and
- (3) At least 50 guest rooms.

INTEREST. Any pecuniary interest in the ownership, operation, management, or profits of an establishment, including a person who receives money from time to time directly or indirectly from a license holder, in the absence of consideration, excluding gifts or donations. *INTEREST* does not include: (1) bona fide loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, or supplies to the establishment; (2) an interest of 5% or less in any corporation or partnership holding a license; or (3) an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith. In determining whether an *INTEREST* exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the license holder and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this chapter must be considered.

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

ISSUING AUTHORITY. The City of Bloomington Business License Section.

LICENSED PREMISES. The premises described in the approved license application, provided that the space is compact and contiguous. In the case of a restaurant licensed for on-sale alcoholic beverages and located on a golf course, *LICENSED PREMISES* means the entire golf course except for areas where motor vehicles are regularly parked or operated.

LOBBY. A vestibule or entrance open to the general public that is physically separated and distinct from retail establishments that are accessible from the vestibule or entrance through doors.

MALT LIQUOR. Any beer, ale, or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume.

MANUFACTURER. A person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares, or produces alcoholic beverages for sale.

MEAL. Entrees, appetizers, and sandwiches offered on a restaurant menu.

MICRODISTILLERY. A distillery operated within the state producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

MINOR. Any person who has not attained the age of 21. A person is not 21 years of age until 8:00 a.m. on the day of that person's twenty-first birthday.

NONPROFIT CHARITABLE, RELIGIOUS, OR POLITICAL ORGANIZATIONS. Tax-exempt nonprofit, charitable, and religious organizations pursuant to § 501(c) of the Internal Revenue code or tax-exempt political organizations under § 527 of the Internal Revenue code and registered under M.S. § 10A.14, as it may be amended from time to time, and have been in existence for at least 3 years.

NONPROFIT THEATER. Any theater owned or operated by a nonprofit organization, organized under § 501(c) of the Internal Revenue code, which contains at least 300 seats. The nonprofit organization must emphasize theater related goals in its mission statement. A **NONPROFIT THEATER** must also meet the definition of "theater" in this section.

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

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

ORIGINAL PACKAGE. The sealed container in which the alcoholic beverage is placed in by the manufacturer.

PARKING, PEDESTRIAN CIRCULATION, AND TRAFFIC DIRECTIONAL PLAN. A drawing of all private and public parking areas available for an event that also shows the planned pedestrian circulation to and from those parking areas to the licensed premises and also includes a traffic directional plan and the designation and posting of fire egress lanes.

PERSON. Includes natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

POSSESSION. A person has actual possession of an alcoholic beverage or the person consciously exercised dominion and control over the alcoholic beverage.

PLACE OF WORSHIP. A building that is principally used as a place where people of the same faith or religion regularly assemble for worship.

PUBLIC CONCOURSE. A corridor or hallway open to the general public that is physically separate and distinct from the retail establishments or stores that are accessible from the corridor or hallway through doors.

RESTAURANT. Any establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, has seating for 50 or more guests at one time, and where meals are served at tables to the general public.

RETAIL. The sale of alcoholic beverages to customers for consumption.

SALE and SELL. All barbers and all manners or means of furnishing alcoholic beverages.

SCHOOL. An establishment primarily engaged in providing instructional services to elementary or secondary students with a curriculum that complies with state regulations.

SECURITY PLAN. Description of the security measures the license applicant will take to monitor sales and consumption at a special event or temporarily expanded area to ensure compliance with this code and license restrictions.

THEATER. Any establishment containing an auditorium in which live performances are regularly held for ticket holders and contains at least 300 seats. A performance within the *THEATER* may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a *THEATER* under this definition.

3.2% MALT LIQUOR. Any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

WHOLESALE. The sale of alcoholic beverages to exclusive liquor stores, government entities, or holders of retail licenses under this chapter or state law.

WHOLESALE. A person who sells alcoholic beverages to exclusive liquor stores, government entities, or holders of retail licenses under this chapter or state law.

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 0.5% nor more than 24% alcohol by volume for nonindustrial use. WINE does not include distilled spirits as defined herein.

§ 13.03 LICENSE REQUIRED.

No person, except as provided in M.S. Ch. 340A, as amended, shall directly or indirectly deal in, sell, or keep for sale any alcoholic beverage in the City without a license under this Chapter. An alcoholic beverage license under this code is only effective for the compact and contiguous space identified in the approved license application.

(a) Intoxicating liquor. These licenses shall permit the sale of intoxicating liquor at the licensed premises:

(1) On-sale license. Shall be issued only to hotels and restaurants and for sale and consumption on the licensed premises only.

(2) On-sale club license. Shall be issued only to clubs and for sale and consumption to club members and guests of club members on the licensed premises only.

(3) Sunday on-sale license. Shall be issued only to a person who holds a current license under subsection (a) of this section, except an off-sale license.

(4) On-sale special event license. Shall be issued only to nonprofit, religious, charitable, or political organizations, a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year, or a microdistillery and for sale and consumption on the licensed premises only.

(5) Theater on-sale license. Shall be issued only to theaters or dinner theaters and for sale and consumption on the licensed premises only. A theater license holder does not need to apply for a Sunday license for Sunday performances in the theater.

(6) Brewer on-sale taproom license. Shall only be issued to a brewer who holds a brewer's license under M.S. § 340A.301, as amended, and allows the brewer to sell malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer taproom license holder does not need to apply for a Sunday license.

(7) Cocktail room on-sale license. Shall only be issued to a microdistillery who holds a license under M.S. § 340A.301, as amended, and allows the microdistillery to sell distilled liquor produced by the microdistillery for consumption on the premises of or adjacent to one distillery location owned by the distiller. A cocktail room license holder does not need to apply for a Sunday license.

(8) Off-sale license. Shall be issued only to exclusive liquor stores and shall be for consumption off the licensed premises only.

(9) Brewpub off-sale license. Shall be issued to a brewer who holds an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture and shall be for consumption off the licensed premises only.

(10) Small brewer off-sale license. Shall permit the holder of a brewer's license under M.S. § 340A.301, as amended, to sell malt liquor at the licensed premises for consumption off the licensed premises only.

(11) Cocktail room off-sale license. Shall permit the holder of a cocktail room license to sell distilled liquor at the licensed premises for consumption off the licensed premises only.

(b) Wine. These licenses shall permit the sale of wine for consumption at the licensed premises:

(1) On-sale license. Shall be issued to only restaurants.

(2) Theater license. Shall be issued to only theaters, dinner theaters, or nonprofit theaters.

(3) Public recreational facility license. A political subdivision which owns and operates a public recreational facility may be issued an on-sale wine license for the purpose of dispensing wine at a restaurant located at such facility. The public recreational facility license holder shall comply with the provisions of this code except meals may be served at a restaurant located on a public recreational facility either cafeteria-style or by direct service to tables or booths.

(c) 3.2% malt liquor. These licenses shall permit the sale of 3.2% malt liquor at the licensed premises:

(1) On-sale license. Shall be issued only to a restaurant and for sale and consumption on the licensed premises only.

(2) On-sale special event license. This license may be granted for a special event held by a nonprofit, religious, charitable, or political organization, a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year, or a microdistillery and for sale and consumption on the licensed premises only.

(3) On-sale club license. Shall be issued only to a club and for the sale and consumption of 3.2% malt liquor to club members and guests of club members on the licensed premises only.

(4) Theater license. Shall be issued only to theaters, dinner theaters, or nonprofit theaters for the sale and consumption on the licensed premises only. A theater license holder does not need to apply for a Sunday license for Sunday performances in the theater.

(5) Off-sale license. Shall be for consumption off the licensed premises only and sold in the original package. No license shall be granted to any facility selling gasoline unless the facility has been issued a Type I - IV food license in accordance with Chapter 14 of this code.

(6) Brewpub off-sale license. May be issued to a brewer who holds an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture and shall be for consumption off the licensed premises only.

(d) Bottle club license. Shall only be issued to clubs and allows members of a club to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the club member. The license also allows the club to permit the consumption and display of intoxicating liquor on the premises. The license does not authorize the sale of alcoholic beverages without the appropriate license.

(e) The holder of an on-sale wine license and an on-sale 3.2% malt liquor license issued pursuant to state law and this code is authorized to sell intoxicating malt liquor at on-sale without an additional license.

§ 13.04 to 13.07 RESERVED.

ARTICLE II: LICENSE APPLICATIONS

§ 13.08 APPLICATION CONTENTS.

(a) All applicants, except for on-sale special event licenses, for any license under this Chapter must complete the application form provided by the issuing authority to determine eligibility for an alcoholic beverage license. The application form must require applicants to submit all information required under M.S. § 340A, as amended, Minnesota Rules 7515.0430 to 7515.0440, as amended, and information that the Minnesota Department of Public Safety requires. The issuing authority must submit the application form to the City Manager for approval by January 15 of every year. The applicant must submit all other information the issuing authority requires to conduct a comprehensive background and financial investigation into each applicant.

(b) If the applicant is a theater, nonprofit theater, or dinner theater, the application shall also contain the following additional information:

(1) The anticipated theater schedule for the coming year; and

(2) A statement by the applicant agreeing to comply with the public decency requirements found in § 13.33.

(c) If the application is for an on-sale special event license, the application shall also contain the following additional information:

(1) The name and address of the sponsoring nonprofit, religious, charitable organization, political organization, brewery, or microdistillery;

(2) Evidence of the applicant's tax exempt status or evidence the applicant meets the production limits set by this code or state law;

(3) A site plan; security plan; parking, pedestrian circulation, and traffic directional plan; and fire safety plan approved by the City Police Department, City Engineering, and City Fire Marshal, as deemed necessary by the issuing authority; and

(4) Evidence of insurance meeting the requirements of § 13.16.

(d) If the application is for a special event caterer's license, issued under M.S. § 340A.404, as amended, the application shall also contain the following information:

(1) Evidence of application for all necessary state and local permits or licenses necessary for the event;

(2) A site plan; security plan; parking, pedestrian circulation, and traffic directional plan; and fire safety plan approved by the City Police Department, City Engineering, and City Fire Marshal, as deemed necessary by the issuing authority;

(3) A description of food service for the event that meets the criteria set forth in §§ 14.443 through 14.458 and is approved by the Environmental Health Division;

(4) Evidence of insurance meeting the requirements of § 13.16; and

(5) All other information deemed necessary by the issuing authority for the proper planning of the event, including without limitation a sanitation plan and a food handling plan.

(e) If the application is for an existing on-sale intoxicating liquor license holder to temporarily amend the licensed premises, the application shall also contain the following information:

(1) A site plan; security plan; parking, pedestrian circulation, and traffic directional plan; and fire safety plan approved by the City Police Department, City Engineering, and City Fire Marshal, as deemed necessary by the issuing authority;

(2) Evidence of insurance meeting the requirements of § 13.16 for the temporarily amended licensed premises; and

§ 13.09 APPLICATION EXECUTION.

Each applicant shall swear to and sign the application.

(a) If the applicant is a natural person, that person must sign the application.

(b) If the applicant is a corporation, an officer of the corporation must sign the application;

(c) If the applicant is a partnership, the application must be signed by one of the general partners;
or

(d) If the applicant is an unincorporated association, the application must be signed by the manager or managing officer.

§ 13.10 APPLICATION SUBMISSION AND VERIFICATION.

(a) Each application must be submitted to the issuing authority at least 60 days prior to the planned sale of alcoholic beverages on the licensed premises.

(b) The issuing authority must conduct a comprehensive background and financial investigation to verify the information on the application, including ordering a computerized criminal history inquiry and a driver's license history inquiry on all applicants.

(c) The issuing authority shall make a written report and recommendation to the City Council, which shall include a list of all violations of federal, state, or local law.

§ 13.11 APPLICATION CONSIDERATION.

(a) The City Council shall conduct a public hearing on the license application within a reasonable period following receipt of the issuing authority's report and recommendation regarding the application.

(b) The issuing authority shall publish notice of the hearing in the official newspaper of the City at least 10 days before the public hearing. The notice must include the day, time, and place of the hearing; the name of the applicant; the business address; the premises where the alcohol beverages will be sold; and the type of license which is sought. At the hearing, any person shall

have the opportunity to speak for or against the granting of the license. The City Council may hold additional hearings on the application if it deems it necessary. After a hearing, the City Council may, in its discretion, grant or deny the application. No license applicant has a right to have the license granted.

(c) On-sale special event licenses. The issuing authority is not required to publish notice of the hearing in the official newspaper of the city for on-sale special event licenses. After a hearing, the City Council shall, in its discretion, grant, deny, revoke, or suspend an on-sale special event license. No license applicant has a right to have the license granted.

(d) Licensed premises construction. If a license is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the license holder until the City has approved the building for occupancy.

§ 13.12 APPLICATION RENEWAL.

(a) All licenses under this Chapter, except for on-sale special event licenses and 3.2% malt liquor licenses, shall expire on June 30 of each year. All 3.2% malt liquor licenses shall expire on December 31 of each year. A renewal application shall be made at least 60 days prior to the expiration date of the license and shall be made on a form provided by the issuing authority. The City Council, in its discretion, may renew or deny a renewal application. No license holder has a right to have the license renewed.

(b) An alcoholic beverage license under this Chapter will not be renewed if the license holder or the manager of the licensed premises is not a resident of the State of Minnesota. The time for establishing residence in the State of Minnesota may for good cause be extended by the City Council.

(c) A corporation or partnership shall submit a current certificate of good standing with the renewal application.

§ 13.13 APPLICATION FEES.

Each license application fee shall be set forth in § 14.03. All investigation fees shall be to cover the costs of verifying the license application and the expense of any investigation needed to ensure compliance with this code. All fees shall be paid to the issuing authority for deposit into the General Fund of the city.

(a) For an intoxicating liquor license issued under § 13.03(a):

(1) On-sale and on-sale club licenses will be pro-rated to June 30. Where a new application is filed as a result of incorporation by an existing license holder and the ownership, control, and interest in the license remains unchanged, no additional license fee will be assessed. For on-sale license applications, the applicant shall pay one-half of the fee before the application is accepted and the remaining balance shall be paid on or before December 15 of the calendar year during which the license was issued.

(2) The fee for an off-sale license and an on-sale special event license shall be paid in full before the application for a license is accepted.

(3) Investigation Fee.

A. An applicant for any intoxicating liquor license shall deposit with the issuing authority \$500.

B. If the investigation and verification process is conducted solely within the state, the fee shall be \$500, and the remainder of the deposit shall be returned to the applicant. If the investigation and verification process is conducted outside the state, the issuing authority may recover the actual investigation costs not to exceed \$10,000. Any fees due in excess of the \$500 deposit must be paid to the issuing authority prior to the public hearing.

C. At any time that an additional investigation is necessary because of a change in the control of a corporation, the license holder shall pay an additional nonrefundable investigation fee of \$100.

D. An on-sale club license, an on-sale special event license, and a Sunday liquor license applicant does not need to deposit \$500 with the issuing authority.

(b) For a wine license issued under § 13.03(b):

(1) The wine license fee will be pro-rated to June 30.

(2) Investigation fee.

A. The applicant for a wine license shall deposit with the issuing authority a \$500 investigation fee.

B. If the investigation is conducted solely within the state, the fee shall be \$150, and the remainder of the deposit shall be returned to the applicant prior to the license hearing. If the investigation is conducted outside the state, the city may recover from the applicant the actual investigation costs, not to exceed \$5,000. In such cases, however, the city shall notify the applicant in advance if the investigation fee is anticipated to exceed \$500. Any fees due in excess of the \$500 deposit must be paid prior to the public hearing.

C. At any time that an additional investigation is necessary because of a change in the control of a corporation, the license holder shall pay an additional nonrefundable investigation fee of \$100.

(c) For a 3.2% malt liquor license issued under § 13.03(c), the fee will be pro-rated to December 31.

(d) For an on-sale special event caterer's license issued pursuant to M.S. § 340A.404, as amended:

(1) If the event includes entertainment for which paid admission is required, a deposit or other acceptable security in an amount equal to 50% of the estimated amount of the admission tax payable to the city pursuant to § 4.03, based upon maximum occupancy over the duration of the entire event prior to the license's issuance, held until the

conclusion of the event and thereafter applied towards the amount of admission tax owed to the city; and

(2) A deposit or other acceptable security in an amount equal to 50% of the estimated liquor tax payable to the city pursuant to § 4.14, based upon maximum occupancy over the duration of the entire event prior to the license's issuance, held until the conclusion of the event and thereafter applied towards the amount of liquor tax owed the city.

(e) For all licenses:

(1) Refunds. The issuing authority may refund a monthly pro-rata share of an annual license fee to the license holder if:

A. The business ceases to operate because of destruction or damage;

B. The license holder dies and the business ceases to operate;

C. The business ceases to be lawful for a reason other than a license revocation;

D. The termination of a month-to-month tenancy or tenancy at will through no fault or neglect of the license holder or termination of a longer term lease according to the terms of such lease;

E. The physical or adjudicated mental incapacity that renders the license holder incapable of operating the business, provided that the cause of such incapacity occurred or commenced after the issuance of the license;

F. The business is sold and a new license holder qualifies to operate the business on the same location during the remainder of the original license period; or

G. The license holder ceases to carry on the licensed business under the license.

§ 13.14 PERSONS INELIGIBLE FOR A LICENSE.

For all applicants, no license shall be granted if the applicant:

(a) Is not of good moral character and repute;

(b) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;

(c) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, with the exception of a properly licensed brewpub, brewer taproom, or cocktail room;

(d) Within the last 5 years of the license application, has been convicted of a felony, or of a willful violation of a federal, state, or local law governing the manufacture, sale, distribution or possession for sale or distribution of alcoholic beverages and if the person has not shown competent evidence under M.S. § 364.03, as amended, of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation;

(e) Had an alcoholic beverage license revoked within 5 years of the date the license application is submitted to the issuing authority;

(f) Had an interest in a corporation, partnership, association, enterprise, business, or firm which had its alcoholic beverage license revoked within 5 years of the date the license application is submitted to the issuing authority;

(g) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;

(h) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to any of the requirements in subsections (a)(1) through (a)(7) above; or

(i) Is not the real party in interest in the establishment to be licensed.

§ 13.15 LOCATIONS INELIGIBLE FOR A LICENSE.

(a) No license shall be granted or renewed for operation on any premises on which state, city, county, school district taxes, assessments, or other financial claims are past due, delinquent, or unpaid. The City Council may on application waive strict compliance with this provision if the applicant has commenced a suit under M.S. §§ 278.01 through 278.13, as amended, questioning the amount or validity of taxes. The City Council shall not grant a waiver for taxes which remain unpaid for a period exceeding 1 year after becoming due.

(b) No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for a license under § 13.14, except that a property owner who is a minor or who has been convicted of a crime, other than a violation of M.S. §§ 340A.101 through 340A.907, as amended, shall not make the premises ineligible under this subsection (b).

(c) No on-sale license under this code shall be granted to a restaurant that does not have a dining area, exclusive to the establishment and open to the general public, with a total minimum floor area of 750 square feet.

(d) No license under this code shall be granted to any license holder that has a common entrance or exit between the area in which intoxicating liquor will be sold and any other business or establishment. A public concourse or lobby shall not be construed as a common entrance or exit for purposes of this subsection (d).

(e) No off-sale license under this code shall be granted to any location within 300 feet of a school or a place of worship. In the case of a school, the distance shall be measured in a straight line from the proposed licensed premises lot line to the nearest point of the lot on which the school is located. In the case of a place of worship, the distance shall be measured in a straight line from the proposed licensed premises lot line to the nearest point of the place of worship building. For off-sale license holders located in shopping centers, the distance shall be measured from the main entrance of the licensed premises. A location for which a license was granted in 1989, or lawfully granted thereafter, and at which a license holder has been in continuous operation, is not ineligible for a license by reason of proximity to a school or a place of worship.

§ 13.16 INSURANCE REQUIREMENTS.

(a) No license under this Chapter may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S. § 340A.801, as amended. The minimum requirement for proof of financial responsibility may be given by submitting:

(1) A certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under M.S. § 60A.07, subd. 4, as amended, or by an insurer recognized as an eligible surplus line carrier pursuant to M.S. § 60A.206, as amended, or pool providing at least \$500,000 of coverage because of bodily injury to any one person in any one occurrence, \$1,000,000 because of bodily injury to 2 or more persons in any one occurrence, \$500,000 because of injury to or destruction of property of others in any one occurrence, \$500,000 for loss of means of support of any one person in any one occurrence and \$1,000,000 for loss of means of support of 2 or more persons in any one occurrence; or

(2) A bond of a surety company with minimum coverages as provided in subsection (a)(1) above.

(b) Nothing in this section shall prohibit an insurer from providing the coverage required by subsection (a)(1) above in combination with other insurance coverage.

(c) An annual aggregate policy limit for dram shop insurance of not less than \$1,000,000 per policy year may be included in the policy provisions.

(d) A liability insurance policy required by subsection (a) above must provide that it may not be canceled for:

(1) Any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 60 days' notice in writing to the issuing authority of intent to cancel the policy; and

(2) Nonpayment of premium unless the canceling party has given 10 days' notice in writing to the issuing authority of intent to cancel the policy.

(e) Affidavits. Subsection (a) above does not apply to licenses, who by affidavit, establish that they are holders of:

(1) On-sale wine or 3.2% malt liquor licenses with sales of less than \$25,000 in the preceding year; or

(2) Off-sale 3.2% malt liquor license with sales of less than \$50,000 in the preceding year.

§ 13.17 to 13.20 RESERVED.

ARTICLE III: LICENSE RESTRICTIONS

§ 13.21 GENERAL LICENSE RESTRICTIONS.

All licenses issued pursuant to this Chapter are subject to the following restrictions:

(a) An alcoholic beverage license must be posted in a visible place in the licensed premises.

(b) No one under the age of 18 years shall sell or serve alcoholic beverages. No off-sale license holder shall employ anyone under the age of 18 years.

(1) An on-sale license holder may employ someone under the age of 18 years, provided that person does not sell or serve alcoholic beverages and the employment of that person does not violate any state or federal child labor law or regulation.

(c) No on-sale license holder shall sell alcoholic beverages for off-sale consumption, with the exception of a properly licensed brewpub, brewer taproom, or cocktail room.

(d) No off-sale license holder shall sell alcoholic beverages for on-sale consumption. Except an off-sale license holder may provide samples of malt liquor, wine, liqueurs, cordials and distilled spirits which the license holder currently has in stock and is offered for sale to the general public. The samples must be dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale, in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer, and 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits per variety per customer.

(e) No off-sale license holder shall deliver any alcoholic beverage to a person without getting a receipt signed by the person receiving the alcoholic beverage. The receipt shall detail the time, date, and place of delivery. The receipt shall be kept by the off-sale license holder for a period of one year.

(f) No sale of intoxicating liquor shall be made in guest rooms of hotels unless the hotel has an on-sale intoxicating liquor license.

(g) A license holder may prohibit any person from bringing into the licensed premises any container of alcoholic beverages, or from consuming such a container on the licensed premises without the license holder's permission.

(h) An on-sale club license holder shall not discriminate against its members in violation of M.S. §§ 363A.11 and 363A.17, as amended.

(i) A license holder shall be responsible for the conduct of the business being operated and shall maintain conditions of sobriety and order on the licensed premises.

(j) As a condition of the license, the issuing authority, the City Police Department, those authorized under § 1.06 of this code to issue citations for a violation of City code, or any other person designated by the City Council, shall have the right to conduct compliance checks and to enter, inspect, and search the licensed premises without a search and seizure warrant during the hours of operation. The business records of the license holder, including income tax returns, shall be available for inspection during the hours of operation.

(k) Coin-operated amusement devices may not be made available in establishments holding an off-sale license under § 13.03.

(l) A holder of an off-sale license may not store any alcoholic beverage at any location other than the licensed premises except with the written permission of the Commissioner of Public Safety pursuant to M.S. § 340A.412, subd. 12, as amended.

(m) A license holder shall post and maintain in a visible place in the licensed premises: one sign 14-1/2 inches wide by 8 inches high, as designed by the Commissioners of Health and Public Safety, which incorporates the following information:

(1) The penalties of driving while under the influence of alcohol;

(2) Penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and

(3) A warning statement regarding drinking alcohol while pregnant.

(n) If the issuing authority grants an on-sale intoxicating liquor license holder to temporarily amend the license premises for a special event, the temporarily licensed premises must:

(1) Be in a compact and contiguous area and immediately adjacent to the licensed premises;

(2) The special event may not last more than 3 days and the licensed holder may not have more than 3 special events in a calendar year. On-sale special event license issued to a nonprofit, charitable, religious, or political organization that contracts with the licensed holder counts as part of this total.

(o) A license holder must comply with the Minnesota Clean Air Act, M.S. §§ 14.411 through 14.417, as amended.

§ 13.22 BREWPUBS.

A brewpub license holder under §§ 13.03(a)(9) and 13.03(c)(6) is subject to the following restrictions:

(a) The entire production of malt liquor must be solely for consumption on tap and on the licensed premises or for off-sale consumption;

(b) The off-sale malt liquor must be produced and packaged on the licensed premises. The off-sale malt liquor must be packaged in 64-ounce containers commonly known as “growlers,” subject to the following requirements:

(1) The containers must bear a twist-type closure, cork, stopper, or plug;

(2) At the time of the sale, a paper or plastic adhesive band, strip, or sleeve must be applied to the container and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container;

(3) The adhesive band, strip, or sleeve must bear the name and address of the brewer; and

(4) The containers must be identified as malt liquor, contain the name of the malt liquor, have the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules part 7515.1100, as amended.

(c) A brewer's total retail sales at on- or off-sale must not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels;

(d) The off-sale malt liquor hours of sales must conform to the hours of sale for retail off-sale license holders within the city. Malt liquor in growlers may be sold at off-sale on Sunday. The malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores; and

(e) A brewpub licensed under this section may hold or have an interest in other retail on-sale licenses, but 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, or be an affiliate thereof whether the affiliation is corporate or by management, direction or control.

§ 13.23 SMALL BREWER OFF-SALE.

A small brewer off-sale license holder is subject to the following restrictions:

(a) The off-sale of malt liquor must be produced and package on the premises;

(b) The off-sale malt liquor hours of sales must conform to the hours of sale for retail off-sale license holders within the City. Malt liquor in growlers may be sold at off-sale on Sunday; and

(c) The amount off-sale malt liquor sales are limited to 750 barrels annually.

§ 13.24 COCKTAIL ROOM OFF-SALE.

A cocktail room off-sale license holder is subject to the following restrictions:

(a) The off-sale distilled liquor must be produced and package on the premises;

(b) The off-sale distilled liquor hours of sales must conform to the hours of sale for retail off-sale license holders within the City;

(c) The off-sale distilled liquor sales are limited to a 375 milliliter bottle per customer per day; and

(d) The off-sale distilled liquor being sold by the microdistillery must also be available for distribution by wholesalers.

§ 13.25 ON-SALE SPECIAL EVENT.

An on-sale special event license holder is subject to the following restrictions:

(a) No person shall be granted more than 1 special event license within any 30-day period, in any combination not to exceed 12 days per year. An individual organization shall not be granted more than:

(1) Three four-day special event licenses;

(2) Four three-day special event licenses; or

(3) Six two-day special event licenses;

(b) No more than 3 special events shall take place at any one location within a 12-month period;

(c) A special event license may authorize the on-sale of alcoholic beverages on premises other than premises the license holder owns or permanently occupies;

(d) The special event license holder shall contract for alcoholic beverages services with a license holder or if no such contract with a license holder is provided, the license holder shall provide liquor liability insurance for the event meeting the requirements of § 13.16;

(e) All special event licenses shall be approved by the Commissioner of Public Safety pursuant to M.S. § 340A.404, subd. 10, as amended;

(f) No special event license shall be issued on school grounds or in school buildings or within 300 feet of a school during regularly scheduled classes; and

(g) A special event license holder may conduct alcoholic beverage tasting subject to the restrictions of M.S. § 340A.418, as amended.

§ 13.26 SALE PROVISIONS APPLICABLE TO CATERERS.

To preserve the incidental nature of the caterer's permit issued pursuant to M.S. § 340A.404, subd. 12, as amended, and to preserve the underlying state and local framework for permanent on-sale alcoholic beverage licenses, a caterer's permit holder is subject to the following restrictions:

(a) The sale of alcoholic beverages at unlicensed locations must be incidental to a larger food service and does not allow a person to in effect, operate a permanent on-sale alcoholic beverage establishment;

(b) No one location shall have more than 60 days of catered events in one calendar year where alcoholic beverages are served to the general public and in no case shall any one event be for more than 4 consecutive days, except pursuant to a special event caterer's license specific to the individual catered event that meets the criteria set forth in subsections (c) and (d) below;

(c) A caterer's permit holder shall provide notice of the catered event to the issuing authority at least 7 days prior to the event; and

(e) A special event caterer's license is required for any event at which alcoholic beverage service is to be provided and 1,500 or more people may be expected to attend on any one day of the event. No one location shall have more than 60 days of catered events in one calendar year where

alcoholic beverages are served to attending guests and in no case shall any one such event be open to guests for more than 30 consecutive days within a 60-day period.

§ 13.27 LICENSE OPERATIONS, MANAGEMENT, AND TRANSFER.

(a) The license granted under this code is for the person and the premises named on the approved license application. No person other than the license holder or an employee of the license holder shall be permitted to manage or operate an establishment licensed under this code. A license holder may permit the licensed establishment to be operated or managed by a person other than the license holder or an employee of the license holder after the City Council has approved of a management agreement and any amendments that shall comply with the requirements of an original application and vest management of all alcoholic beverage sales of the license holder to the manager.

(b) No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application, except in the case in which an existing noncorporate license holder is incorporating and the incorporation does not affect the ownership, control and interest of the existing licensed establishment.

(c) A license holder shall immediately notify the issuing authority of the following:

(1) A change in the corporate or organization officers listed in the license application, excluding officers of clubs holding club licenses;

(2) Any changes in the partnership agreement or lease submitted with the license application;

(3) A change of the managing partner, manager, proprietor or other person who is in charge of the licensed premises; and

(4) Any change in the ownership of an establishment licensed under § 13.03, including any acquisition of an interest in the partnership, corporation or other organization by any person not identified in the license application.

(c) When a licensed establishment is sold or transferred, the license holder shall immediately notify the issuing authority of the sale or transfer. If the establishment that is sold or transferred continues to sell or furnish alcoholic beverages, the new owner must apply for an appropriate license under this code within 5 business days of the sale or transfer. In addition, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the current license holder and the new owner within 5 days following the sale or transfer. Management agreements shall comply with the requirements of an original application and shall vest control of all alcoholic beverage sales of the current license holder to the new owner.

(d) A federally chartered corporation charged with insuring and/or holding assets of banking or savings and loan institutions which obtains ownership of a hotel or restaurant licensed to sell alcoholic beverages, files an application for an on-sale license for said establishment either in its name or the name of a representative thereof, and demonstrates to the issuing authority that it is unable to execute a management agreement with the existing license holder, may sell alcoholic

beverages at the hotel or restaurant pending a decision by the City Council on whether to approve the application for the on-sale liquor license.

§ 13.28 HOURS OF OPERATION.

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

(b) An on-sale license holder may remain open for the sale of food or nonalcoholic beverages, or both, during the hours the service of alcoholic beverages is prohibited by this code and state law, provided that the license holder has proper food licenses under Chapter 14 of this code and provided the license holder meets each of the following requirements:

(1) By 10:00 p.m., all off-sale malt liquor sold at a licensed brewpub must be removed from the licensed premises;

(2) By 2:30 a.m., the license holder shall remove all alcoholic beverages from the restaurant, bar, and banquet room areas of the licensed premises; and

(3) No on-sale license holder may sell alcoholic beverages between the hours of 1:00 a.m. and 2:00 a.m. unless the license holder has obtained a permit from the State Commissioner of Public Safety, pursuant to M.S. § 340A.504, as amended and has been issued a special license by the City Council.

(c) A theater license holder may serve alcoholic beverages only during the hours in which the performance takes place and one hour before curtain. Only performance ticket holders may purchase alcoholic beverages for consumption on the licensed premises.

§ 13.28 to 13.31 RESERVED.

ARTICLE IV: PROHIBITIONS

§ 13.32 PROHIBITIONS REGARDINGS MINORS.

The following acts are unlawful:

(a) No minor shall purchase or attempt to purchase alcoholic beverages from any license holder.

(b) No person shall induce a minor to purchase or obtain alcoholic beverages or knowingly allow the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a minor to purchase alcoholic beverages from any license holder.

(c) No person shall sell, furnish, or give alcoholic beverages to a minor. No license holder shall permit any minor to consume alcoholic beverages on the licensed premises, except that a parent or guardian of a minor may give alcoholic beverages to the minor solely for consumption in the household of the parent or guardian.

(d) No minor shall possess alcoholic beverages. The presence of a minor in an automobile, room, or in a group in which alcoholic beverages are contained and are being consumed or has been

consumed is considered in the possession of such minor or all of such minors present at such time, provided the parent or guardian of such minor is not present.

(e) No minor shall enter the licensed premises for the purpose of purchasing or consuming alcoholic beverages.

(f) No minor shall misrepresent the minor's age for the purpose of obtaining alcoholic beverages.

(g) Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:

(1) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;

(2) A valid military identification card issued by the United States Department of Defense; or

(3) In the case of a foreign national, from a nation other than Canada, by a valid passport.

(h) In a prosecution for any violation of any provision in this code regarding minors, it is a defense for the defendant to provide by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.

§ 13.33 PUBLIC DECENCY AND CONDUCT PROHIBITIONS.

(a) A license holder shall not allow any person to engage in prostitution or to sell or use illegal drugs on the licensed premises or in any adjoining building or room under the license holder's control.

(b) To protect the health, safety, and welfare of city residents, no license holder shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following kinds of conduct can be seen by patrons of the licensed premises:

(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, or flagellation;

(2) The actual or simulated touching, caressing, or fondling on the breast, buttocks, anus, or genitals;

(3) The actual or simulated displaying of the pubic hair, anus, vulva, or genitals;

(4) The displaying of films rated by the Motion Picture Association of America as NC-17: "No One 17 And Under Admitted," unrated films, and films deemed obscene or pornographic pursuant to state or federal law; or

(5) The presentation of any female in such manner or attire to expose to view any portion of the breast below the top of the areola, or any simulation thereof.

§ 13.34 SALE, PURCHASE, AND CONSUMPTION RESTRICTIONS.

- (a) Every license holder is responsible for the conduct in the licensed establishment and any sale of an alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the license holder.
- (b) No license holder shall sell, serve, or furnish alcoholic beverages to any obviously intoxicated person.
- (c) No license holder may sell alcoholic beverages to any person for the purpose of resale, or to any person whom the license holder has reason to believe intends to resell the alcoholic beverages without written approval of the Commissioner of Public Safety.
- (d) No license holder shall display alcoholic beverages to the public during hours when the sale of alcoholic beverages is prohibited under this code.
- (e) No license holder shall sell, offer for sale, or keep for sale alcoholic beverages in a package or bottle which has been refilled or partly refilled.
- (f) No license holder shall directly or indirectly through an agent, employee, or other person, dilute or in any manner tamper with the contents of an original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the licensed premises of alcoholic beverages in the original package or bottle differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased is prima facie evidence that the contents of the original package or bottle has been diluted, changed or tampered with in violation of this section.
- (g) No license holder shall place on a single or joined bar line or on a dispensing system, whether automatic or manual, bottles or other containers with different labels or containing different levels of proof.
- (h) No person shall drink or consume alcoholic beverages in any motor vehicle when such vehicle is upon a public highway or street.
- (i) No person shall have in their possession while in a private motor vehicle upon a public highway or street, any bottle or container with alcoholic beverages that has been opened, the seal broken, or the contents of which have been partially removed. Exceptions:
- (1) This does not apply to a bottle or container in the trunk of the vehicle, if the vehicle has a trunk, or that is in another area of the vehicle not normally occupied by the driver and passengers if the vehicle does not have a trunk; and
 - (2) This does not apply to the possession or consumption of alcoholic beverages by passengers who are 21 years of age or older in: a bus operated under a charter as defined in M.S. § 169A.35, subd. 6, as amended; or a limousine as defined in M.S. § 168.002, subd. 15, as amended from time to time.
- (j) The possession and consumption of alcoholic beverages is not compatible with the health and safety of persons using certain areas of the City and alcoholic beverages shall not be possessed or consumed by any person in the following areas:

(1) The City Cemetery as defined by § 5.09;

(2) Parks as defined by § 5.20, except that 3.2% malt liquor may be possessed or consumed in designated picnic areas or when a valid, special event license is issued under § 13.03; and

(2) Alcoholic beverages shall not be consumed by any person in the following areas: public rights-of-way, sidewalks, pathways and bikeways pursuant to § 12.04.

§ 13.35 GAMBLING RESTRICTIONS.

(a) No license holder may keep, possess, or operate, or allow another person to keep, possess, or operate on the licensed premises dice, slot machines, blackjack tables, roulette wheels or gambling devices except in conjunction with the holding of a casino gaming event as authorized under Chapter 14 of this code.

(b) No license holder shall permit gambling on the licensed premises, except that gambling equipment may be kept or operated and raffles may be conducted on the licensed premises and/or adjoining rooms when the use of such gambling equipment or raffles is authorized under M.S. Ch. 349, as amended, §§ 12.48 through 12.60 of this code, and authorized under subsection (c) below.

(c) The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. Ch. 349A, as amended.

§ 13.36 to 13.39 RESERVED.

ARTICLE V: SANCTIONS AND PENALTIES

§ 13.40 LICENSE SUSPENSION, REVOCATION, AND CIVIL PENALTIES.

(a) Notwithstanding § 13.41, the City Council may revoke or suspend a license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions for a violation of:

(1) A provision of this code;

(2) A state law relating to alcoholic beverages; or

(3) A state or local law relating to moral character.

(b) The issuing authority shall give the license holder written notice and the City Council shall provide a public hearing before the City Council imposes a revocation, suspension, or civil penalty. The notice shall give at least eight days' notice of the time and place of the public hearing and shall state the nature of the charges against the license holder.

(c) If the Commissioner of Public Safety has imposed a civil penalty or a suspension against the same license holder for the same act, the City may still impose an additional penalty or suspension, provided that the total penalty or suspension does not exceed the maximum specified by state law.

§ 13.41 PENALTIES REGARDING MINORS.

Notwithstanding § 13.40, this section establishes uniform civil penalties for a license holder who furnishes or sells an alcoholic beverage to a minor.

(a) The issuing authority shall impose the following civil penalties on a license holder when a license holder has admitted to furnishing or selling an alcoholic beverage to a minor in violation of M.S. § 340A.503, as amended, and § 13.32:

(1) A \$1,000 fine for the first incident; or

(2) A \$1,250 fine for a second incident occurring within 5 years of the date of the previous incident by the same license holder at the same licensed premises.

The issuing authority must provide written notice to the license holder and an opportunity for a hearing before an independent hearing officer before the issuing authority imposes a civil penalty under this code. The issuing authority may refer the imposition of civil penalties for a first or second violation to the City Council upon the request of the city manager.

(b) The City Council shall impose the following civil penalties on a license holder when a license holder has admitted to furnishing or selling an alcoholic beverage to a minor in violation of M.S. § 340A.503, as amended, and § 13.32.

(1) A \$2,000 fine for a third incident occurring within 5 years of the date of the previous 2 incidents by the same license holder at the same licensed premises; or

(2) A \$2,000 fine and a suspension of the license for a minimum of 30 days, or in the alternative, a revocation of the license, for a 4th incident occurring within 5 years of the date of the previous 3 incidents by the same license holder at the same licensed premises. A multiple-day license suspension shall run consecutively beginning at 12:01 a.m. on the first day of the suspension period and ending at midnight on the last day of the suspension period.

The issuing authority shall give the license holder written notice and the City Council shall give the license holder a public hearing before the City Council imposes a suspension or civil penalty under this section.

(c) If the Commissioner of Public Safety has imposed a civil penalty or a suspension against the same license holder for the same act, the City may still impose an additional penalty or suspension, provided that the total penalty or suspension does not exceed the maximum specified by state law.

~~[Article I: 3.2% Malt Liquor~~

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~~—13.01.01—Definitions~~

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- ~~—13.08—Fees~~
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- ~~—13.12—Restrictions regarding license transfer~~
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~~*Article IA: Wine*~~

~~*Article II: Wine*~~

- ~~—13.19—Purpose~~
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- ~~—13.37.02—License to sell intoxicating malt liquor~~

~~*Article III: Intoxicating Liquor*~~

- ~~—13.38—Purpose~~
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~~*Article V: Regulations Governing Possession and Consumption of Alcoholic Beverages*~~

~~—13.74—Possession of 3.2% malt liquor, wine or intoxicating liquor by minors~~

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~~*Article VI: Penalties*~~

~~—13.90—Penalties regarding minors~~

ARTICLE I: 3.2% MALT LIQUOR

~~§ 13.01—PURPOSE.~~

~~—Pursuant to the authority granted it by the Minnesota Liquor Act, M.S. Chapter 340A, as it may be amended from time to time, and the Twenty First Amendment to the United States Constitution, the City Council prescribes the following licensing procedures and regulations governing the sale and/or consumption of alcoholic beverages.~~

~~§ 13.01.01—DEFINITIONS.~~

~~—The following words and terms when used in this Article I shall have the following meanings, unless the context clearly indicates otherwise:~~

~~—**ALCOHOLIC BEVERAGE.** Any beverage containing more than 0.5% alcohol by volume.~~

~~—**ALCOHOLIC BEVERAGE TASTING.** An event of not more than four hours duration at which persons pay a fee or donation to participate, and are allowed to consume wine, malt liquor, or both, by the glass without paying a separate charge for each glass.~~

~~—**BAR.** A counter at which 3.2% malt liquor, intoxicating liquor or wine is served.~~

~~—**BREWER.** A person who manufactures malt liquor for sale.~~

~~—**BREW PUB.** A brewer who conducts retail on-sale intoxicating liquor or 3.2% malt liquor transactions at a restaurant operated in the place where the brewer manufactures fewer than 3,500 barrels of malt liquor in a year, the entire production of which is solely for consumption on tap on the licensed premises or for off sale from that licensed premises in 64-ounce containers, commonly known as “growlers.”~~

~~—**CLUB.** An incorporated organization organized under the laws of the state for civic, fraternal, social or business purposes, for intellectual improvement, 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.~~

~~—**DINNER THEATER.** Any establishment providing live entertainment in a theater setting, but also providing a meal for at least 70% of those in attendance, and having a seating capacity of at least 350 seats at tables. A performance within the **DINNER THEATER** may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a theater under this definition. Alcohol may be served only during the dinner service and performance. Only performance ticket holders may purchase alcoholic beverages for consumption on the premises.~~

~~—**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.~~

~~—**ENTERTAINMENT FACILITY.** An establishment which includes restaurants and multiple amusement rides and devices located within a compact and contiguous space.~~

~~—**EXCLUSIVE LIQUOR STORE.** An establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, 3.2% malt liquor, beverages for mixing with intoxicating liquor, soft drinks, cork extraction devices and books and videos on the use of alcoholic beverages in the preparation of food.~~

~~—**FIRE SAFETY PLAN.** Site plan of intended premises to be covered by special event liquor license, or temporarily expanded area covered by the liquor license, depicting all means of ingress and egress and location of all life safety devices, tents and temporary structures, as well as any appurtenant equipment, including propane storage tanks and vaporizers. Site plan must also include the total occupancy loading limits for the area to be covered by the license.~~

~~—**FISCAL YEAR.** The 12-month period used for accounting and income tax purposes.~~

~~—**GAMBLING DEVICE.** A contrivance which for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. It includes any video game of chance, as defined by M.S. § 609.75, subd. 8, as it may be amended from time to time, that is not in compliance with M.S. Ch. 349; as it may be amended from time to time.~~

~~—**HOTEL.** An establishment where food and lodging are regularly furnished to transients and which has:~~

~~—(1) A resident proprietor or manager;~~

~~—(2) A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and~~

~~—(3) At least 50 guest rooms.~~

~~—**INTEREST.** Any pecuniary interest in the ownership, operation, management or profits of an establishment, including a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration, excluding gifts or donations. **INTEREST** does not include: (1) Bona fide loans; (2) Bona fide rental agreements; (3) Bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to the establishment; (4) An interest of 5% or less in any corporation or partnership holding a license; or (5) An interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith. In determining whether an **INTEREST** exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this chapter must be considered.~~

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

~~—**ISSUING AUTHORITY.** The City of Bloomington Business License Section.~~

~~—**LICENSED PREMISES.** The premises described in the approved license application, provided that the space is compact and contiguous. In the case of a restaurant licensed for on-sales of alcoholic beverages and located on a golf course, **LICENSED PREMISES** means the entire golf course except for areas where motor vehicles are regularly parked or operated.~~

~~—**LOBBY.** A vestibule or entrance open to the general public that is physically separated and distinct from retail establishments that are accessible from the vestibule or entrance through doors.~~

~~—**MALT LIQUOR.** Any beer, ale or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume.~~

~~—**MANUFACTURER.** A person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces 3.2% malt liquor, wine or intoxicating liquor for sale.~~

~~—**MEAL.** Entrees, appetizers and sandwiches offered on a restaurant menu.~~

~~—**MINOR.** Any person who has not attained the age of 21.~~

~~—**NIGHTCLUB.** An establishment open at night which includes a restaurant, live or recorded music, space for public dancing and a stage for live entertainment.~~

~~—**NONPROFIT CHARITABLE, RELIGIOUS AND POLITICAL ORGANIZATIONS.** Tax-exempt nonprofit, charitable and religious organizations pursuant to § 501(c) of the Internal Revenue Code or tax-exempt political organizations under § 527 of the Internal Revenue Code and registered pursuant to M.S. § 10A.14, as it may be amended from time to time, and have been in existence for at least three years.~~

~~—**NON-PROFIT THEATER.** Any theater owned or operated by a non-profit organization, organized under § 501(c) of the Internal Revenue Code, which contains at least 300 seats. The non-profit organization must emphasize theater-related goals in its mission statement. A **NON-PROFIT THEATER** must also meet the definition of “theater” in this section.~~

~~—**OFF-SALE.** The sale of 3.2% malt liquor, intoxicating liquor or wine in original packages for consumption off the licensed premises only.~~

~~—**ON-SALE.** The sale of 3.2% malt liquor, intoxicating liquor or wine for consumption on the licensed premises only.~~

~~—**ORIGINAL PACKAGE.** The sealed container in which the 3.2% malt liquor, wine or intoxicating liquor is placed by the manufacturer.~~

~~—**PARKING, PEDESTRIAN CIRCULATION AND TRAFFIC DIRECTIONAL PLAN.** Depiction of all private parking areas reserved and public parking areas available for an event covered by a special event liquor license or temporarily expanded area covered by the liquor license, as well as the planned pedestrian circulation to and from those parking areas to the premises covered by license. **PLAN** must also include a traffic directional plan and the designation and posting of fire egress lanes.~~

~~—**PERSON.** One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.~~

~~—**PLACE OF ASSEMBLY FOR WORSHIP.** A building that is principally used as a place where people of the same faith or religion regularly assemble for worship.~~

~~—**PUBLIC CONCOURSE.** A corridor or hallway open to the general public that is physically separate and distinct from the retail establishments or stores that are accessible from the corridor or hallway through doors.~~

~~—**RESTAURANT.** Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities to serve meals, entrees or sandwiches offered on a menu, for seating not less than 50 guests at one time, and where in consideration of payment therefor, meals, entrees or sandwiches offered on a menu, are regularly served at tables to the general public, and which employs an adequate staff for the usual and suitable service to its guests and the principal part of the business of which is the serving of food.~~

~~—**RETAIL.** The sale of intoxicating liquor, wine or 3.2% malt liquor to ultimate customers for consumption.~~

~~—**SALE and SELL.** All barbers and all manners or means of furnishing 3.2% malt liquor, wine or intoxicating liquor.~~

~~—**SCHOOL.** A building that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational technical college, shall not be deemed a **SCHOOL** for purposes of this chapter.~~

~~—**SECURITY PLAN.** Description of the on-site and off-site security measures available to assist the license applicant in monitoring the sales conducted pursuant to a special event liquor license, or temporarily expanded area covered by the liquor license, so that: no violation of the laws relating to the sale or service of alcoholic beverages occurs; conditions of sobriety and order are maintained; the special event covered by the liquor license is not likely to disturb the peace, quiet and repose of the surrounding areas or contribute to crime, disorderly conduct, noise, traffic, litter or parking problems in the area; consumption of on-sale alcoholic beverages is limited to the approved license premises; and illegal activities on the premises covered by a special event liquor license, or temporarily expanded area covered by the liquor license, are prevented.~~

~~—**THEATER.** Any establishment containing an auditorium in which live performances are held regularly to performance ticket holders, which contains at least 300 seats. A performance within the **THEATER** may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a **THEATER** under this definition. Alcohol may be served only during the hours in which the performance takes place and one hour before curtain. Only performance ticket holders may purchase alcoholic beverages for consumption on the premises.~~

~~—**3.2% MALT LIQUOR.** Any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.~~

~~—**WHOLESALE.** The sale of intoxicating liquor, wine or 3.2% malt liquor to municipal liquor stores, government instrumentalities or holders of retail licenses under this chapter or state law.~~

~~—**WHOLESALER.** A person who sells 3.2% malt liquor, wine or intoxicating liquor to municipal liquor stores, government instrumentalities or holders of retail licenses under this chapter or state law.~~

~~—**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 0.5% nor more than 24% alcohol by volume for nonindustrial use. **WINE** does not include distilled spirits as defined herein.~~

~~§ 13.02 LICENSE REQUIRED.~~

~~—No person, except wholesalers and/or manufacturers to the extent authorized by law and persons issued on-sale or off-sale intoxicating liquor licenses pursuant to Chapter 13, Article III of this code, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale any 3.2% malt liquor within the city without first having received a license under this Article I.~~

~~§ 13.02.01 LICENSE TYPES.~~

~~—Licenses under this Article I shall be of six types.~~

~~—(1) *Retail on-sale.* These licenses shall permit the sale of 3.2% malt liquor for consumption on the licensed premises only.~~

~~—(2) *Retail off-sale.* These licenses shall permit the sale of 3.2% malt liquor at retail in the original package with consumption off the licensed premises only.~~

~~—(3) *On-sale special event.* These licenses may be granted for special events held by a nonprofit, religious, charitable or political organization. No organization shall be granted more than three special event licenses in any calendar year and no licensed event may exceed four consecutive days. No more than one special event license may be granted to one organization or for 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. No organization or location shall be granted more than three special event liquor licenses in any calendar year.~~

~~—(4) *Club.* These licenses allow a club to sell 3.2% malt liquor to club members and to guests in the company of club members.~~

~~—(5) *Brewpub.* A brewpub off-sale malt liquor license may be issued to a brewer who holds an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture. The following restrictions shall apply.~~

~~—(A) The off-sale malt liquor must be produced and packaged on the licensed premises.~~

~~—(B) The off-sale malt liquor must be packaged in 64 ounce containers commonly known as “growlers,” subject to the following requirements.~~

~~—(i) The containers must bear a twist type closure, cork, stopper or plug.~~

~~—(ii) At the time of the sale, a paper or plastic adhesive band, strip, or sleeve must be applied to the container and extend over the top of the twist type closure, cork, stopper or plug forming a seal that must be broken upon opening of the container.~~

~~—(iii) The adhesive band, strip or sleeve must bear the name and address of the brewer.~~

~~—(iv) The containers must be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules part 7515.1100.~~

~~—(C) A brewer’s total retail sales at on- or off-sale under this subsection (C) may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.~~

~~—(D) Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.~~

~~—(E) A brewpub licensed under this section may hold or have an interest in other retail on-sale licenses, but 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, or be an affiliate thereof whether the affiliation is corporate or by management, direction or control.~~

~~—(6) Theater license. The license shall permit the sale of 3.2% malt liquor for consumption in theaters that meet the city's definition of theater, dinner theater or non-profit theater. A theater need not apply for a Sunday license for Sunday performances in the theater. Any 3.2% malt liquor sold must be consumed on the premises.~~

~~§ 13.03 LICENSE APPLICATION.~~

~~—In addition to the information that may be required by the State Department of Public Safety, the application for a license under this Article I shall request the following information:~~

~~—(1) For all applications, except applications for an on-sale special event license:~~

~~—(A) Whether the applicant is a natural person, corporation, partnership or other form of organization;~~

~~—(B) The type of license the applicant seeks;~~

~~—(C) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities and the locations of the nearest place of assembly for worship and school;~~

~~—(D) The floor number and street number where the sale of 3.2% malt liquor is to be conducted and the rooms where 3.2% malt liquor is to be sold or consumed. The applicant shall submit a floor plan of the rooms that shall be open to the public, that show dimensions and that indicate the number of persons intended to be served in each of the rooms;~~

~~—(E) If a permit from the federal government is required by the laws of the United States, whether or not such permit has been issued, and if so required, in what name issued and the nature of the permit;~~

~~—(F) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture and stock in trade, and proof of the source of such investment;~~

~~—(G) The names and addresses of all persons, other than the applicant, who have any ownership, in whole or in part, in the business, buildings, premises, fixtures, furniture, stock in trade to be licensed; the nature of such ownership; the amount thereof; and terms for payment or other reimbursement. Those with an ownership shall include, but not be limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged or extended security for any indebtedness of the applicant;~~

~~—(H) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;~~

~~—(I) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the Building and Inspection Division, no plans need be submitted to the issuing authority; and~~

~~—(J) Such other information as the City Council or issuing authority shall require.~~

~~—(2) If the applicant is a natural person:~~

~~—(A) The name, place and date of birth and street residence address of the applicant;~~

~~—(B) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, what was such name or names and information concerning dates and places where used; and~~

~~—(C) The name and street address of the business if it is to be conducted under a designation, name or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.02, as it may be amended from time to time.~~

~~—(3) If the applicant is a partnership, the names of all general and limited partners and all the information concerning each general partner as is required in subsection (2) above. The managing partners shall be designated, and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and, if the partnership is required to file a certificate as to a trade name under M.S. § 333.02, as it may be amended from time to time, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.~~

~~—(4) If the applicant is a corporation or other organization:~~

~~—(A) The name of the organization, and if incorporated, the state of incorporation;~~

~~—(B) A true copy of the certificate of incorporation or, if a foreign corporation, a certificate of authority as described in M.S. § 303.03, as it may be amended from time to time; and~~

~~—(C) The name of the general manager, proprietor, food/beverage manager, four principal corporate officers and other person in charge of the premises to be licensed, and all the information about said persons as is required in subsection (2) above.~~

~~—(5) If the applicant is a club:~~

~~—(A) The name of the club, and, where appropriate, the name of the establishment serving the club;~~

~~—(B) The date that the club was first incorporated, and, where appropriate, the date that the establishment serving the club was incorporated or otherwise established. True copies of the articles of incorporation, bylaws or other similar governing documents shall be submitted with the application;~~

- ~~—(C) The date that the club was first organized and the place of such organization;~~
- ~~—(D) The name of the general manager, proprietor, food/beverage manager and other person who shall be in charge of the licensed premises, and all the information about said person required in subsection (2) above;~~
- ~~—(E) A sworn statement that the club has been in existence for at least three years. The statement shall be made by a person who has personal knowledge of the facts stated therein. In the event that no person can make such a statement, satisfactory documentary proof may be submitted in support of such facts;~~
- ~~—(F) The number of members of the club; and~~
- ~~—(G) The names of the club officers.~~
- ~~—(6) If the application is for an on-sale special event, the application shall contain the following information:~~
 - ~~—(A) The name and address of the sponsoring nonprofit, religious, charitable or political organization and proof of its tax-exempt status pursuant to §§ 501(c) or 527 of the Internal Revenue Code;~~
 - ~~—(B) The purpose for which the special event on-sale license is sought, together with the location, dates and hours during which 3.2% malt liquor is to be sold;~~
 - ~~—(C) The location of the special event, along with a site plan of the compact and contiguous area from which 3.2% malt liquor is to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the license;~~
 - ~~—(D) The full name, date of birth and street residence address of an officer or member of the sponsoring nonprofit, religious, charitable or political organization;~~
 - ~~—(E) The full name, date of birth and street residence address of the person who will be in control of the 3.2% malt liquor at the special event and who will be present during the event to monitor the sales;~~
 - ~~—(F) A security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal, as deemed necessary by the issuing authority;~~
 - ~~—(G) Evidence of insurance with the same coverage limits and provisions as is required for the issuance of an “on-sale” license for an establishment with sales of 3.2% malt liquor of \$25,000 or more per year pursuant to § 13.17 of this city code; and~~
 - ~~—(H) Payment of the license fee set forth in § 14.03 of this city code.~~
- ~~—(7) If the application is for a theater, non-profit theater or dinner theater, the application shall contain the following additional information:~~
 - ~~—(A) The anticipated theater schedule for the coming year; and~~

~~—(B) A statement by the theater agreeing to comply with the public decency requirements found in §§ 12.17 through 12.20 and § 13.11.01 of this city code.~~

~~§ 13.04 APPLICATION EXECUTION.~~

~~—If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.~~

~~§ 13.05 APPLICATION SUBMISSION AND VERIFICATION.~~

~~—Applications for licenses under this Article I must be submitted to the issuing authority at least 60 days prior to planned sale of 3.2% malt liquor on licensed premises. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and a driver's license history inquiry on the applicant. The issuing authority is empowered to require the applicant for a special event license or amendment of licensed premises to submit a security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal, as deemed necessary by the size, location, timing and nature of the event. The issuing authority and/or the Police Department shall make a written recommendation and report, which shall include a list of all violations of federal, state or local law, to the City Council.~~

~~§ 13.06 APPLICATION CONSIDERATION.~~

~~—(a) The City Council shall conduct a hearing on the license application within a reasonable period following receipt of the issuing authority's report and recommendation regarding the application. At least ten days in advance of the City Council hearing on an application for a retailon sale, retail off sale or club license only, the issuing authority shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time and place of the hearing; the name of the business; business address; and the type of 3.2% malt liquor license which is sought. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may, in its discretion, grant or deny the application.~~

~~—(b) If a license is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until the city's Community Development Department has approved the building for occupancy.~~

~~§ 13.07 RENEWAL APPLICATION.~~

~~—All licenses under this Article I shall expire on December 31 of each year. An application for the renewal of an existing license shall be made at least 60 days prior to the expiration date of the license and shall be made in such form as the issuing authority may require. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for failure to submit a renewal application within the time provided, the City Council may, if the other provisions of this Article I are complied with, grant the renewal application.~~

~~§ 13.08 FEES.~~

~~—(a) The annual fee for a license under this Article I shall be as set forth in § 14.03 of this code. These fees will be pro-rated to December 31. An on-sale special event license will not be pro-rated.~~

~~—(b) A monthly pro-rata share of an annual license fee for a license issued under this Article I may be refunded to the licensee or an authorized representative of a licensee if:~~

~~—(1) The business ceases to operate because of destruction or damage;~~

~~—(2) The licensee dies and the business ceases to operate;~~

~~—(3) The business ceases to be lawful for a reason other than a license revocation;~~

~~—(4) The termination of a month-to-month tenancy or tenancy at will through no fault or neglect of the licensee or termination of a longer term lease according to the terms of such lease;~~

~~—(5) The physical or adjudicated mental incapacity which renders the licensee incapable of operating the business, provided that the cause of such incapacity occurred or commenced after the issuance of the license;~~

~~—(6) The business is sold and a new licensee qualifies to operate the business on the same location during the remainder of the original license period; and/or~~

~~—(7) The licensee ceases to carry on the licensed business under the license.~~

~~§ 13.09 PERSONS INELIGIBLE FOR LICENSE.~~

~~—(a) If the applicant is a natural person, no license shall be granted if the applicant:~~

~~—(1) Is not of good moral character and repute;~~

~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~

~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5);~~

~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~

~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~

- ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~
- ~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~
- ~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license because of any of the requirements in subsections (a)(1) through (a)(7) above;~~
- ~~—(9) Is not the real party in interest in the establishment to be licensed; and~~
- ~~—(10) Submits an application wherein a person, who is determined by the issuing authority to have an interest in the proposed license, is ineligible under subsections (a)(2), (a)(5), (a)(6) or (a)(7) above.~~
- ~~—(b) If the applicant is a partnership, no license shall be granted if any general partner or general manager of the establishment to be licensed:~~
 - ~~—(1) Is not of good moral character and repute;~~
 - ~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~
 - ~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5);~~
 - ~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale or distribution, or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~
 - ~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~
 - ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~
 - ~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~

~~—(8) Is the spouse of a person who is ineligible for a 3.2% malt liquor license because of any of the requirements in subsections (a)(1) through (a)(7) above; and~~

~~—(9) Is not the real party in interest in the establishment to be licensed.~~

~~—(c) If the applicant is a corporation, or other organization, no license shall be granted if any corporate officer, or if the general manager of the establishment to be licensed:~~

~~—(1) Is not of good moral character and repute;~~

~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~

~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5);~~

~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale or distribution, or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~

~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~

~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~

~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~

~~—(8) Is the spouse of a person who is ineligible for a 3.2% malt liquor license because of any of the requirements in subsections (a)(1) through (a)(7); and~~

~~—(9) Is not the real party in interest in the establishment to be licensed.~~

~~§ 13.10 LOCATIONS INELIGIBLE FOR LICENSE.~~

~~—(a) No off-sale license shall be granted to any facility selling gasoline unless that facility has been issued a Type I, Type II, Type III or Type IV food license in accordance with Chapter 14 of this code.~~

~~—(b) A retailon sale license under this Article I may only be issued to restaurants, hotels, clubs and establishments used exclusively for the sale of 3.2% malt liquor, except where the licensee is a theater, dinner theater or non-profit theater.~~

~~—(c) No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the state, county, school district or city are past due, delinquent or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.13, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on request waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.~~

~~§ 13.11 GENERAL LICENSE RESTRICTIONS.~~

~~—(a) *Posting of license.* A license issued under this Article I must be posted in a conspicuous place in the premises for which it is used.~~

~~—(b) *Illegal discrimination.* The holder of a club license issued under this Article I shall not discriminate against members, applicants for membership, or guests of members on the basis of race.~~

~~—(c) *Compact and contiguous.* A license issued under this Article I is only effective for the compact and contiguous space specified in the approved license application.~~

~~—(d) *Maintenance of order.* A licensee under this Article I shall be responsible for the conduct of the business being operated and shall maintain conditions of sobriety and order.~~

~~—(e) *Brewery and wholesaler.* A retail licensee under this Article I shall not allow any manufacturer, brewer or wholesaler to have any ownership, direct or indirect, in whole or in part, in the licensed establishment, except as provided by M.S. § 340A.301, subd. 7, as it may be amended from time to time, or § 13.02.01(5) of this city code. In addition, no retail licensee shall be a party to an exclusive purchase contract, that is contrary to law, with any manufacturer, brewer or wholesaler. A retail licensee under this Article I shall also not receive any benefit from a manufacturer, brewer or wholesaler that is contrary to law, or use or have property rented for the manufacture, brewing or wholesaling of intoxicating liquor.~~

~~—(f) *Inspections.* In light of the high risk of involvement with illegal conduct an establishment serving 3.2% malt liquor poses to the general public, the issuing authority and/or the City Police Department shall have the right to enter, inspect and search the licensed premises without a search and seizure warrant during the hours in which the licensed premises is open for the sale of 3.2% malt liquor. The business records of the licensee, including income tax records, shall be available for inspection during the hours in which the licensed premises is open for the sale of 3.2% malt liquor.~~

~~—(g) *Illegal activities.* A licensee under this Article I shall not allow any person to engage in prostitution or to sell or use illegal drugs in the licensed premises or any adjoining building or room under the licensee's control.~~

~~—(h) *Signage.* The licensee shall post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14 1/2 inches wide by eight inches high as designed by the Commissioners of Health and Public Safety, which incorporates the following information: (1) the penalties of driving while under the influence of alcohol; (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and (3) a warning statement regarding drinking alcohol while pregnant.~~

~~—(i) *Consumption limits.* Consumption of on-sale alcoholic beverages is allowed only in the approved license premises.~~

~~—(j) *Amendment of licensed premises.* A holder of a 3.2% malt liquor license shall make application to the issuing authority for a temporary amendment of the licensed premises, at least 60 days in advance of any event at which the licensee proposes to amend the licensed premises to provide for liquor service in a compact and contiguous area not included in the original license application. Included in that application, the licensee must submit a site plan of the compact and contiguous area from which 3.2% malt liquor is to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the temporarily amended licensed premises. The application must include evidence of insurance for the area covered by the temporarily amended licensed premises and payment of the temporary amendment processing fee set forth in § 14.03 of this city code. A security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal may also be required, as deemed necessary by the issuing authority. The City Council shall consider all such amendments to the licensed premises using the following criteria:~~

~~—(1) The area to be used must be immediately adjacent to the licensed premises;~~

~~—(2) The area will be used in connection with a special event no longer than three days in duration;~~

~~—(3) No more than three temporary amendments per calendar year will be allowed for a licensee at one establishment and a special license issued a non-profit, charitable, religious or political organization which contracts with the licensee for provision of service will be counted as part of this total;~~

~~—(4) Adequate measures will be taken to control access to the additional area, to ensure that alcoholic beverages will not be furnished in violation of state law or this city code to persons under the age of 21 years, obviously intoxicated persons or carried outside of the licensed premises or the temporarily expanded area;~~

~~—(5) Adequate measures will be taken to ensure that there will not be a violation of the city's noise ordinance;~~

~~—(6) The use of the additional area will not decrease available parking below that required by the zoning ordinance for the licensed premises;~~

~~—(7) The use of the additional area will not unreasonably impede traffic circulation;~~

~~—(8) The licensee has obtained adequate liability insurance for the additional area; and~~

~~—(9) The issuance of the temporary amendment will not be adverse to the public health, safety and welfare.~~

~~§ 13.11.01 ADULT ENTERTAINMENT PROHIBITION.~~

~~—The City Council finds that the sale and/or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incidents of prostitution, public masturbation, indecent exposure and/or sexual assault. In order to protect the health, safety and welfare of city residents, and pursuant to the City Council's authority to regulate alcoholic beverages under M.S. Chapter 340A, as it may be amended from time to time, and the Twenty-First Amendment to the United States Constitution, no on-sale licensee under this Article I shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following kinds of conduct can be seen by patrons of the licensed premises:~~

~~—(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation or flagellation;~~

~~—(2) The actual or simulated touching, caressing or fondling on the breast, buttocks, anus or genitals;~~

~~—(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;~~

~~—(4) The displaying of films rated by the Motion Picture Association of America as NC-17: "No One 17 And Under Admitted," unrated films and films deemed obscene or pornographic pursuant to state or federal law; or~~

~~—(5) The presentation of any female in such manner or attire to expose to view any portion of the breast below the top of the areola, or any simulation thereof.~~

~~§ 13.12 RESTRICTIONS REGARDING LICENSE TRANSFER.~~

~~—(a) The license granted under this Article I is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application, except in the case in which an existing noncorporate licensee is incorporating and the incorporation does not affect the ownership, control and interest of the existing licensed establishment.~~

~~—(b) When an establishment licensed under this Article I is sold or transferred, the licensee shall immediately notify the issuing authority of the sale or transfer. If the establishment that is sold or transferred is to continue selling or furnishing 3.2% malt liquor, the new owner must immediately apply for an appropriate license under this Article I. In addition, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the existing licensee and the new owner within 20 days following the sale or transfer. The management agreement shall vest control of all 3.2% malt liquor sales in the existing licensee or a manager responsible to the existing licensee. The agreement shall be approved by the City Council.~~

~~—(c) A management agreement shall be required of any licensed establishment whose business is being managed or operated by a person other than the licensee or an employee of the licensee. No person other than the licensee or an employee of the licensee shall be permitted to manage or operate an establishment licensed under this Article I until the City Council has reviewed and approved the management agreement and any amendments thereto.~~

~~§ 13.13 RESTRICTIONS REGARDING HOURS OF OPERATION.~~

~~—A licensee under this Article I shall make no sale of or serve any 3.2% malt liquor between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, or between 2:00 a.m. and 10:00 a.m. on Sunday. An on-sale licensee under this Article I may remain open for the sale of food and/or nonalcoholic beverages other than 3.2% malt liquor during the hours the service of 3.2% malt liquor is prohibited by this code and state law, provided that the licensee has proper food licenses under Chapter 14 of the city code and provided the licensee meets each of the following requirements:~~

~~—(1) By 2:30 a.m., the licensee shall remove all 3.2% malt liquor from the restaurant, bar and banquet room areas of the licensed premises.~~

~~—(2) The licensed establishment must be located in an area of the city that is zoned for food service between 1:00 a.m. and 6:00 a.m. pursuant to Chapters 19 and 21 of the city code.~~

~~—No licensee may sell 3.2% malt liquor between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the State Commissioner of Public Safety and has been issued a special license by the city. The annual application fee for the special license shall be as set forth in § 14.03 of this code. An on-sale licensee may sell 3.2% malt liquor until 4:00 a.m. during the period from 12:00 p.m. on February 2, 2018, through 4:00 a.m. on February 5, 2018, upon issuance of a special permit by the city and payment of a permit fee as set forth in § 14.03 of this code.~~

~~—(3) No licensed brewpub may sell or allow the removal from the licensed premises of any malt liquor on Sundays or before 8:00 a.m. or after 10:00 p.m. Mondays through Saturdays.~~

~~§ 13.14 RESTRICTIONS REGARDING MINORS.~~

~~—(a) *Purchasing restrictions.* No minor shall purchase or attempt to purchase 3.2% malt liquor from any licensee under this Article I.~~

~~—(b) *Inducement to purchase.* No person shall induce a minor to purchase or procure 3.2% malt liquor, or knowingly permit the use of the person's driver's license, permit, Minnesota identification card or other form of identification by a minor for the purpose to purchase 3.2% malt liquor from any licensee.~~

~~—(c) *Selling, furnishing or giving to minors.* No person shall sell, furnish, or give 3.2% malt liquor to a minor, except that a parent or guardian of a minor may give or furnish 3.2% malt liquor to the minor solely for consumption in the household of the minor's parent or guardian.~~

~~—(d) *Possession.* No minor shall possess 3.2% malt liquor with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession at a place other than~~

~~the household of the minor's parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the minor's parent or guardian.~~

~~—(e) *Licensed premises.* No minor shall enter the licensed premises for the purpose of purchasing or having served or delivered 3.2% malt liquor.~~

~~—(f) *Misrepresentation of age.* No minor shall misrepresent the minor's age for the purpose of obtaining 3.2% malt liquor.~~

~~—(g) *Proof of age.*~~

~~—(1) Proof of age for purchasing or consuming 3.2% malt liquor, wine or intoxicating liquor may be established only by one of the following:~~

~~—(A) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~—(B) A valid military identification card issued by the United States Department of Defense; or~~

~~—(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~—(2) In a prosecution for any violation of any provisions in this Article I regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.~~

~~—(3) With respect to purchasing, possessing, consuming, selling, furnishing and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's twenty first birthday.~~

~~§ 13.15 RESTRICTIONS REGARDING PURCHASE AND CONSUMPTION.~~

~~—(a) *Obvious Intoxication.* No licensee under this Article I shall sell, serve or furnish 3.2% malt liquor to any obviously intoxicated person.~~

~~—(b) *Sales to minors.*~~

~~—(1) No licensee under this Article I shall sell, serve or furnish 3.2% malt liquor to a minor, and no licensee under this Article I shall permit any minor to consume 3.2% malt liquor, wine or intoxicating liquor on the licensed premises. Proof of age for purchasing or consuming 3.2% malt liquor may be established only by:~~

~~—(A) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~—(B) A valid military identification card issued by the United States Department of Defense; or~~

~~—(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~—(2) In a prosecution for any violation of any provision in this Article I regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.~~

~~—(c) *Minors selling.* No licensee under this Article I shall permit a person under 18 years of age to serve or sell 3.2% malt liquor. A licensee under this Article I may employ a person under the age of 18 years, provided that person does not serve, sell or furnish 3.2% malt liquor, and provided that the employment of that person does not violate any state or federal child labor law or regulation.~~

~~—(d) *Wine and intoxicating liquor prohibition.* No licensee under this Article I is authorized or permitted to sell, serve or furnish wine or intoxicating liquor.~~

~~—(e) *Off-sale restrictions.* No off-sale licensee under this Article I shall deliver any 3.2% malt liquor to a person without obtaining a receipt therefor and signed by the person receiving such beverage. The receipt shall detail the time, date and place of delivery. The receipt shall be kept by the off-sale licensee for a period of one year.~~

~~—(f) *Club licensees.* A holder of a club license under this Article I shall sell or furnish 3.2% malt liquor only to members of the club and guests of members provided such members and guests are not minors and are not obviously intoxicated.~~

~~—(g) *Refilling bottles.* No licensee under this Article I shall sell, offer for sale or keep for sale 3.2% malt liquor in a package or bottle which has been refilled or partly refilled.~~

~~—(h) *Composition of alcoholic content.* No licensee under this Article I shall directly or indirectly through an agent, employee or other person, dilute or in any manner tamper with the contents of an original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the licensed premises of alcoholic beverages in the original package or bottle differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased is prima facie evidence that the contents of the original package or bottle has been diluted, changed or tampered with in violation of this section.~~

~~—(i) *Bar lines.* No licensee shall place on a single or joined bar line or on a dispensing system, whether automatic or manual, bottles or other containers with different labels or alcoholic beverages containing different levels of proof.~~

~~§ 13.16 RESTRICTIONS REGARDING GAMBLING.~~

~~—(a) *Gambling devices.* No licensee under this Article I may keep, possess or operate, or permit the keeping, possession or operation on the licensed premises of dice, slot machines, blackjack tables, roulette wheels or gambling devices except in conjunction with the holding of a casino gaming event as authorized under Chapter 14 of this code.~~

~~—(b) *Gambling equipment.* No licensee under this Article I shall permit gambling on the licensed premises except that gambling equipment may be kept or operated and raffles may be conducted on the licensed premises and/or adjoining rooms when the use of such gambling equipment or raffles is authorized under M.S. Chapter 349, as it may be amended from time to~~

time, is authorized under ~~§§ 12.48 through 12.60~~ of this code, and authorized under subsection (e) below:

~~—(c) *Lottery tickets.* The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. §§ 349A.01 through 349A.15, as they may be amended from time to time.~~

~~§ 13.17 INSURANCE REQUIREMENTS.~~

~~—(a) *Minimum amounts and bonds.* No license issued under this Article I, except those licenses listed in subsection (e) below, may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S. § 340A.801, as it may be amended from time to time. The minimum requirement for proof of financial responsibility may be given by submitting:~~

~~——(1) A certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under M.S. § 60A.07, subd. 4, as it may be amended from time to time, or by an insurer recognized as an eligible surplus line carrier pursuant to M.S. § 60A.206, as it may be amended from time to time, or pool providing at least \$500,000 of coverage because of bodily injury to any one person in any one occurrence, \$1,000,000 because of bodily injury to two or more persons in any one occurrence, \$500,000 because of injury to or destruction of property of others in any one occurrence, \$500,000 for loss of means of support of any one person in any one occurrence and \$1,000,000 for loss of means of support of two or more persons in any one occurrence; or~~

~~——(2) A bond of a surety company with minimum coverages as provided in subsection (a)(1) above.~~

~~—(b) *Joint insurance coverage.* Nothing in this section shall prohibit an insurer from providing the coverage required by subsection (a) above in combination with other insurance coverage.~~

~~—(c) *Annual aggregate limits.* An annual aggregate policy limit for dram shop insurance of not less than \$1,000,000 per policy year may be included in the policy provisions.~~

~~—(d) *Cancellation.* A liability insurance policy required by subsection (a) above must provide that it may not be canceled for:~~

~~——(1) Any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 60 days' notice in writing to the issuing authority of intent to cancel the policy; and~~

~~——(2) Nonpayment of premium unless the canceling party has first given ten days' notice in writing to the issuing authority of intent to cancel the policy.~~

~~—(e) *Affidavits.* Subsection (a) above does not apply to licensees who by affidavit establish that:~~

~~——(1) They are on sale 3.2% malt liquor licensees with sales of less than \$25,000 of 3.2% malt liquor for the preceding year; or~~

~~—(2) They are off-sale 3.2% malt liquor licensees with sales of less than \$50,000 of 3.2% malt liquor for the preceding year.~~

~~§ 13.18 SANCTIONS FOR LICENSE VIOLATIONS.~~

~~—(a) The City Council may revoke a license, suspend a license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation or impose any combination of these sanctions for a violation of:~~

~~—(1) A provision of this Article I;~~

~~—(2) A state law relating to alcoholic beverages; or~~

~~—(3) A state or local law relating to moral character.~~

~~—(b) A revocation, suspension or civil penalty shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the application.~~

~~—(c) If the Commissioner of Public Safety has imposed a civil penalty or a suspension against the same licensee for the same act, imposition of an additional penalty or suspension by the city is not precluded provided that the total penalty or suspension does not exceed the maximum specified by state law.~~

~~ARTICLE IA: WINE~~

~~ARTICLE II: WINE~~

~~§ 13.19 PURPOSE.~~

~~—Pursuant to the authority granted it by the Minnesota Liquor Act, M.S. Chapter 340A, as it may be amended from time to time, and the Twenty First Amendment to the United States Constitution, the City Council prescribes the following licensing procedures and regulations governing the sale and/or consumption of alcoholic beverages.~~

~~§ 13.19.01 DEFINITIONS.~~

~~—Words and terms when used in this Article II shall have the meanings of the words and terms described in § 13.01.01 of this code, unless the context clearly indicates otherwise.~~

~~§ 13.20 LICENSE REQUIRED.~~

~~—No person, except wholesalers and/or manufacturers to the extent authorized by law and persons issued on-sale or off-sale intoxicating liquor licenses pursuant to Chapter 13, Article III of this code, shall directly or indirectly deal in, sell or keep for sale wine for on-sale without first having received a license to do so as provided in this Article II. Licenses under this Article II shall be issued only to restaurants.~~

~~§ 13.20.01 LICENSE TYPES.~~

~~—Licenses shall be of two types:~~

~~—(a) *On-sale licenses.* These licenses shall permit the sale of wine for consumption on the licensed premises only; and~~

~~—(b) *Theater licenses.* These licenses shall permit the sale of wine in theaters that met the city's definition of theater, dinner theater or non-profit theater. A theater need not apply for a Sunday license for Sunday performances in the theater.~~

~~§ 13.21 LICENSE APPLICATION.~~

~~—In addition to the information that may be required by the Department of Public Safety, the application for a license under this Article II shall contain the following information:~~

~~—(1) For all applicants:~~

~~—(A) Whether the applicant is a natural person, corporation, partnership or other form of organization;~~

~~—(B) The type of license the applicant seeks;~~

~~—(C) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities and the locations of the nearest place of worship and school;~~

~~—(D) The floor number and street number where the sale of wine is to be conducted and the rooms where wine is to be sold or consumed. The applicant shall submit a floor plan of the dining rooms that shall be open to the public, that show dimensions and that indicate the number of persons intended to be served in each of the rooms;~~

~~—(E) If a permit from the federal government is required by the laws of the United States, whether or not such permit has been issued, and if so required, in what name issued and the nature of the permit;~~

~~—(F) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture and stock in trade, and proof of the source of such investment;~~

~~—(G) The names and addresses of all persons, other than the applicant, who have any ownership, in whole or in part, in the property, business, buildings, premises, fixtures, furniture, stock in trade; the nature of such ownership; the amount thereof; and terms for payment or other reimbursement. Those with an ownership shall include, but not be limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant;~~

~~—(H) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;~~

~~—(I) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the Building and Inspection Division, no plans need be submitted with the issuing authority;~~

~~—(J) The name and street address of the business if it is to be conducted under a designation, name or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.02, as it may be amended from time to time; and~~

~~—(K) Such other information as the City Council or issuing authority shall require.~~

~~—(2) If the applicant is a natural person:~~

~~—(A) The name, place and date of birth and street residence address of the applicant;~~

~~—(B) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, what was such name or names and information concerning dates and places where used;~~

~~—(C) Whether the applicant is married or single. If the applicant is married, the name, place of birth and street residence address of the applicant's present spouse;~~

~~—(D) Whether the applicant and present spouse are registered voters and if so, where;~~

~~—(E) Street addresses at which the applicant and present spouse have lived during the preceding ten years;~~

~~—(F) The type, name and location of every business or occupation the applicant or present spouse has been engaged in during the preceding ten years;~~

~~—(G) Names and addresses of the applicant's and the applicant's present spouse's employers and partners, if any, for the preceding ten years;~~

~~—(H) Whether the applicant or the applicant's spouse or a parent, brother, sister or child of either of them has ever been convicted of any felony, crime or violation of any ordinance other than traffic. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had;~~

~~—(I) Whether the applicant or the applicant's spouse, or a parent, brother, sister or child of either of them has ever been engaged in the operation of a saloon, hotel, restaurant, café, tavern or other business which served 3.2% malt liquor, wine or intoxicating liquor. If so, applicant shall furnish information as to the time, place and length of time of the involvement in such an establishment;~~

~~—(J) Whether the applicant has ever been in military service. If so, the applicant shall, upon request, exhibit all discharges; and~~

~~—(K) The name, address and business address of each person who is engaged in Minnesota in the business of selling, manufacturing or distributing intoxicating liquor and who is nearer of kin to the applicant or the applicant's spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law or who is a brother-in-law or sister-in-law of the applicant or the applicant's spouse.~~

~~—(3) If the applicant is a partnership, the names of all general and limited partners and all information concerning each general partner as is required in subsection (2) above. The managing partners shall be designated, and the interest of each general and limited partner in the~~

~~business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and, if the partnership is required to file a certificate as to a trade name under M.S. § 333.02, as it may be amended from time to time, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.~~

~~—(4) If the applicant is a corporation or other organization:~~

~~—(A) The name of the organization, and if incorporated, the state of incorporation;~~

~~—(B) A true copy of the certificate of incorporation or, if a foreign corporation, a certificate of authority as described in M.S. § 303.03, as it may be amended from time to time;~~

~~—(C) The name of the general manager, food/beverage manager, four principal corporate officers, proprietor and other person in charge of the premises to be licensed and all the information about said persons as is required in subsection (2) above; and~~

~~—(D) A list of all persons who, together with their spouse, parent, brother, sister or child own or control an interest as defined herein in the corporation or organization together with their addresses and all the information regarding such persons as is required in subsection (2) above.~~

~~—(5) If the application is for a theater, non-profit theater or dinner theater, the application shall contain the following addition information:~~

~~—(A) The anticipated theater schedule for the coming year; and~~

~~—(B) A statement by the theater agreeing to comply with the public decency requirements found in §§ 12.17 through 12.20 and § 13.29.01 of this city code.~~

~~§ 13.22 APPLICATION EXECUTION.~~

~~—If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.~~

~~§ 13.23 APPLICATION VERIFICATION.~~

~~—Applications for licenses under this Article II shall be submitted to the issuing authority at least 60 days prior to planned sale of wine on licensed premises. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The issuing authority shall make a written recommendation and report, which shall include a list of all violations of federal, state or local law, to the City Council.~~

~~§ 13.24 APPLICATION CONSIDERATION.~~

~~—(a) The City Council shall conduct a hearing on the license application within a reasonable period following receipt of the issuing authority's report and recommendation regarding the application. At least ten days in advance of the City Council hearing on an application, the issuing authority shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time and place of hearing; the name of the business; the business address; the premises where the business is to be conducted; and the type of license which is~~

sought. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may, in its discretion, grant or deny the application.

—(b)—Within ten days after the issuance of a license under this Article II, the issuing authority shall submit to the Department of Public Safety the true or trade name and address of each person who has been issued a license, the effective date of the license and any other information required by the Department.

—(c)—If a license is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until the city's Community Development Department has approved the building for occupancy.

~~§ 13.25 RENEWAL APPLICATION.~~

—(a)—All licenses under this Article II shall expire on June 30 of each year. An application for the renewal of an existing license shall be made at least 60 days prior to the expiration date and shall be made in such form as the issuing authority requires. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application within the time provided, the City Council may, if the other provisions of this Article II are complied with, grant the renewal application.

—(b)—At the time an application is made for a renewal of a license, the applicant shall submit to the issuing authority a statement signed by the applicant or an independent certified public accountant who attests that not less than 30% of the restaurant's combined sales of food, non-alcoholic beverages and alcoholic beverages is derived from the sale of food and non-alcoholic beverages. The issuing authority may require the applicant to produce such documents or information, including but not limited to books, records, audited financial statements or pro forma financial statements, sales reports and analysis as it deems necessary or convenient to enforce these provisions.

—(c)—At the time a licensee submits the renewal application, the licensee shall state the nature and amount of any contribution valued in excess of \$50 that the licensee has made to any candidate for an elected city municipal office.

—(d)—A corporation or partnership shall submit a current certificate of good standing with the renewal application.

~~§ 13.26 FEES.~~

—(a)—*Application fee.* The annual fee for an on-sale license under this Article II shall be as set forth in § 14.03 of this code. This fee will be pro-rated to June 30.

—(b)—*Refunds.* A monthly pro-rata share of an annual license fee for a license issued under this Article II may be refunded to the licensee or an authorized representative of a licensee if:

—(1)—The business ceases to operate because of destruction or damage;

—(2)—The licensee dies and the business ceases to operate;

- ~~—(3) The business ceases to be lawful for a reason other than a license revocation;~~
 - ~~—(4) The termination of a month-to-month tenancy or tenancy at will through no fault or neglect of the licensee or termination of a longer term lease according to the terms of such lease;~~
 - ~~—(5) The physical or adjudicated mental incapacity which renders the licensee incapable of operating the business, provided that the cause of such incapacity occurred or commenced after the issuance of the license;~~
 - ~~—(6) The business is sold and a new licensee qualifies to operate the business on the same location during the remainder of the original license period; or~~
 - ~~—(7) The licensee ceases to carry on the licensed business under the license.~~
- ~~—(c) *Investigation fee.* At the time of each original application for a license under this Article II, the applicant shall deposit with the issuing authority a \$500 investigation fee. If the investigation is conducted solely within the state, the fee shall be \$150, and the remainder of the deposit shall be returned to the applicant prior to the license hearing. If the investigation is conducted outside the state, the city may recover from the applicant the actual investigation costs, not to exceed \$5,000. In such cases, however, the city shall notify the applicant in advance if the investigation fee is anticipated to exceed \$500. Any fees due in excess of the \$500 deposit must be paid prior to the license hearing. At any time that an additional investigation is necessary because of a change in the control of a corporation, the licensee shall pay an additional nonrefundable investigation fee of \$100.~~

~~§ 13.27 PERSONS INELIGIBLE FOR LICENSE.~~

- ~~—(a) If the applicant is a natural person, no license shall be granted if the applicant:~~
 - ~~—(1) Is not of good moral character and repute;~~
 - ~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~
 - ~~—(3) Is a manufacturer, brewer or wholesaler or has direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor;~~
 - ~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~
 - ~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~

- ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~
- ~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~
- ~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to § 13.46 or for a wine license pursuant to subsections (a)(1) through (a)(7) above;~~
- ~~—(9) Is not the real party in interest in the establishment to be licensed; and~~
- ~~—(10) Submits an application wherein a person, who is determined to have an interest in the proposed license, is ineligible under subsections (a)(2), (a)(5), (a)(6) or (a)(7) above.~~
- ~~—(b) If the applicant is a partnership, no license shall be granted if any general partner or general manager of the establishment to be licensed:~~
 - ~~—(1) Is not of good moral character and repute;~~
 - ~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~
 - ~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler;~~
 - ~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~
 - ~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~
 - ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~
 - ~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~
 - ~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to § 13.46 or for a wine license pursuant to subsections (a)(1) through (a)(7) above; and~~

- ~~—(9) Is not the real party in interest in the establishment to be licensed.~~
- ~~—(c) If the applicant is a corporation or other organization, no license shall be granted if any corporate officer, or if the general manager of the establishment to be licensed:~~
- ~~—(1) Is not of good moral character and repute;~~
- ~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~
- ~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler;~~
- ~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~
- ~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~
- ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~
- ~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~
- ~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to § 13.46 or for a wine license pursuant to subsections (a)(1) through (a)(7) above; and~~
- ~~—(9) Is not the real party in interest in the establishment to be licensed.~~
- ~~—(d) Licenses under this Article II shall be issued only to restaurants, unless the licensee is a theater, dinner theater or non-profit theater.~~

~~§ 13.28 LOCATIONS INELIGIBLE FOR LICENSE.~~

- ~~—(a) *Delinquent taxes.* No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the state, county, school district or city are past due, delinquent or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.13, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no~~

~~waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.~~

~~—(b) *Status of owner of property.* No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for an intoxicating liquor license under any of the requirements in § 13.46 or for a wine license under any of the requirements in § 13.27 (a)(1) through (a)(11), except that a property owner who is a minor or who has been convicted of a crime, other than a violation of M.S. §§ 340A.101 through 340A.907, as they may be amended from time to time, shall not make the premises ineligible under this subsection (b).~~

~~—(c) *Dining area.* No license under this Article II shall be granted to an establishment that does not have a dining area, open to the general public, with a total minimum floor area of 750 square feet, unless the licensee is a theater, dinner theater or non-profit theater.~~

~~—(d) *Food ratio.* No license under this Article II shall be renewed to a restaurant that has not submitted a statement signed by the applicant or an independent certified public accountant who attests that not less than 30% of the restaurant's combined sales of food, non-alcoholic beverages and alcoholic beverages is derived from the sale of food and non-alcoholic beverages, unless the licensee is a theater, dinner theater or non-profit theater.~~

~~—(e) *Common entrance.* No license under this Article II shall be granted to any establishment that has a common entrance or exit between the area in which wine will be sold and any other business or establishment. A public concourse or lobby shall not be construed as a common entrance or exit for purposes of this subsection (e).~~

~~—(f) *Intoxicating liquor establishments.* No license under this Article II shall be granted or renewed to an establishment that is licensed as an off-sale or an on-sale intoxicating liquor establishment under Chapter 13, Article III of this code.~~

~~§ 13.29 GENERAL LICENSE RESTRICTIONS.~~

~~—(a) *Posting of license.* A license issued under this Article II must be posted in a conspicuous place in the premises for which it is used.~~

~~—(b) *Compact and contiguous.* A license issued under this Article II is only effective for the compact and contiguous space specified in the approved license application.~~

~~—(c) *Maintenance of order.* A licensee under this Article II shall be responsible for the conduct of the business being operated and shall maintain conditions of sobriety and order.~~

~~—(d) *Brewery and wholesaler.* A licensee under this Article II shall not allow any manufacturer, brewer or wholesaler to have any ownership, direct or indirect, in whole or in part, in the licensed establishment contrary to M.S. § 340A.301, subd. 7, as it may be amended from time to time. In addition, no licensee shall be a party to an exclusive purchase contract, that is contrary to law, with any manufacturer, brewer or wholesaler. A licensee under this Article II shall also not receive any benefit from a manufacturer, brewer or wholesaler that is contrary to law, or use or have property rented for the manufacture, brewing or wholesaling of intoxicating liquor.~~

~~—(e) *Inspection.* In light of the high risk involvement with illegal conduct an establishment serving wine poses to the general public, the issuing authority and/or the City Police Department shall have the right to enter, inspect and search the licensed premises without a search and seizure warrant during the hours in which the licensed premises is open for the sale of wine. The business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for the sale of wine.~~

~~—(f) *Illegal activities.* A licensee under this Article II shall not allow any person to engage in prostitution or to sell or use illegal drugs in the licensed premises or any adjoining building or room under the licensee's control.~~

~~—(g) *Signage.* The licensee shall post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14 1/2 inches wide by eight inches high as designed by the Commissioners of Health and Public Safety, which incorporates the following information: (1) the penalties of driving while under the influence of alcohol; (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and (3) a warning statement regarding drinking alcohol while pregnant.~~

~~—(h) *Consumption limits.* Consumption of on-sale alcoholic beverages is allowed only in the approved license premises.~~

~~§ 13.29.01 ADULT ENTERTAINMENT PROHIBITION.~~

~~—The City Council finds that the sale and/or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incidents of prostitution, public masturbation, indecent exposure and/or sexual assault. In order to protect the health, safety and welfare of city residents, and pursuant to the City Council's authority to regulate alcoholic beverages under M.S. Chapter 340A, as it may be amended from time to time, and the Twenty-First Amendment to the United States Constitution, no licensee under this Article II shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following kinds of conduct can be seen by patrons of the licensed premises:~~

~~—(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation or flagellation;~~

~~—(2) The actual or simulated touching, caressing or fondling on the breast, buttocks, anus or genitals;~~

~~—(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;~~

~~—(4) The displaying of films rated by the Motion Picture Association of America as NC-17: "No One 17 And Under Admitted," unrated films and films deemed obscene or pornographic pursuant to state or federal law; or~~

~~—(5) The presentation of any female in such manner or attire to expose to view any portion of the breast below the top of the areola, or any simulation thereof.~~

~~§ 13.30 RESTRICTIONS REGARDING LICENSE TRANSFER.~~

~~—(a) The license granted under this Article II is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application, except in the case in which an existing noncorporate licensee is incorporating and the incorporation does not affect the ownership, control and interest of the existing licensed establishment.~~

~~—(b) A licensee under this Article II shall immediately notify the issuing authority of the following:~~

~~—(1) A change in the corporate or organization officers listed in the license application, excluding officers of clubs holding club licenses;~~

~~—(2) Any changes in the partnership agreement or lease submitted with the license application;~~

~~—(3) A change of the managing partner, general manager, food/beverage manager, proprietor or other person who is in charge of the licensed premises; and~~

~~—(4) Any change in the ownership of an establishment licensed under this Article II, including any acquisition of an interest in the partnership, corporation or other organization by any person not identified in the license application.~~

~~—(c) When an establishment licensed under this Article II is sold or transferred, the licensee shall immediately notify the issuing authority of the sale or transfer. If the establishment that is sold or transferred is to continue selling or furnishing wine, the new owner must immediately apply for an appropriate license under this Article II. In addition, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the existing licensee and the new owner within 20 days following the sale or transfer. The management agreement shall vest control of all wine sales in the existing licensee or a manager responsible to the existing licensee. The agreement shall be approved by the City Council.~~

~~—(d) A management agreement shall be required of any licensed establishment whose business is being managed or operated by a person other than the licensee or an employee of the licensee. No person other than the licensee or an employee of the licensee shall be permitted to manage or operate an establishment licensed under this Article II until the City Council has reviewed and approved the management agreement and any amendments thereto.~~

~~§ 13.31 RESTRICTIONS REGARDING HOURS OF OPERATION.~~

~~—A licensee under this Article II shall make no sale of or furnish any alcoholic beverage during the following hours on the following days, unless the licensee is a theater, non-profit theater or dinner theater:~~

~~-~~

Monday through Saturday	No sales between 2:00 a.m. and 8:00 a.m. provided that the licensee is in conformance with the Minnesota Clean Air Act, M.S. §§ 144.411 et seq., as they may be amended from time to time
Sunday	No sales between 2:00 a.m. and 8:00 a.m. provided that the licensee is in conformance with the Minnesota Clean Air Act, M.S. §§ 144.411 et seq., as they may be amended from time to time

~~—An on-sale licensee under this Article II may remain open for the sale of food and/or nonalcoholic beverages during the hours the service of alcoholic beverages is prohibited by this code and state law, provided that the licensee has proper food licenses under Chapter 14 of the city code and provided the licensee meets each of the following requirements:~~

~~—(1) By 2:30 a.m., the licensee shall remove all alcoholic beverages from the restaurant, bar and banquet room areas of the licensed premises.~~

~~—(2) No public display of alcoholic beverages shall be allowed during the hours the service of alcoholic beverages is prohibited by this code and state law, as required by Minnesota Rules part 7515.0560, subpart 3, and § 13.52(h) of the city code. All liquor stock in areas accessible by the general public shall be covered or otherwise made not available for public display.~~

~~—(3) The licensed establishment must be located in an area of the city that is zoned for food service between 1:00 a.m. and 6:00 a.m. pursuant to Chapters 19 and 21 of the city code.~~

~~—No licensee may sell wine between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the State Commissioner of Public Safety and has been issued a special license by the city. A licensee may sell wine until 4:00 a.m. during the period from 12:00 p.m. on February 2, 2018, through 4:00 a.m. on February 5, 2018, upon issuance by the city of a special permit and payment of a permit fee as set forth in § 14.03 of this code.~~

~~§ 13.32 RESTRICTIONS REGARDING MINORS.~~

~~—(a) *Purchasing restrictions.* No minor shall purchase or attempt to purchase wine from any licensee under this Article II.~~

~~—(b) *Inducement to purchase.* No person shall induce a minor to purchase or procure wine, or knowingly permit the use of the person's driver's license, permit, Minnesota identification card or other form of identification by a minor for the purpose to purchase wine from any licensee.~~

~~—(c) *Selling, furnishing or giving to minors.* No person shall sell, furnish or give wine to a minor, except that a parent or guardian of a minor may give or furnish wine to the minor solely for consumption in the household of the minor's parent or guardian.~~

~~—(d) *Possession.* No minor shall possess wine with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession at a place other than the household of the minor's parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the minor's parent or guardian.~~

~~—(e) *Licensed premises.* No minor shall enter the licensed premises for the purpose of purchasing or having served or delivered wine.~~

~~—(f) *Misrepresentation of age.* No minor shall misrepresent the minor's age for the purpose of obtaining wine.~~

~~—(g) *Proof of age.*~~

~~—(1) Proof of age for purchasing or consuming 3.2% malt liquor, wine or intoxicating liquor may be established only by one of the following:~~

~~—(A) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~—(B) A valid military identification card issued by the United States Department of Defense; or~~

~~—(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~—(2) In a prosecution for any violation of any provision in this Article II regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.~~

~~§ 13.33 RESTRICTIONS REGARDING PURCHASE AND CONSUMPTION.~~

~~—(a) *Obvious intoxication.* No licensee under this Article II shall sell, serve or furnish wine to any obviously intoxicated person.~~

~~—(b) *Proof of age.*~~

~~—(1) No licensee under this Article II shall sell, serve or furnish wine to a minor, and no licensee under this Article II shall permit any minor to consume wine, 3.2% malt liquor or intoxicating liquor on the licensed premises. Proof of age for purchasing or consuming wine may be established only by:~~

~~—(A) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~—(B) A valid military identification card issued by the United States Department of Defense; or~~

~~—(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~—(2) In a prosecution for any violation of any provision in this Article II regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.~~

~~—(3) With respect to purchasing, possessing, consuming, selling, furnishing and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's twenty-first birthday.~~

~~—(c) *Minors selling.* No licensee under this Article II shall permit a person under 18 years of age to serve or sell wine. A licensee under this Article II may employ a person under the age of 18 years, provided that person does not serve, sell or furnish wine, and provided that the employment of that person does not violate any state or federal child labor law or regulation.~~

~~—(d) *Intoxicating liquor prohibition.* No licensee under this Article II is authorized or permitted to sell, serve or furnish intoxicating liquor.~~

~~—(e) *Display.* No licensee under this Article II shall display wine to the public during the hours or on the days the sale of wine is prohibited under § 13.31 of this code.~~

~~—(f) *Consumption with a meal.* A licensee under this Article II shall not allow any person to consume wine unless the wine is consumed with a meal, except if the licensee is a theater or non-profit theater.~~

~~—(g) *Refilling bottles.* No licensee under this Article II shall sell, offer for sale or keep for sale wine in a package or bottle which has been refilled or partly refilled.~~

~~—(h) *Composition of alcoholic content.* No licensee under this Article II shall directly or indirectly through an agent, employee or other person, dilute or in any manner tamper with the contents of an original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the licensed premises of alcoholic beverages in the original package or bottle differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased is prima facie evidence that the contents of the original package or bottle has been diluted, changed or tampered with in violation of this section.~~

~~—(i) *Bar lines.* No licensee shall place on a single or joined bar line or on a dispensing system, whether automatic or manual, bottles or other containers with different labels or containing different levels of proof.~~

~~§ 13.34 RESTRICTIONS REGARDING GAMBLING.~~

~~—(a) *Gambling devices.* No licensee under this Article II may keep, possess or operate, or permit the keeping, possession or operation on the licensed premises of dice, slot machines, blackjack tables, roulette wheels or gambling devices except in conjunction with the holding of a casino gaming event as authorized under Chapter 14 of this code.~~

~~—(b) *Gambling equipment.* No licensee under this Article II shall permit gambling on the licensed premises except that gambling equipment may be kept or operated and raffles may be conducted on the licensed premises and/or adjoining rooms when the use of such gambling equipment or raffles is authorized under M.S. Chapter 349, as it may be amended from time to time, is authorized under §§ 12.48 through 12.60 of this code, and authorized under subsection (c) below.~~

~~—(c) *Lottery tickets.* The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. §§ 349A.01 through 349A.15, as they may be amended from time to time.~~

~~§ 13.35 INSURANCE REQUIREMENTS.~~

~~—(a) *Minimum amounts and bonds.* No license issued under this Article II, except those licenses listed in subsection (e) below, may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S. § 340A.801, as it may be amended from time to time. The minimum requirement for proof of financial responsibility may be given by submitting;~~

~~—(1) A certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under M.S. § 60A.07, subd. 4, as it may be amended from time to time, or by an insurer recognized as an eligible surplus line carrier pursuant to M.S. § 60A.206, as it may be amended from time to time, or pool providing at least \$500,000 of coverage because of bodily injury to any one person in any one occurrence, \$1,000,000 because of bodily injury to two or more persons in any one occurrence, \$500,000 because of injury to or destruction of property of others in any one occurrence, \$500,000 for loss of means of support of any one person in any one occurrence and \$1,000,000 for loss of means of support of two or more persons in any one occurrence; or~~

~~—(2) A bond of a surety company with minimum coverages as provided in subsection (a)(1) above.~~

~~—(b) *Joint insurance coverage.* Nothing in this section shall prohibit an insurer from providing the coverage required by subsection (a) above in combination with other insurance coverage.~~

~~—(c) *Annual aggregate limits.* An annual aggregate policy limit for dram shop insurance of not less than \$1,000,000 per policy year may be included in the policy provisions.~~

~~—(d) *Cancellation.* A liability insurance policy required by subsection (a) above must provide that it may not be canceled for:~~

~~—(1) Any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 60 days' notice in writing to the issuing authority of intent to cancel the policy; and~~

~~—(2) Nonpayment of premium unless the canceling party has first given ten days' notice in writing to the issuing authority of intent to cancel the policy.~~

~~—(e) *Affidavits.* Subsection (a) above does not apply to licensees who by affidavit establish that they are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year.~~

~~§ 13.36 SANCTIONS FOR LICENSE VIOLATIONS.~~

~~—(a) The City Council may revoke a license, suspend a license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation or impose any combination of these sanctions for a violation of:~~

~~—(1) A provision of this Article II;~~

~~—(2) A state law relating to alcoholic beverages; or~~

~~—(3)—A state or local law relating to moral character.~~

~~—(b)—A revocation, suspension or civil penalty shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the application.~~

~~—(c)—If the Commissioner of Public Safety has imposed a civil penalty or a suspension against the same licensee for the same act, imposition of an additional penalty or suspension by the city is not precluded provided that the total penalty or suspension does not exceed the maximum specified by state law.~~

~~§ 13.37 PUBLIC RECREATIONAL FACILITIES.~~

~~—A political subdivision which owns and operates a public recreational facility may be issued an on-sale wine license for the purpose of dispensing wine at a restaurant located on such facility. The public on-sale wine licensee shall comply with the provisions of Chapter 13, Article II of this code except as follows.~~

~~—(a)—Meals may be served at a restaurant located on a public recreational facility either cafeteria style or by direct service to tables or booths.~~

~~—(b)—Section 13.33(c) shall not apply to restaurants located on public recreational facilities.~~

~~§ 13.37.01 RESERVED.~~

~~§ 13.37.02 LICENSE TO SELL INTOXICATING MALT LIQUOR.~~

~~—The holder of an on-sale wine license issued pursuant to state law and this section of the city code who is also licensed to sell on-sale 3.2% malt liquor pursuant to state law and this code is authorized to sell intoxicating malt liquor at on-sale without an additional license.~~

~~ARTICLE III: INTOXICATING LIQUOR~~

~~§ 13.38 PURPOSE.~~

~~—Pursuant to the authority granted it by the Minnesota Liquor Act, M.S. Chapter 340A, as it may be amended from time to time, and the Twenty-First Amendment to the United States Constitution, the City Council prescribes the following licensing procedures and regulations governing the sale and/or consumption of alcoholic beverages.~~

~~§ 13.38.01 DEFINITIONS.~~

~~—Words and terms when used in this Article III shall have the meanings of the words and terms described in § 13.01.01 of this code, unless the context clearly indicates otherwise.~~

~~§ 13.39 LICENSE REQUIRED.~~

~~—No person, except wholesalers and/or manufacturers to the extent authorized by law, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this Article III.~~

~~§ 13.39.01 LICENSE TYPES.~~

~~—Licenses shall be of seven types:~~

~~—(1) *On-sale licenses.* These shall be issued only to hotels and restaurants.~~

~~—(2) *On-sale club licenses.* These shall be issued only to clubs.~~

~~—(3) *Off-sale licenses.* These shall be issued only to exclusive liquor stores.~~

~~—(4) *Sunday liquor licenses.* These licenses shall be issued only to persons who hold a current license under this Article III, except an off-sale license, provided that the intoxicating liquor is sold or furnished for consumption on the premises and in conjunction with the sale of food, and provided that the restaurant, club, hotel or sports facility complies with the Minnesota Clean Indoor Air Act, M.S. §§ 144.411 through 144.417, as they may be amended from time to time.~~

~~—(5) *On-sale special event.* Subject to the provisions of § 13.57.01 of this code and M.S. § 340A.404, subd. 10, as it may be amended from time to time, these licenses may be granted for special events, held by a nonprofit, religious or charitable organization in existence for at least three years in or a registered political committee in connection with a social event sponsored by the licensee. No event may exceed four consecutive days. No more than one special event license may be granted to one organization or for 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. No organization or location shall be granted more than three special event liquor licenses in any calendar year.~~

~~—(6) *Brewpub.* A brewpub off-sale malt liquor license may be issued to a brewer who holds an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture. The following restrictions shall apply:~~

~~—(A) The off-sale malt liquor must be produced and packaged on the licensed premises.~~

~~—(B) The off-sale malt liquor must be packaged in 64-ounce containers commonly known as “growlers,” subject to the following requirements:~~

~~—(i) The containers must bear a twist-type closure, cork, stopper or plug.~~

~~—(ii) At the time of the sale, a paper or plastic adhesive band, strip or sleeve must be applied to the container and extend over the top of the twist-type closure, cork, stopper or plug forming a seal that must be broken upon opening of the container.~~

~~—(iii) The adhesive band, strip or sleeve must bear the name and address of the brewer.~~

~~—(iv) The containers must be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules part 7515.1100.~~

~~—(C) A brewer’s total retail sales at on- or off-sale under this subsection (6) may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.~~

~~—(D) Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.~~

~~—(E) A brewpub licensed under this section may hold or have an interest in other retail on-sale licenses, but 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, or be an affiliate thereof whether the affiliation is corporate or by management, direction or control.~~

~~—(7) Theater license. This license shall permit the sale of intoxicating liquor in theaters that meet the city's definition of theater or dinner theater. A theater need not apply for a Sunday license for Sunday performances in the theater. Any intoxicating liquor sold must be consumed on the premises.~~

~~§ 13.40 LICENSE APPLICATION.~~

~~—In addition to the information that may be required by the Department of Public Safety, the application for a license under this Article III, except applications for an on-sale special event license, which shall be governed by § 13.57.01 of this Article III, shall request the following information.~~

~~—(1) For all applicants:~~

~~—(A) Whether the applicant is a natural person, corporation, partnership or other form of organization;~~

~~—(B) The type of license the applicant seeks;~~

~~—(C) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities and the locations of the nearest place of assembly for worship and school;~~

~~—(D) The floor number and street number where the sale of intoxicating liquor is to be conducted and the rooms where intoxicating liquor is to be sold or consumed. The applicant shall submit a floor plan of the dining rooms that shall be open to the public, that show dimensions and that indicate the number of persons intended to be served in each of the rooms;~~

~~—(E) If a permit from the federal government is required by the laws of the United States, whether or not such permit has been issued, and if so required, in what name issued and the nature of the permit;~~

~~—(F) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture and stock in trade and proof of the source of such investment;~~

~~—(G) The names and addresses of all persons, other than the applicant, who have any ownership, in whole or in part, in the business, buildings, premises, fixtures, furniture, stock in trade; the nature of such ownership; the amount thereof; and terms for payment or other reimbursement. Those with an ownership shall include, but not be limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged or extended security for any indebtedness of the applicant;~~

~~—(H) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;~~

~~—(I) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the Building and Inspection Division, no plans need be submitted to the issuing authority;~~

~~—(J) The name and street address of the business if it is to be conducted under a designation, name or style other than the name of the applicant, and a certified copy of the certificate as required by M.S. § 333.02, as it may be amended from time to time; and~~

~~—(K) Such other information as the City Council or issuing authority shall require.~~

~~—(2) If the applicant is a natural person:~~

~~—(A) The name, place and date of birth and street residence address of applicant;~~

~~—(B) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, what was such name or names and information concerning dates and places where used;~~

~~—(C) Whether the applicant is married or single. If the applicant is married, the name, place of birth and street residence address of the applicant's present spouse;~~

~~—(D) Whether the applicant and present spouse are registered voters and if so, where;~~

~~—(E) Street addresses at which the applicant and present spouse have lived during the preceding ten years;~~

~~—(F) The type, name and location of every business or occupation the applicant or present spouse have been engaged in during the preceding ten years;~~

~~—(G) Names and addresses of the applicant's and the applicant's present spouse's employers and partners, if any, for the preceding ten years;~~

~~—(H) Whether the applicant or the applicant's spouse or a parent, brother, sister or child of either of them has ever been convicted of any felony, crime or violation of any ordinance other than traffic. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had;~~

~~—(I) Whether the applicant or the applicant's spouse, or a parent, brother, sister or child of either of them, has ever been engaged in the operation of a saloon, hotel, restaurant, café, tavern or other business which served 3.2% malt liquor, wine or intoxicating liquor. If so, applicant shall furnish information as to the time, place and length of time of the involvement in such an establishment;~~

~~—(J) Whether the applicant has ever been in military service. If so, the applicant shall, upon request, exhibit all discharges; and~~

~~—(K) The name, address and business address of each person who is engaged in the state in the business of selling, manufacturing or distributing intoxicating liquor and who is nearer of kin to the applicant or the applicant's spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law or who is a brother in law or sister in law of the applicant or the applicant's spouse.~~

~~—(3) If the applicant is a partnership, the names and addresses of all general and limited partners and all information concerning each general partner as is required in subsection (2) above. The managing partners shall be designated, and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under M.S. § 333.02, as it may be amended from time to time, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.~~

~~—(4) If the applicant is a corporation or other organization:~~

~~—(A) The name of the organization, and if incorporated, the state of incorporation;~~

~~—(B) A true copy of the certificate of incorporation or, if a foreign corporation, a certificate of authority as described in M.S. § 303.03, as it may be amended from time to time;~~

~~—(C) The name of the general manager, food/beverage manager, four principal corporate officers, proprietor and other person in charge of the premises to be licensed and all the information about said persons as is required in subsection (2) above; and~~

~~—(D) A list of all persons who, together with their spouse, parent, brother, sister or child, own or control an interest as defined herein in the corporation or organization together with their addresses and all the information regarding such persons as is required in subsection (2) above.~~

~~—(5) If the applicant is a club:~~

~~—(A) The name of the club, and, where appropriate, the name of the establishment serving the club;~~

~~—(B) The date that the club was first incorporated, and, where appropriate, the date that the establishment serving the club was incorporated or otherwise established. True copies of the articles of incorporation, bylaws or other similar governing documents shall be submitted with the application;~~

~~—(C) The date that the club was first organized and the place of such organization;~~

~~—(D) A sworn statement that the club has been in existence for at least three years. The statement shall be made by a person who has personal knowledge of the facts stated therein. In the event that no person can make such a statement, satisfactory documentary proof may be submitted in support of such facts;~~

~~—(E) The number of members of the club;~~

~~—(F) The name of the general manager, proprietor, food/beverage manager and other person who shall be in charge of the licensed premises, and all the information about said persons as is required in subsection (2) above; and~~

~~—(G) The names of club officers.~~

~~—(6) An application for a Sunday liquor license may refer to, and incorporate therein by reference, the information contained in the licensees' application for an on-sale license, club or sports facility to the extent that such information is current and applicable at the time of such application for a Sunday liquor license.~~

~~—(7) If the application is for a theater or dinner theater, the application shall contain the following additional information:~~

~~—(A) The anticipated theater schedule for the coming year; and~~

~~—(B) A statement by the theater agreeing to comply with the public decency requirements found in §§ 12.17 through 12.20 and 13.48.01 of this code.~~

~~§ 13.41 APPLICATION EXECUTION.~~

~~—If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.~~

~~§ 13.42 APPLICATION SUBMISSION AND VERIFICATION.~~

~~—Applications for licenses under this Article III must be submitted to the issuing authority at least 60 days prior to planned sale of intoxicating liquor on licensed premises. The issuing authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and a driver's license history inquiry on the applicant. The issuing authority is empowered to require the applicant for a special event license or amendment of licensed premises to submit a security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal, as deemed necessary by the size, location, timing and nature of the event. The issuing authority shall make a written recommendation and report, which shall include a list of all violations of federal, state or local law, to the City Council.~~

~~§ 13.43 APPLICATION CONSIDERATION.~~

~~—(a) *On-sale retail, on-sale club, off-sale retail and Sunday liquor licenses.* The City Council shall conduct a hearing on the license application for on-sale retail, on-sale club, off-sale retail, theater, dinner theater and Sunday liquor licenses within a reasonable period following receipt of the issuing authority's report and recommendation regarding the application. At least ten days in advance of the City Council hearing on an application, the issuing authority shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time and place of the hearing; the name of the business; business address; and the type of license which is sought. At the hearing, opportunity shall be given to any person to be heard for or against the~~

~~granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may, in its discretion, grant or deny the application. Within ten days after the issuance of a license under this Article III, the issuing authority shall submit to the Department of Public Safety the true or trade name and address of each person who has been issued a license, the effective date of the license, and any other information required by the Department.~~

~~—(b) *On sale special event licenses.* The application for an on-sale special event license shall be processed in accordance with § 13.57.01 of this code. No published notice of hearing in the official newspaper of the city shall be required for Council consideration of special event licenses under this section of the code.~~

~~—(c) *License premises construction.* If a license is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until the city's Community Development Department has approved the building for occupancy.~~

~~§ 13.44 RENEWAL APPLICATION.~~

~~—(a) All licenses under this Article III, except on-sale special event licenses, shall expire on June 30 of each year. An application for the renewal of an existing license shall be made at least 60 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application within the time provided, the City Council may, if the other provisions of this Article III are complied with, grant the renewal application.~~

~~—(b) At the time an application is made for a renewal of an on-sale license, the applicant shall submit to the issuing authority a statement signed by the applicant or an independent certified public accountant who attests that not less than 30% of the restaurant's combined sales of food, non-alcoholic beverages and alcoholic beverages is from the sale of food, including non-alcoholic beverages. The issuing authority may require the applicant to produce such documents or information, including but not limited to books, records, audited financial statements or pro forma financial statements, sales reports and analysis as it deems necessary or convenient to enforce these provisions.~~

~~—(c) At the time a licensee submits the renewal application, the licensee shall state the nature and amount of any contribution, valued in excess of \$50 that the licensee has made to any candidate for an elected city municipal office.~~

~~—(d) An on-sale or an off-sale license will not be renewed if:~~

~~—(1) In the case of a natural person, the licensee, or, if the licensee does not manage the establishment, the manager of the licensed premises is not a resident of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington Counties on the date the renewal takes effect, or if the licensee manages more than one off-sale intoxicating liquor establishment in the city;~~

~~—(2) In the case of a partnership, the managing partner or other person who manages the establishment is not a resident of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or~~

~~Washington Counties on the date the renewal takes effect or if the managing partner or other partner who manages more than one off-sale intoxicating liquor establishment in the city;~~

~~—(3) In the case of a corporation, club or other organization, the manager, proprietor or agent in charge of the management of the establishment is not a resident of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington Counties on the date the renewal takes effect or if the licensee manages more than one off-sale intoxicating liquor establishment in the city; or~~

~~—(4) The time for establishing residence in the above-named counties may for good cause be extended by the City Council.~~

~~—(e) A corporation or partnership shall submit a current certificate of good standing with the renewal application.~~

~~§ 13.45 FEES.~~

~~—(a) Application fee.~~

~~—(1) Amount. The annual license application fee shall be as set forth in § 14.03 of this code. On-sale and on-sale club licenses will be pro-rated to June 30. Where a new application is filed as a result of incorporation by an existing licensee and the ownership, control and interest in the license remains unchanged, no additional license fee will be assessed.~~

~~—(2) When payable. The application license fee for off-sale licenses and special event licenses shall be paid in full before the application for a license is accepted. With respect to all on-sale license applications, one-half of the fee shall be paid before the application is accepted and the remaining balance shall be paid on or before the fifteenth day of the last month of the calendar year during which the license was issued. All fees shall be paid to the issuing authority for deposit into the General Fund of the city.~~

~~—(3) Refunds. A monthly pro-rata share of an annual fee for a license issued under this Article III may be refunded to the licensee or an authorized representative of a licensee if:~~

~~—(i) The business ceases to operate because of destruction or damage;~~

~~—(ii) The licensee dies and the business ceases to operate;~~

~~—(iii) The business ceases to be lawful for a reason other than a license suspension or revocation;~~

~~—(iv) The termination of a month-to-month tenancy or tenancy at will through no fault or neglect of the licensee or termination of a longer term lease according to the terms of such lease;~~

~~—(v) The physical or adjudicated mental incapacity which renders the licensee incapable of operating the business, provided that the cause of such incapacity occurred or commenced after the issuance of the license;~~

~~—(vi) The business is sold and a new licensee qualifies to operate the business on the same location during the remainder of the original license period; or~~

~~—(vii) The licensee ceases to carry on the licensed business under the license.~~

~~—(b) *Investigation fee.*~~

~~—(1) An applicant for any license under this Article III, except an on-sale club license, a special event license and a Sunday liquor license, shall deposit with the issuing authority, at the time an original application is submitted, \$1,500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Article III.~~

~~—(2) If the investigation and verification process is conducted solely within the state, the fee shall be \$500, and the remainder of the deposit shall be returned to the applicant. If the investigation and verification process is conducted outside the state, the issuing authority may recover the actual investigation costs not exceeding \$10,000. Any fee due in excess of the \$1,500 deposit must be paid to the issuing authority prior to the license hearing and before the City Council shall consider the application.~~

~~—(3) At any time that an additional investigation is necessary because of a change in the control of a corporation, the licensee shall pay an additional nonrefundable investigation fee of \$100, except in those cases in which a person not listed as having an interest of 5% or more of a corporate licensee gains at least 50% of the ownership of the corporation, the additional investigation fee shall be as set forth in subsections (b)(1) and (b)(2) above.~~

~~§ 13.46 PERSONS INELIGIBLE FOR LICENSE.~~

~~—(a) If the applicant is a natural person, no license shall be granted if the applicant:~~

~~—(1) Is not of good moral character and repute;~~

~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~

~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5);~~

~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~

~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~

- ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~
- ~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~
- ~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to any of the requirements in subsections (a)(1) through (a)(7) above;~~
- ~~—(9) Is not the real party in interest in the establishment to be licensed;~~
- ~~—(10) Has a direct or indirect interest in a manufacturer, brewer or wholesaler; and~~
- ~~—(11) Submits an application wherein a person, who is determined by the issuing authority to have an interest in the proposed license, is ineligible under subsections (a)(2), (a)(5), (a)(6) or (a)(7) above.~~
- ~~—(b) If the applicant is a partnership, no license shall be granted if any general partner or the general manager of the establishment to be licensed:~~
 - ~~—(1) Is not of good moral character and repute;~~
 - ~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~
 - ~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5);~~
 - ~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~
 - ~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~
 - ~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~

~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~

~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to any of the requirements in subsections (a)(1) through (a)(7) above; and~~

~~—(9) Is not the real party in interest in the establishment to be licensed.~~

~~—(c) If the applicant is a corporation, or other organization, no license shall be granted if any corporate officer, or if the general manager of the establishment to be licensed:~~

~~—(1) Is not of good moral character and repute;~~

~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~

~~—(3) Is a manufacturer, brewer or wholesaler or has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5);~~

~~—(4) Has been convicted, within five years of the date the license application is submitted to the issuing authority, of a felony, or of a willful violation of a federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, intoxicating liquor or wine. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time;~~

~~—(5) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~

~~—(6) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority;~~

~~—(7) Has an interest in any other establishment in the city to which an off-sale intoxicating liquor license has been issued or for which an off-sale intoxicating liquor license application is being submitted;~~

~~—(8) Is the spouse of a person who is ineligible for an intoxicating liquor license pursuant to any of the requirements in subsections (a)(1) through (a)(7) above; and~~

~~—(9) Is not the real party in interest in the establishment to be licensed.~~

§ 13.47 LOCATIONS INELIGIBLE FOR LICENSE.

~~—(a) No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the state, county, school district or city are past due,~~

~~delinquent or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.13, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.~~

~~—(b) No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for a license under this Article III, except that a property owner who is a minor or who has been convicted of a crime, other than a violation of M.S. §§ 340A.101 through 340A.907, as they may be amended from time to time, shall not make the premises ineligible under this subsection (b).~~

~~—(c) No off-sale license under this Article III shall be granted to any location within 300 feet of a school or a place of worship. In the case of a school, the distance shall be measured in a straight line from the lot on which the establishment to be licensed is located to the nearest point of the lot on which the school is located. In the case of a place of worship, the distance shall be measured in a straight line from the lot on which the establishment to be licensed is located to the nearest point of the place of worship building. However, in the case of establishments located in shopping centers, the distance shall be measured from the main entrance of the business to be licensed. A location for which a license was granted in 1989, or lawfully granted thereafter, and at which a licensee has been in continuous operation, is not ineligible for a license by reason of proximity to a school or a place of assembly for worship.~~

~~—(d) No on-sale license under this Article III shall be granted to an establishment that does not have a dining area, open to the general public, with a total minimum floor area of 750 square feet.~~

~~—(e) No on-sale license under this Article III shall be granted or renewed to a restaurant or a restaurant in an entertainment facility that has failed to submit a statement signed by the applicant or an independent certified public accountant who attests that not less than 30% of the restaurant's combined sales of food, non-alcoholic beverages and alcoholic beverages is from the sale of food, including non-alcoholic beverages.~~

~~—(f) No license under this Article III shall be granted to any establishment that has a common entrance or exit between the area in which intoxicating liquor will be sold and any other business or establishment. A public concourse or lobby shall not be construed as a common entrance or exit for purposes of this subsection (f).~~

~~—(g) No on-sale license under this Article III shall be granted or renewed to an establishment that is licensed as an off-sale intoxicating liquor establishment, with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5).~~

~~—(h) No off-sale license under this Article III shall be granted or renewed to an establishment that is licensed as an on-sale intoxicating liquor establishment, as a wine establishment, or as an on-sale 3.2% malt liquor establishment, with the exception of a properly licensed brewpub subject to the limitations set forth in § 13.02.01(5).~~

~~§ 13.48 GENERAL LICENSE RESTRICTIONS.~~

- ~~—(a) *Posting of license.* A license issued under this Article III must be posted in a conspicuous place in the premises for which it is used.~~
- ~~—(b) *Illegal discrimination.* A holder of an on-sale club license issued under this Article III shall not discriminate against members in violation of M.S. § 363A.17, as it may be amended from time to time.~~
- ~~—(c) *Compact and contiguous.* A license issued under this Article III is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered or extended, the licensee shall inform the issuing authority.~~
- ~~—(d) *Responsibility for sobriety and order.* A licensee under this Article III shall be responsible for the conduct of the business being operated and shall maintain conditions of sobriety and order.~~
- ~~—(e) *Manufacturer, brewer and wholesaler prohibitions.* A licensee under this Article III shall not allow any manufacturer, brewer or wholesaler to have any ownership, direct or indirect, in whole or in part, in the licensed establishment except as provided by M.S. § 340A.301, subd. 7, as it may be amended from time to time, or § 13.02.01(5) of this city code. In addition, no licensee shall be a party to an exclusive purchase contract with any manufacturer, brewer or wholesaler that is contrary to law. A licensee under this Article III shall also not receive any benefit from a manufacturer, brewer or wholesaler that is contrary to law, or use or have property rented for the manufacture, brewing or wholesaling of intoxicating liquor.~~
- ~~—(f) *Inspections.* In light of the high risk of involvement with illegal conduct an establishment serving intoxicating liquor poses to the general public, the issuing authority and/or the City Police Department shall have the right to enter, inspect and search the licensed premises without a search and seizure warrant during the hours in which the licensed premises is open for the sale of intoxicating liquor. The business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for the sale of intoxicating liquor.~~
- ~~—(g) *Prostitution and illegal drug prohibitions.* A licensee under this Article III shall not allow any person to engage in prostitution or to sell or use illegal drugs on the licensed premises or in any adjoining building or room under the licensee's control.~~
- ~~—(h) *Coin-operated amusement devices.* Coin-operated amusement devices may not be made available in establishments holding an off-sale license under this Article III.~~
- ~~—(i) *Storage requirements.* A holder of an off-sale license under this Article III may not store any intoxicating liquor at any location other than the licensed premises except with the written permission of the Commissioner of Public Safety pursuant to M.S. § 340A.412, subd. 12, as it may be amended from time to time.~~
- ~~—(j) *Signage.* The licensee shall post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14 1/2 inches wide by eight inches high as designed by the Commissioners of Health and Public Safety, which incorporates the following information: (1) the penalties of driving while under the influence of alcohol; (2) penalties for~~

~~serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and (3) a warning statement regarding drinking alcohol while pregnant.~~

~~—(k) *Amendment of licensed liquor premises.* A holder of an on-sale intoxicating liquor license shall make application to the issuing authority for a temporary amendment of the licensed premises, at least 60 days in advance, of any event at which the licensee proposes to amend the liquor licensed premises to provide for liquor service in a compact and contiguous area not included in the original license application. Included in that application, the licensee must submit a site plan of the compact and contiguous area from which intoxicating liquor is to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the temporarily amended licensed premises. The application must include evidence of insurance for the area covered by the temporarily amended licensed premises and payment of the temporary amendment processing fee set forth in § 14.03 of this city code. A security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal may also be required, as deemed necessary by the issuing authority. The City Council shall consider all such amendments to the licensed premises using the following criteria:~~

~~—(1) The area to be used must be immediately adjacent to the licensed premises;~~

~~—(2) The area will be used in connection with a special event no longer than three days in duration;~~

~~—(3) No more than three temporary amendments per year will be allowed for a licensee at one establishment and a special license issued a non-profit, charitable, religious or political organization which contracts with the licensee for provision of service will be counted as part of this total;~~

~~—(4) Adequate measures will be taken to control access to the additional area, to ensure that alcoholic beverages will not be furnished in violation of state law or this city code to persons under the age of 21 years, obviously intoxicated persons or carried outside of the licensed premises or the temporarily expanded area;~~

~~—(5) Adequate measures will be taken to ensure that there will not be a violation of the city's noise ordinance;~~

~~—(6) The use of the additional area will not decrease available parking below that required by the zoning ordinance for the licensed premises;~~

~~—(7) The use of the additional area will not unreasonably impede traffic circulation;~~

~~—(8) The licensee has obtained adequate liability insurance for the additional area; and~~

~~—(9) The issuance of the temporary amendment will not be adverse to the public health, safety and welfare.~~

~~—(l) *Consumption requirements.* Consumption of on-sale alcoholic beverages is allowed only in the approved licensed premises.~~

~~—(m) *Same business name.* The licensing authority may not allow the same business name to be used by more than one of its off-sale intoxicating liquor licensees.~~

~~§ 13.48.01 ADULT ENTERTAINMENT PROHIBITION.~~

~~—The City Council finds that the sale and/or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incidents of prostitution, public masturbation, indecent exposure and/or sexual assault. In order to protect the health, safety and welfare of city residents, and pursuant to the City Council's authority to regulate alcoholic beverages under M.S. Chapter 340A, as it may be amended from time to time, and the Twenty-First Amendment to the United States Constitution, no licensee shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following kinds of conduct can be seen by patrons of the licensed premises:~~

~~—(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation or flagellation;~~

~~—(2) The actual or simulated touching, caressing or fondling on the breast, buttocks, anus or genitals;~~

~~—(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;~~

~~—(4) The displaying of films rated by the Motion Picture Association of America as NC-17: "No One 17 And Under Admitted," unrated films and films deemed obscene or pornographic pursuant to state or federal law; or~~

~~—(5) The presentation of any female in such manner or attire to expose to view any portion of the breast below the top of the areola, or any simulation thereof.~~

~~§ 13.49 RESTRICTIONS REGARDING LICENSE TRANSFER.~~

~~—(a) The license granted under this Article III is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application, except in the case in which an existing noncorporate licensee is incorporating and the incorporation does not affect the ownership, control and interest of the existing licensed establishment.~~

~~—(b) A licensee under this Article III shall immediately notify the issuing authority of the following:~~

~~—(1) A change in the corporate or organization officers listed in the license application, excluding officers of clubs holding club licenses;~~

~~—(2) Any changes in the partnership agreement or lease submitted with the license application;~~

~~—(3) A change of the managing partner, manager, proprietor or other person who is in charge of the licensed premises; and~~

~~—(4) Any change in the ownership of an establishment licensed under this Article III, including any acquisition of an interest in the partnership, corporation or other organization by any person not identified in the license application.~~

~~—(c) When an establishment licensed under this Article III is sold or transferred, the licensee shall immediately notify the issuing authority of the sale or transfer. If the establishment that is sold or transferred is to continue selling or furnishing intoxicating liquor, the new owner must immediately apply for an appropriate license under this Article III. In addition, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the existing licensee and the new owner within 20 days following the sale or transfer. The management agreement shall vest control of all intoxicating liquor sales in the existing licensee or a manager responsible to the existing licensee. The agreement shall be approved by the City Council.~~

~~—(d) A management agreement shall be required of any licensed establishment whose business is being managed or operated by a person other than the licensee or an employee of the licensee. No person other than the licensee or an employee of the licensee shall be permitted to manage or operate an establishment licensed under this Article III until the City Council has reviewed and approved the management agreement and any amendments thereto.~~

~~—(e) A federally chartered corporation charged with insuring and/or holding assets of banking or savings and loan institutions which obtains ownership of a hotel or restaurant licensed to sell intoxicating liquor, files an application for an on-sale liquor license for said establishment either in its name or the name of a representative thereof, and demonstrates to the issuing authority that it is unable to execute a management agreement with the existing licensee, may sell intoxicating liquor at the hotel or restaurant pending a decision by the City Council on whether to approve the application for the on-sale liquor license.~~

~~§ 13.50 RESTRICTIONS REGARDING HOURS OF OPERATION.~~

~~—A licensee under this Article III shall make no sale of or furnish any alcoholic beverage during the following hours on the following days, unless the licensee is a theater or dinner theater.~~

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	<i>Off-Sale Licensees</i>	<i>On-Sale Licensees</i>
Monday through Saturday	No sales before 8:00 a.m. or after 10:00 p.m.	No sales between 2:00 a.m. and 8:00 a.m.
Sunday	No sales before 11:00 a.m. or after 6:00 p.m.	No sales after 2:00 a.m. except a holder of a current Sunday liquor license under this Article III may <u>sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours 8:00 a.m. Sundays and 2:00 a.m. Mondays, provided that the</u>

		licensee is in conformance with the Minnesota Clean Air Act, M.S. §§ 14.411 through 14.417, as they may be amended from time to time
Thanksgiving Day	No sales	No sales between 2:00 a.m. and 8:00 a.m.
December 24 (if not a Sunday)	No sales before 8:00 a.m. or after 8:00 p.m.	Refer to the day of week restrictions above
December 25	No sales	Refer to the day of week restrictions above

~~—An on-sale licensee under this Article III may remain open for the sale of food or nonalcoholic beverages, or both, during the hours the service of alcoholic beverages is prohibited by this code and state law, provided that the licensee has proper food licenses under Chapter 14 of the city code and provided the licensee meets each of the following requirements:~~

~~—(1) By 10:00 p.m., all malt liquor sold at a licensed brewpub must be removed from the licensed premises;~~

~~—(2) By 2:30 a.m., the licensee shall remove all alcoholic beverages from the restaurant, bar and banquet room areas of the licensed premises;~~

~~—(3) No public display of alcoholic beverages shall be allowed during the hours the service of alcoholic beverages is prohibited by this code and state law, as required by Minnesota Rules part 7515.0560, subpart 3, and § 13.52(h) of the city code. All liquor stock in areas accessible by the general public shall be covered or otherwise made not available for public display.~~

~~—(4) No on-sale licensee may sell alcoholic beverages between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the State Commissioner of Public Safety and has been issued a special license by the city. A licensee may sell alcoholic beverages until 4:00 a.m. during the period from 12:00 p.m. on February 2, 2018 through 4:00 a.m. on February 5, 2018 upon issuance by the city of a special permit and payment of a permit fee as set forth in § 14.03 of this code.~~

~~§ 13.51 RESTRICTIONS REGARDING MINORS.~~

~~—(a) No minor shall purchase or attempt to purchase 3.2% malt liquor, wine or intoxicating liquor from any licensee under this Article III.~~

~~—(b) No person shall induce a minor to purchase or procure 3.2% malt liquor, wine or intoxicating liquor, or knowingly permit the use of the person's driver's license, permit, Minnesota identification card or other form of identification by a minor for the purpose to purchase 3.2% malt liquor, wine or intoxicating liquor from any licensee.~~

~~—(c) No person shall sell, furnish or give 3.2% malt liquor, wine or intoxicating liquor to a minor, except that a parent or guardian of a minor may give or furnish 3.2% malt liquor, wine or~~

~~intoxicating liquor to the minor solely for consumption in the household of the parent or guardian.~~

~~—(d) No minor shall possess 3.2% malt liquor, wine or intoxicating liquor with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.~~

~~—(e) No minor shall enter the licensed premises for the purpose of purchasing or having served or delivered 3.2% malt liquor, wine or intoxicating liquor.~~

~~—(f) No minor shall misrepresent the minor's age for the purpose of obtaining intoxicating liquor, wine or 3.2% malt liquor.~~

~~—(g) (1) Proof of age for purchasing or consuming 3.2% malt liquor, wine or intoxicating liquor may be established only by one of the following:~~

~~——(A) A valid driver's license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~——(B) A valid military identification card issued by the United States Department of Defense; or~~

~~——(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~——(2) In a prosecution for any violation of any provision in this Article III regarding minors, it is a defense for the defendant to provide by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.~~

~~——(3) With respect to purchasing, possessing, consuming, selling, furnishing and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's twenty-first birthday.~~

~~§ 13.52 RESTRICTIONS REGARDING PURCHASE AND CONSUMPTION.~~

~~—(a) *Service to obviously intoxicated persons prohibited.* No licensee under this Article III shall sell, serve or furnish 3.2% malt liquor, wine or intoxicating liquor to any obviously intoxicated person.~~

~~—(b) *Service to minors prohibited; proof of age restrictions.*~~

~~——(1) No licensee under this Article III shall sell, serve or furnish 3.2% malt liquor, wine or intoxicating liquor to a minor, and no licensee under this Article III shall permit any minor to consume 3.2% malt liquor, wine or intoxicating liquor on the license premises. Proof of age for purchasing or consuming intoxicating liquor, wine or 3.2% malt liquor may be established only by:~~

~~——(A) A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~—(B) A valid military identification card issued by the United States Department of Defense; or~~

~~—(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~—(2) In a prosecution for any violation of any provision in this Article III regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon a valid driver's license, Minnesota identification card or valid passport.~~

~~—(c) *Employees under the age of 18.* No licensee under this Article III shall permit a person under 18 years of age to serve or sell 3.2% malt liquor, wine or intoxicating liquor. A licensee under this Article III, with the exception of an off-sale licensee, may employ a person under the age of 18 years, provided that person does not serve, sell or furnish 3.2% malt liquor, wine or intoxicating liquor, and provided that the employment of that person does not violate any state or federal child labor law or regulation. No person under 18 years of age shall be employed in an off-sale establishment licensed under this section.~~

~~—(d) *Off-sale retail prohibited by on-sale licensees.* No on-sale licensee under this Article III shall sell or furnish intoxicating liquor, wine or 3.2% malt liquor off-sale, with the exception of a properly licensed brewpub subject to the restrictions set forth in § 13.02.01(5).~~

~~—(e) *Samples.* No off-sale licensee under this Article III shall sell or furnish intoxicating liquor, wine or 3.2% malt liquor on-sale, except an off-sale licensee may provide samples of malt liquor, wine, liqueurs, cordials and distilled spirits which the licensee currently has in stock and is offering for sale to the general public, provided the wine, liqueur, cordial and distilled spirit samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer, and 25 milliliters of liqueur or cordial and 15 milliliters of distilled spirits per variety per customer.~~

~~—(f) *Distilled spirits.* An off-sale licensee of intoxicating liquor may sell distilled spirits in bottles of 50 milliliters.~~

~~—(g) *Resale prohibitions.* No licensee under this Article III may sell intoxicating liquor, wine or 3.2% malt liquor to any person for the purpose of resale, or to any person whom the licensee has reason to believe intends to resell the intoxicating liquor, wine or 3.2% malt liquor without written approval of the Commissioner of Public Safety.~~

~~—(h) *Display during prohibited hours.* No licensee under this Article III shall display intoxicating liquor, wine or 3.2% malt liquor to the public during hours when the sale of intoxicating liquor, wine or 3.2% malt liquor is prohibited under this Article III.~~

~~—(i) *Receipts required for delivery by off-sale licensee.* No off-sale licensee under this Article III shall deliver any intoxicating liquor, wine or 3.2% malt liquor to a person without obtaining a receipt therefor and signed by the person receiving such beverage. The receipt shall detail the time, date and place of delivery. The receipt shall be kept by the off-sale licensee for a period of one year.~~

- ~~—(j) *Sale in hotel rooms.* No sale of intoxicating liquor shall be made in guest rooms of hotels unless the hotel has an on-sale license under this Article III.~~
- ~~—(k) *Club sales limited to members and guests.* A holder of a club license under this Article III shall sell or furnish intoxicating liquor only to members of the club and guests of club members provided such members and guests are not minors and are not obviously intoxicated.~~
- ~~—(l) *Refilled bottles and packages.* No licensee under this Article III shall sell, offer for sale, or keep for sale intoxicating liquor or 3.2% malt liquor in a package or bottle which has been refilled or partly refilled.~~
- ~~—(m) *Tampering with original packaging.* No licensee under this Article III shall directly or indirectly through an agent, employee or other person, dilute or in any manner tamper with the contents of an original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the licensed premises of alcoholic beverages in the original package or bottle differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased is prima facie evidence that the contents of the original package or bottle has been diluted, changed or tampered with in violation of this section.~~
- ~~—(n) *Dispensing systems.* No licensee shall place on a single or joined bar line or on a dispensing system, whether automatic or manual, bottles or other containers with different labels or containing different levels of proof.~~
- ~~—(o) *Sunday liquor.* No Sunday liquor licensee shall serve intoxicating liquor on Sunday except in conjunction with the serving of food, unless the licensee holds a theater or dinner theater license.~~
- ~~—(p) *Containers brought into premises.* A licensee may prohibit any person from bringing into the licensed premises any container of alcoholic beverages, or from consuming such a container on the licensed premises without the licensee's permission.~~
- ~~§ 13.53 RESTRICTIONS REGARDING GAMBLING.~~**
- ~~—(a) No licensee under this Article III may keep, possess or operate, or permit the keeping, possession or operation on the licensed premises of dice, slot machines, blackjack tables, roulette wheels or gambling devices except in conjunction with the holding of a casino gaming event as authorized under Chapter 14 of this code.~~
- ~~—(b) No licensee under this Article III shall permit gambling on the licensed premises, except that gambling equipment may be kept or operated and raffles may be conducted on the licensed premises and/or adjoining rooms when the use of such gambling equipment or raffles is authorized under M.S. Chapter 349, as it may be amended from time to time, authorized under §§ 12.48 through 12.60 of this code, and authorized under subsection (c) below.~~
- ~~—(c) *Lottery tickets.* The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. §§ 349.A01 through 349A.15, as they may be amended from time to time.~~

~~§ 13.54 INSURANCE REQUIREMENTS.~~

~~—(a) No license under this Article III may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by M.S. § 340A.801, as it may be amended from time to time. The minimum requirement for proof of financial responsibility may be given by submitting:~~

~~—(1) A certificate that there is in effect for the license period an insurance policy issued by an insurer required to be licensed under M.S. § 60A.07, subd. 4, as it may be amended from time to time, or by an insurer recognized as an eligible surplus line carrier pursuant to M.S. § 60A.206, as it may be amended from time to time, or pool providing at least \$500,000 of coverage because of bodily injury to any one person in any one occurrence, \$1,000,000 because of bodily injury to two or more persons in any one occurrence, \$500,000 because of injury to or destruction of property of others in any one occurrence, \$500,000 for loss of means of support of any one person in any one occurrence and \$1,000,000 for loss of means of support of two or more persons in any one occurrence; or~~

~~—(2) A bond of a surety company with minimum coverages as provided in subsection (a)(1) above.~~

~~—(b) Nothing in this section shall prohibit an insurer from providing the coverage required by subsection (a) above in combination with other insurance coverage.~~

~~—(c) An annual aggregate policy limit for dram shop insurance of not less than \$1,000,000 per policy year may be included in the policy provisions.~~

~~—(d) A liability insurance policy required by subsection (a) above must provide that it may not be canceled for:~~

~~—(1) Any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 60 days' notice in writing to the issuing authority of intent to cancel the policy; and~~

~~—(2) Nonpayment of premium unless the canceling party has first given ten days' notice in writing to the issuing authority of intent to cancel the policy.~~

~~§ 13.55 SANCTIONS FOR LICENSE VIOLATIONS.~~

~~—(a) The City Council may revoke a license, suspend a license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions for a violation of:~~

~~—(1) A provision of this Article III;~~

~~—(2) A state law relating to alcoholic beverages; or~~

~~—(3) A state or local law relating to moral character.~~

~~—(b) A revocation, suspension or civil penalty shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and~~

~~place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the application.~~

~~—(c) If the Commissioner of Public Safety has imposed a civil penalty against the same licensee for the same act, imposition of an additional penalty or suspension by the city is not precluded provided that the total penalty or suspension does not exceed the maximum specified by state law.~~

~~§ 13.56 RESERVED.~~

~~§ 13.57 AUTHORITY TO FURNISH ALCOHOLIC BEVERAGES AT ENTERTAINMENT FACILITIES.~~

~~—(a) Entertainment facilities. A holder of an on-sale license issued to an entertainment facility shall meet the following requirements.~~

~~—(1) Permanent locations. Except as provided in subsections (b) and (c) below, the furnishing of alcoholic beverages within an entertainment facility shall be limited to five permanent, fixed locations that are accessible to the general public as detailed on the approved license application form. The City Council may increase the number and/or the locations of the fixed sites upon the request of the entertainment facility.~~

~~—(2) Events. The holder of an on-sale license issued to an entertainment facility may furnish alcoholic beverages at locations other than the five fixed locations detailed in subsection (a)(1) above provided that the furnishing of such alcoholic beverages takes place during one of the following types of events and provided that the alcoholic beverages are furnished only to the persons invited to attend the event:~~

~~—(A) Conventions;~~

~~—(B) Banquets;~~

~~—(C) Conferences;~~

~~—(D) Meetings; or~~

~~—(E) Parties.~~

~~—All such events shall take place on the licensed premises or pursuant to amendments to the licensed premises as approved under § 13.48(k) of this code.~~

~~—(3) Consumption on rides prohibited. No consumption of alcoholic beverages shall be allowed on the amusement rides or devices located within the entertainment facility.~~

~~—(b) Mall of America Executive Center. The holder of an on-sale license issued for Nickelodeon Universe entertainment facility may furnish alcoholic beverages in the Mall of America Executive Center at the Mall of America, provided the following conditions are met.~~

~~—(1) Any event held in the Mall of America Executive Center where alcoholic beverages are furnished must be by invitation only and not open to the general public.~~

~~—(2) The maximum occupancy for the Mall of America Executive Center during such an event shall be 84 persons.~~

~~—(3) The licensee shall notify the license examiner and the Chief of Police of the time and description of each event during which alcoholic beverages will be furnished in the Mall of America Executive Center at least two days prior to the scheduled event.~~

~~—(4) Any event held in the Mall of America Executive Center where alcoholic beverages are furnished shall include the furnishing of food.~~

~~—(5) The licensee shall comply with all state and local laws and regulations related to alcoholic beverages, including but not limited to maintaining statutorily prescribed liquor liability insurance for the Mall of America Executive Center.~~

~~§ 13.57.01 SPECIAL EVENT ON-SALE INTOXICATING LIQUOR LICENSES.~~

~~—(a) Limited to nonprofit charitable, religious or political organizations. The applicant must constitute a nonprofit charitable or religious organization as defined in § 13.01.01 of this chapter and have been in existence for at least three years or a political committee registered under M.S. § 10A.14, as it may be amended from time to time. The applicant may obtain an on-sale license to sell intoxicating liquor for consumption on the premises specified in the license subject to the following conditions:~~

~~—(1) Limit on number. No individual organization shall be granted more than three four-day, four three-day or six two-day special event licenses in any combination not to exceed 12 days per year. No individual organization shall be granted more than one special event license within any 30-day period.~~

~~—(2) Location requirements. No more than three special events shall take place on any one location within a 12-month period.~~

~~—(3) Number of days. A special event license may authorize the on-sale of intoxicating liquor for not more than four consecutive days.~~

~~—(4) Ownership of location. A special event license may authorize the on-sale of intoxicating liquor on premises other than premises the licensee owns or permanently occupies.~~

~~—(5) Contract for liquor services; insurance. The special event licensee shall contract for liquor services with the holder of an on-sale intoxicating liquor license or if no such contract with a holder of an on-sale license is provided, the licensee shall provide liquor liability insurance covering the event.~~

~~—(6) State approval. All special event licenses shall be approved by the Commissioner of Public Safety pursuant to M.S. § 340A.404, subd. 10, as it may be amended from time to time.~~

~~—(7) School prohibition. No special event license shall be issued on school grounds or in school buildings or within 300 feet thereof during regularly scheduled classes.~~

~~—(8) Alcoholic beverage tasting events. A charitable, religious or other nonprofit organization or committee or a registered political committee may conduct an alcoholic beverage tasting on~~

~~premises the organization or committee owns or leases or has use donated to it, or on the licensed premises of a holder of an on-sale intoxicating liquor license that is not a temporary license, if the organization or committee holds a special event on-sale intoxicating liquor license under this section and state law, and if the organization or committee complies with this subsection (a)(8). An organization or committee holding a temporary license may be assisted in conducting the alcoholic beverage tasting by another nonprofit organization or committee. An organization or committee that conducts an alcoholic beverage tasting under this section may use the net proceeds from the alcoholic beverage tasting only for: (A) the organization's or committee's primary nonprofit purpose; or (B) donation to another nonprofit organization or committee assisting in the alcoholic beverage tasting, if the other nonprofit organization or committee uses the donation only for that organization's or committee's primary nonprofit purpose. No malt liquor or wine at an alcoholic beverage tasting may be sold, or orders taken, for off-premises consumption. An organization or committee may purchase or otherwise obtain malt liquor or wine for an alcoholic beverage tasting conducted under this section from wholesalers licensed to sell malt liquor or wine, and the wholesaler may sell or give malt liquor or wine to an organization or committee for an alcoholic beverage tasting under this section and may provide personnel to assist in the alcoholic beverage tasting event. A wholesaler who sells or gives malt liquor or wine to an organization or committee for an alcoholic beverage tasting under this section may deliver the malt liquor or wine directly to the location where the alcoholic beverage tasting is conducted. This section does not prohibit or restrict an alcoholic beverage tasting that is located on on-sale premises where no charitable organization is participating or located on on-sale premises where the proceeds are for a designated charity but where the tasting is primarily for educational purposes.~~

~~—(b) *License application.* The application for an on-sale special event intoxicating liquor license shall be made on forms provided by the issuing authority and shall request the following information:~~

~~—(1) The name, address and purpose of the nonprofit, charitable or religious organization or political organization together with the names and addresses of its officers and evidence of nonprofit tax exempt status pursuant to §§ 501(c) or 527 of the Internal Revenue Code;~~

~~—(2) The purpose for which the special event on-sale liquor license is sought, together with the place dates and hours during which intoxicating liquor is to be sold;~~

~~—(3) The full name, date of birth and street residence address of the person in charge of and responsible for the special event and who will be present during the event to monitor sales;~~

~~—(4) The location of the special event, along with a site plan of the compact and contiguous area from which alcoholic beverages are to be dispensed and consumed, the maximum anticipated number of guests attending the event and the total occupancy load for the area covered by the license;~~

~~—(5) A security plan and parking, pedestrian circulation and traffic directional plan approved by the City Police Department and a fire safety plan approved by the City Fire Marshal, as deemed necessary by the issuing authority, along with such other information as the issuing authority deems necessary;~~

~~—(6) Evidence of insurance with the same coverage limits and provisions as required for the issuance of an “on-sale” license for an establishment with sales of intoxicating liquor pursuant to § 13.54 of this city code; and~~

~~—(7) Payment of the license fee set forth in § 14.03 of this city code.~~

~~—(c) *License consideration.* After a hearing, the City Council shall accept or deny the application. The City Council may deny, revoke, suspend or refuse to renew a special event license for any of the following reasons:~~

~~—(1) A finding that the existence of temporary liquor is adverse to the public health, safety and welfare, disturbing the peace, quiet or repose of surrounding residential or commercial areas;~~

~~—(2) A finding that the existence of a special event with on-sale intoxicating liquor will contribute to crime, disorderly conduct, noise, traffic, litter or parking problems in the area or that inadequate measures have been taken to control access to licensed premises to ensure that alcoholic beverages will not be furnished to persons under the age of 21 years or obviously intoxicated persons or carried outside of the licensed premises;~~

~~—(3) Any violation of the law relating to the sale or service of alcoholic beverages;~~

~~—(4) Any violation of the terms of this section of the city code; and~~

~~—(5) Any other good cause related to the operation of the establishment.~~

~~—(d) *Governing law.* Licenses issued under this section are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable except M.S. § 340A.409 and M.S. § 340A.504, subd. 3(d), as they may be amended from time to time.~~

~~—(e) *License fee.* The fee for a special event on-sale intoxicating liquor license shall be as set forth in § 14.03 of this code.~~

~~§ 13.57.02 SALE PROVISIONS APPLICABLE TO CATERERS.~~

~~—(a) *City Council findings.* The City Council makes the following findings regarding the need to enact additional sale provisions governing persons selling or furnishing alcoholic beverages pursuant to a caterer’s permit issued pursuant to M.S. § 340A.404, subd. 12, as it may be amended from time to time.~~

~~—(1) M.S. § 340A.404, subd. 12, as it may be amended from time to time, authorizes the holder of a caterer’s permit to provide alcoholic beverages at unlicensed locations provided that the sale is incidental to a larger food service. The City Council enacts the following sale provisions in order to preserve the incidental nature of the caterer’s permit and to preserve the underlying state and local framework for permanent on-sale intoxicating liquor licenses.~~

~~—(2) The issuance of a caterer’s permit does not allow a person to in effect operate a permanent on-sale intoxicating liquor establishment; rather it entitles the person to provide temporary alcoholic beverages as an incidental part of a food service that prepares meals at special locations apart from the licensee’s permanent location. The location requirements in this~~

~~section for the sale of alcoholic beverages at catered events are enacted to assure compliance with existing state and local provisions regarding on-sale licenses.~~

~~—(3) Numerous events conducted at one location where alcoholic beverages are provided by caterers thwarts the licensing scheme for permanent on-sale intoxicating liquor establishments.~~

~~—(b) *Sale provisions.* Events that are catered in accordance with M.S. § 340A.404, subd. 12, as it may be amended from time to time, shall comply with the following additional sale provisions.~~

~~—(1) No one location shall have more than 60 days of catered events in one calendar year at which alcoholic beverages are served to the general public and in no case shall any one such event be for more than four consecutive days except pursuant to a special event caterer's license specific to the individual catered event that meets the criteria set forth in subsections (c) and (d) below.~~

~~—(2) Notice to the license section of the catered event shall be provided seven days prior to the event.~~

~~—(c) *Special event caterer's license.* A special event caterer's license is required for any event at which liquor service is to be provided and 1,500 or more people may be expected to attend on any one day of the event. Application therefor must be provided to the issuing authority at least 60 days in advance of the first day scheduled for the event. The application must include at least the following:~~

~~—(1) A site plan of the compact and contiguous area from which liquor is to be dispensed and consumed, including the maximum anticipated number of guests attending the event and the total occupancy load for the area to be covered by the license;~~

~~—(2) The days and hours during which liquor service is to be provided;~~

~~—(3) Evidence of insurance with the same coverage limits and provisions as is required for the issuance of an on-sale license as set forth in § 13.17;~~

~~—(4) Evidence of application for all necessary state and local permits or licenses necessary for the event;~~

~~—(5) Payment of license fee as set forth in § 14.03, as well as all other fees or charges associated with the special event;~~

~~—(6) A security plan approved by the City Police Department as deemed necessary by the size, location, timing and nature of the event;~~

~~—(7) A parking, pedestrian circulation and traffic directional plan approved by the City Police Department and the city's Engineering Division, as deemed necessary by the size, location, timing and nature of the event;~~

~~—(8) A fire safety plan approved by the City Fire Marshal, as deemed necessary by the size, location, timing and nature of the event;~~

~~—(9) A description of food service for the event that meets the criteria set forth in §§ 14.443 through 14.458 and is approved by the Environmental Health Division;~~

~~—(10) All other information deemed necessary by the issuing authority for the proper planning of the event, including without limitation a sanitation plan and a food handling plan;~~

~~—(11) If the event includes entertainment for which persons pay money in order to gain admission, a deposit or other acceptable security in an amount equal to 50% of the estimated amount of the admission tax payable to the city pursuant to § 4.03 based upon maximum occupancy over the duration of the entire event prior to the license's issuance, held until the conclusion of the event and thereafter applied towards the amount of admission tax owed the city; and~~

~~—(12) A deposit or other acceptable security in an amount equal to 50% of the estimated liquor tax payable to the city pursuant to § 4.14 based upon maximum occupancy over the duration of the entire event prior to the license's issuance, held until the conclusion of the event and thereafter applied towards the amount of liquor tax owed the city.~~

~~—(d) *Criteria for issuance of special event caterer's license.* No one location shall have more than 60 days of catered events in one calendar year at which alcoholic beverages are served to attending guests and in no case shall any one such event be open to guests for more than 30 consecutive days within a 60-day period. The City Council shall consider the following additional criteria for issuance of the license:~~

~~—(1) That adequate measures will be taken to control access to the licensed premises to ensure that alcoholic beverages will not be furnished in violation of state law or this city code to persons under the age of 21 years, obviously intoxicated persons or carried outside the licensed premises;~~

~~—(2) That adequate measures will be taken to ensure that there will not be a violation of the city's noise ordinance;~~

~~—(3) That there is adequate security for the area, as set forth in the approved security plan;~~

~~—(4) That there is adequate parking for the area as well as safe pedestrian and traffic circulation as set forth in the approved pedestrian circulation and traffic directional plan;~~

~~—(5) That the event will not present a fire or safety hazard as set forth in the approved fire safety plan;~~

~~—(6) That the event will not otherwise be adverse to the public health, safety or welfare;~~

~~—(7) That liquor service and consumption is limited to a compact and contiguous area;~~

~~—(8) That there is adequate insurance for the event, as determined by the Risk Manager;~~

~~—(9) That there has been application and payment for all necessary state and local licenses for the event; and~~

~~—(10) That an adequate deposit or other acceptable security has been posted for at least 50% of the estimated total admission tax payable to the city in conjunction with the event pursuant to § 4.03.~~

~~ARTICLE IV: BOTTLE CLUBS~~

~~§ 13.58 PURPOSE.~~

~~—Pursuant to the authority granted it by the Minnesota Liquor Act, M.S. Chapter 340A, as it may be amended from time to time, and the Twenty-First Amendment to the United States Constitution, the City Council prescribes the following licensing procedures and regulations governing the sale and/or consumption of alcoholic beverages.~~

~~§ 13.58.01 DEFINITIONS.~~

~~—Words and terms when used in this Article IV shall have the meanings of the words and terms described in § 13.01.01 of this code, unless the context clearly indicates otherwise.~~

~~§ 13.59 LICENSE REQUIRED.~~

~~—(a) No person, other than a holder of an on-sale intoxicating liquor license, may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing that liquid with intoxicating liquor without first having obtained a bottle club license under this Article IV.~~

~~—(b) A license under this Article IV may be issued only to clubs. A license issued under this Article IV may allow members of a club to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the club member. The license also allows the club to permit the consumption and display of intoxicating liquor on the premises. The license does not authorize the sale of intoxicating liquor, wine or 3.2% malt liquor.~~

~~§ 13.60 LICENSE APPLICATION.~~

~~—In addition to the information which may be required by the Department of Public Safety, the application for a license under this Article IV shall request the following information:~~

~~—(1) The name of the club and, where appropriate, the name of the establishment serving the club;~~

~~—(2) The date that the club was first incorporated, and, where appropriate, the date that the establishment serving the club was incorporated or otherwise established. True copies of the articles of incorporation, bylaws or other similar governing documents shall be submitted with the application;~~

~~—(3) The date that the club was first organized and the place of such organization;~~

~~—(4) A sworn statement that the club has been in existence for at least three years. The statement shall be made by a person who has personal knowledge of the facts stated therein. In the event that no person can make such a statement, satisfactory documentary proof may be submitted in support of such facts;~~

~~—(5) The number of members of the club;~~

~~—(6) The name of the general manager, proprietor, food/beverage manager and other person who shall be in charge of the licensed premises and the following information about said person:~~

- ~~—(A) The name, place and date of birth, and street residence address of person;~~
- ~~—(B) Whether the person has ever used or been known by a name other than the person's name, and if so the name or names used and information concerning dates and places where used;~~
- ~~—(C) Whether the person is married or single. If the person is married, the name, place of birth and street residence address of the person's present spouse;~~
- ~~—(D) Whether the person and the person's present spouse are registered voters and if so, where;~~
- ~~—(E) Street addresses at which the person and the person's present spouse have lived during the preceding ten years;~~
- ~~—(F) The type, name and location of every business or occupation the person or the person's present spouse has been engaged in during the preceding ten years;~~
- ~~—(G) The names and addresses of the person's and the person's present spouse's employers and partners, if any, for the preceding ten years;~~
- ~~—(H) Whether the person or the person's spouse or a parent, brother, sister or child of either of them has ever been convicted of any felony, crime or violation of any ordinance other than traffic. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had;~~
- ~~—(I) Whether the person or the person's spouse or a parent, brother, sister or child of either of them, has ever been engaged in the operation of a saloon, hotel, restaurant, café, tavern or other business which served 3.2% malt liquor, wine or intoxicating liquor. If so, the applicant shall furnish information as to the time, place and length of time of the involvement in such an establishment;~~
- ~~—(J) Whether the person has ever been in military service. If so, the applicant shall, upon request, exhibit all discharges;~~
- ~~—(K) The name, address and business address of each person who is engaged in the state in the business of selling, manufacturing or distributing intoxicating liquor and who is nearer of kin to the person or the person's spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law or who is a brother in law or sister in law of the applicant or the applicant's spouse; and~~
- ~~—(L) The names of club officers.~~
- ~~—(7) The legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities and the locations of the nearest place of assembly for worship and school;~~
- ~~—(8) The floor number and street number where intoxicating liquor is to be consumed and the rooms where intoxicating liquor is to be consumed. The applicant shall submit a floor plan of the~~

dining rooms that shall be open to the public, that show dimensions and that indicate the number of persons intended to be served in each of the rooms;

~~—(9) If a permit from the federal government is required by the laws of the United States, whether or not such permit has been issued, and if so required, in what name issued and the nature of the permit;~~

~~—(10) The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture and stock in trade, and proof of the source of such investment;~~

~~—(11) The names and addresses of all persons, other than the applicant, who have any ownership, in whole or in part, in the business, buildings, premises, fixtures, furniture, stock in trade; the nature of such ownership; the amount thereof; and terms for payment or other reimbursement. Those with an ownership shall include, but not be limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged or extended security for any indebtedness of the applicant;~~

~~—(12) The names, residences and business addresses of three persons of good moral character, not related to the applicant and not holding any ownership in the premises or business, who may attest to the applicant's character or, in the case of a club, partnership, corporation or other organization, the manager's character;~~

~~—(13) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and, if not paid, the years and amounts that are unpaid;~~

~~—(14) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the Building and Inspection Division, no plans need be submitted to the issuing authority;~~

~~—(15) The name and street address of the business if it is to be conducted under a designation, name or style other than the name of the applicant, and a certified copy of the certificate as required by M.S. § 333.02, as it may be amended from time to time; and~~

~~—(16) Such other information as the City Council or issuing authority shall require.~~

~~§ 13.61 APPLICATION EXECUTION.~~

~~—If the application is that of a corporation, the application shall be signed and sworn to by any officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.~~

~~§ 13.62 APPLICATION SUBMISSION AND VERIFICATION.~~

~~—Applications for licenses under this Article IV shall be submitted to the issuing authority. The issuing authority shall verify any of the information requested of the applicant in the application and conduct any necessary investigation to assure compliance with this Article IV. The issuing authority shall make a written recommendation and report to the City Council, which shall include a list of all violations of federal, state or local law.~~

~~§ 13.63 APPLICATION CONSIDERATION.~~

~~—(a) The City Council shall conduct a hearing on the license application within a reasonable period following receipt of the issuing authority's report and recommendation regarding the application. At least ten days in advance of the City Council hearing on an application, the issuing authority shall cause notice of the hearing to be published in the official newspaper of the city, setting forth the day, time and place of the hearing; the name of the business; business address; and the type of license which is sought. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. Additional hearings on the application may be held if the City Council deems additional hearings necessary. After the hearing or hearings on the application, the City Council may, in its discretion, grant or refuse the application.~~

~~—(b) If a license is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until the city's Community Development Department has approved the building for occupancy.~~

~~§ 13.64 RENEWAL APPLICATION.~~

~~—(a) All licenses under this Article IV shall expire on June 30 of each year. Applications for the renewal of an existing license shall be made at least 60 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for failure to submit a renewal application within the time provided, the City Council may, if the other provisions of this Article IV are complied with, grant the renewal application.~~

~~—(b) At the time a licensee submits the renewal application, the licensee shall state the nature and amount of any contribution valued in excess of \$50 that the licensee has made to any candidate for an elected city municipal office.~~

~~§ 13.65 FEES.~~

~~—The annual fee for a license under this Article IV shall be as set forth in § 14.03 of this code. The fee paid shall be refunded in accordance with § 14.15 of this code, except that the annual fee shall be refunded on a monthly basis.~~

~~§ 13.66 PERSONS INELIGIBLE FOR LICENSE.~~

~~—(a) A license under this Article IV may be issued only to a club.~~

~~—(b) No license shall be issued to a club holding an on-sale intoxicating liquor license or an on-sale 3.2% malt liquor license.~~

~~—(c) No license shall be issued to a club that has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority.~~

~~—(d) No license shall be issued for any premises on which taxes or assessments are delinquent.~~

~~—(e) No license shall be issued to any club whose general manager:~~

- ~~—(1) Is not of good moral character and repute;~~
- ~~—(2) Is not 21 years of age or older on the date the license application is submitted to the issuing authority;~~
- ~~—(3) Has had an intoxicating liquor, 3.2% malt liquor or wine license revoked within five years of the date the license application is submitted to the issuing authority;~~
- ~~—(4) Has, within five years of the date the license application is submitted to the issuing authority, been convicted of a felony or of violating any federal, state or local law governing the manufacture, sale, distribution or possession for sale or distribution of 3.2% malt liquor, wine or intoxicating liquor. The city may deny issuance of a license if it appears that the applicant has had a conviction of any crime that is directly related to the type of license being sought, as defined by M.S. § 364.03, subd. 2, as it may be amended from time to time, and if the person has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, as defined by M.S. § 364.03, subd. 3, as it may be amended from time to time; and~~
- ~~—(5) Had an interest in a corporation, partnership, association, enterprise, business or firm which had its wine, intoxicating liquor or 3.2% malt liquor license revoked within five years of the date the license application is submitted to the issuing authority.~~

~~§ 13.67 LOCATIONS INELIGIBLE FOR LICENSE.~~

- ~~—(a) No license shall be granted or renewed for operation on any property on which taxes, assessments or other financial claims of the state, county, school district or city are past due, delinquent or unpaid. In the event a suit has been commenced under M.S. §§ 278.01 through 278.13, as they may be amended from time to time, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.~~
- ~~—(b) No license shall be granted or renewed if the property on which the business is to be conducted is owned by a person who is ineligible for an intoxicating liquor license under any of the requirements in § 13.46 or for a wine license under any of the requirements in § 13.27 (a)(1) through (a)(10), except that a property owner who is a minor or who has been convicted of a crime, other than a violation of M.S. §§ 340A.101 through 340A.907, as they may be amended from time to time, shall not make the premises ineligible under this subsection (b).~~
- ~~—(c) No license under this Article IV shall be granted to any location within 1,000 feet of a school or place of worship. In the case of a school, the distance is to be measured in a straight line from the lot on which the establishment to be licensed is located to the nearest point of the lot on which the school is located. In the case of a place of worship, the distance shall be measured in a straight line from the lot on which the establishment to be licensed is located to the nearest point of the place of worship building. A place for which a license was granted in 1989, or lawfully granted thereafter, and at which a licensee has been in continuous operation, is not ineligible for a license by reason of proximity to places of worship or schools.~~

~~§ 13.68 GENERAL LICENSE RESTRICTIONS.~~

~~—(a) *Posting of license.* A license issued under this Article IV must be posted in a conspicuous place in the premises for which it is used.~~

~~—(b) *Licensed premises.* A license issued under this Article IV is only effective for the compact and contiguous space specified in the approved license application.~~

~~—(c) *Inspections.* In light of the high risk of involvement with illegal conduct a bottle club poses to the general public, the issuing authority and/or the City Police Department shall have the right to enter, inspect and search the licensed premises without a search and seizure warrant during the hours in which the bottle shop is open to the public. The business records of the licensee, including income tax records, shall be available for inspection during the hours in which the licensed premises is open for business.~~

~~—(d) *Prohibitions.* A licensee under this Article IV shall not allow any person to engage in prostitution or to sell or use illegal drugs in the licensed premises or any adjoining building or room under the licensee's control.~~

~~—(e) *Signage.* The licensee shall post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14 1/2 inches wide by eight inches high as designed by the Commissioners of Health and Public Safety, which incorporates the following information: (1) the penalties of driving while under the influence of alcohol; (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and (3) a warning statement regarding drinking alcohol while pregnant.~~

~~—(f) *Sales of set-ups limited to members and guests.* A holder of a bottle club license shall sell or furnish to only club members and their guests the liquids used for mixing with alcoholic beverages.~~

~~—(g) *Insurance requirements.* A bottle club licensee shall at all times maintain liability insurance in the minimum coverage amounts detailed in M.S. § 340A.409, subd. 1(1), as it may be amended from time to time.~~

~~§ 13.68.01 ADULT ENTERTAINMENT PROHIBITION.~~

~~—The City Council finds that the sale and/or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incidents of prostitution, public masturbation, indecent exposure and/or sexual assault. In order to protect the health, safety and welfare of city residents, and pursuant to the City Council's authority to regulate alcoholic beverages under M.S. Chapter 340A, as it may be amended from time to time, and the Twenty-First Amendment to the United States Constitution, no licensee under this Article IV shall permit the following kinds of conduct on the licensed premises or in areas adjoining the licensed premises where the following kinds of conduct can be seen by patrons of the licensed premises:~~

~~—(1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation or flagellation;~~

~~—(2) The actual or simulated touching, caressing or fondling on the breast, buttocks, anus or genitals;~~

- ~~—(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;~~
- ~~—(4) The displaying of films rated by the Motion Picture Association of America as NC-17: “No One 17 And Under Admitted,” unrated films and films deemed obscene or pornographic pursuant to state or federal law; or~~
- ~~—(5) The presentation of any female in such manner or attire to expose to view any portion of the breast below the top of the areola, or any simulation thereof.~~

~~(Ord. 93-35, passed 8-9-1993; Ord. 2008-45, passed 12-15-2008)~~

~~§ 13.69 RESTRICTIONS REGARDING LICENSE TRANSFER.~~

~~—The license granted under this Article IV is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.~~

~~§ 13.70 RESTRICTIONS REGARDING HOURS OF OPERATION.~~

~~—A licensee under this Article IV shall make no sale of or furnish any nonalcoholic beverage during the following hours on the following days:~~

~~-~~

Monday through Saturday	No sales between 1:00 a.m. and 8:00 a.m.
Sunday	No sales between 1:00 a.m. and 8:00 a.m.
December 25	No sales before 8:00 a.m., unless December 25 is a Sunday, in which case no sales

~~-~~

~~§ 13.71 RESTRICTIONS REGARDING MINORS.~~

~~—(a) No minor shall possess 3.2% malt liquor, wine or intoxicating liquor with the intent to consume it at a place other than the household of the minor’s parent or guardian. Possession at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.~~

~~—(b) No minor shall enter the licensed premises for the purpose of consuming 3.2% malt liquor, wine or intoxicating liquor.~~

~~—(c) No licensee under this Article IV shall permit any minor to consume 3.2% malt liquor, wine or intoxicating liquor on the licensed premises.~~

~~—(d) (1) Proof of age for purchasing or consuming 3.2% malt liquor, wine or intoxicating liquor may be established only by one of the following:~~

~~—— (A) A valid driver’s license or identification card issued by Minnesota, another state or a province of Canada, and including the photograph and date of birth of the licensed person;~~

~~—(B) A valid military identification card issued by the United States Department of Defense; or~~

~~—(C) In the case of a foreign national, from a nation other than Canada, by a valid passport.~~

~~—(2) In a prosecution for any violation of any provision in this Article IV regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above cited types of identification.~~

~~§ 13.72 RESTRICTIONS REGARDING GAMBLING.~~

~~—(a) No licensee under this Article IV may keep, possess or operate, or permit the keeping, possession or operation on the licensed premises of dice or any gambling device.~~

~~—(b) No gambling equipment authorized under M.S. Chapter 349, as it may be amended from time to time, may be kept or operated on the licensed premises and/or adjoining rooms.~~

~~—(c) The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to M.S. §§ 349A.01 through 349A.15, as they may be amended from time to time.~~

~~§ 13.73 SANCTIONS FOR LICENSE VIOLATIONS.~~

~~—(a) The City Council may revoke a license, suspend a license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation or impose any combination of these sanctions for a violation of:~~

~~—(1) A provision of this Article IV;~~

~~—(2) A state law relating to alcoholic beverages; or~~

~~—(3) A state or local law relating to moral character.~~

~~—(b) A revocation, suspension or civil penalty shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee at the most recent address listed on the application.~~

~~—(c) If the Commissioner of Public Safety has imposed a civil penalty against the same licensee for the same act, imposition of an additional penalty or suspension by the city is not precluded provided that the total penalty or suspension does not exceed the maximum specified by state law.~~

~~ARTICLE V: REGULATIONS GOVERNING POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES~~

~~§ 13.74 POSSESSION OF 3.2% MALT LIQUOR, WINE OR INTOXICATING LIQUOR BY MINORS.~~

~~—It shall be unlawful for any minor, as defined in § 13.01.01 of this code, to have in the minor's possession any intoxicating liquor, wine or 3.2% malt liquor with the intent to consume the same~~

~~at any place other than the household of the minor's parents or guardian. Possession of such 3.2% malt liquor, wine or intoxicating liquor at a place other than the household of the minor's parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of the minor's parent or guardian. The presence of a minor in an automobile, room or in a group in which intoxicating liquor, wine or 3.2% malt liquor is contained and is being consumed or has been consumed or is intended to be consumed by minors is prima facie evidence that such intoxicating liquor, wine or 3.2% malt beverage is in the possession of such minor or all of such minors present at such time, providing the parent or guardian of such minor is not present.~~

~~§ 13.75 DRINKING IN MOTOR VEHICLES.~~

~~—No person shall drink or consume intoxicating liquor, wine or 3.2% malt liquor in any motor vehicle when such vehicle is upon a public highway or street.~~

~~§ 13.76 POSSESSION OF 3.2% MALT LIQUOR, WINE OR INTOXICATING LIQUOR WHILE IN MOTOR VEHICLES.~~

~~—No person shall, while in a private motor vehicle upon a public highway or street, have any bottle or receptacle containing intoxicating liquor, wine or 3.2% malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed.~~

~~§ 13.77 OPEN BOTTLE IN MOTOR VEHICLES.~~

~~—No person shall have in possession while in a private motor vehicle upon a public highway, any bottle or receptacle containing intoxicating liquor or 3.2% malt liquor which has been opened, or the seal broken, or the contents of which have been partially removed. For purposes of this section, *POSSESSION* means either that the person had actual possession of the bottle or receptacle or that the person consciously exercised dominion and control over the bottle or receptacle.~~

~~§ 13.78 EXCEPTION.~~

~~—(a) This Article V does not apply to a bottle or receptacle that is in the trunk of the vehicle if it is equipped with a trunk, or that is in another area of the vehicle not normally occupied by the driver and passengers if the vehicle is not equipped with a trunk.~~

~~—(b) This Article V does not apply to the possession or consumption of alcoholic beverages by passengers who are 21 years of age or older in: 1) a bus operated under a charter as defined in M.S. § 169A.35, subd. 6, as it may be amended from time to time; or 2) a limousine as defined in M.S. § 168.002, subd. 15, as it may be amended from time to time.~~

~~§ 13.79 PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGES IN CERTAIN AREAS.~~

~~—The City Council finds that the consumption of alcoholic beverages in certain areas of the city is not compatible with the health and safety of persons using the areas. The City Council, therefore, enacts the following prohibitions:~~

~~—(a) Alcoholic beverages shall not be possessed or consumed by any person in the following areas:~~

~~—(1) The City Cemetery as defined by § 5.09 of this code; and~~

~~—(2) Parks as defined by § 5.20 of this code, except that 3.2% malt liquor may be possessed or consumed in designated picnic areas or when a valid, special event license is issued under § 13.02.01(3) of this code.~~

~~—(b) Alcoholic beverages shall not be consumed by any person in the following areas:~~

~~—(1) Public rights of way, sidewalks, pathways and bikeways pursuant to § 12.04 of this code.~~

~~ARTICLE VI: PENALTIES~~

~~§ 13.90 PENALTIES REGARDING MINORS.~~

~~—(a) Purpose. The purpose of this section is to establish a uniform set of civil penalties for a licensee who furnishes or sells an alcoholic beverage to a minor in violation of §§ 13.14(c), 13.15(b), 13.32(c), 13.33(b), 13.51(c), 13.52(b), 13.71(c), or 13.71(d) of this chapter. This section is intended to supersede the provisions of §§ 13.18, 13.36, 13.55, and 13.73 for the purpose described in this paragraph.~~

~~—(b) Incident. The civil penalties for a first or second incident will be imposed and administered by the issuing authority, as defined in § 13.01.01, upon an admission by the licensee that the licensee furnished or sold an alcoholic beverage to a minor. The issuing authority may refer the imposition of civil penalties for a first or second incident to the city council upon the request of the city manager. The penalties for a third or fourth incident may be imposed only by the city council.~~

~~—(c) Uniform Civil Penalties.~~

~~—(1) 3.2% malt liquor, wine, and bottle clubs. The following civil penalties will be imposed upon a licensee when a licensee has furnished or sold an alcoholic beverage to a minor in violation of §§ 13.14(c), 13.15(b), 13.32(c), 13.33(b), 13.71(c), or 13.71(d) of this chapter:~~

~~—(A) A \$500 fine for the first incident;~~

~~—(B) A \$750 fine for a second incident occurring within five (5) years of the date of the previous incident by the same licensee at the same licensed premises;~~

~~—(C) A \$1,250 fine for a third incident occurring within five (5) years of the date of the previous two incidents by the same licensee at the same licensed premises;~~

~~—(D) A \$1,250 fine and a suspension of the license for a minimum of 30 days, or in the alternative, a revocation of the license, for a fourth incident occurring within five (5) years of the date of the previous three incidents by the same licensee at the same licensed premises. A multiple day license suspension shall run consecutively beginning at 12:01 a.m. on the first day of the suspension period and ending at midnight on the last day of the suspension period.~~

~~—(2) *Intoxicating liquor.* The following civil penalties will be imposed upon a licensee when a licensee has furnished or sold an alcoholic beverage to a minor in violation of §§ 13.51(e) or 13.52(b) of this chapter:~~

~~—(A) A \$1,000 fine for the first incident;~~

~~—(B) A \$1,250 fine for a second incident occurring within five (5) years of the date of the previous incident by the same licensee at the same licensed premises;~~

~~—(C) A \$2,000 fine for a third incident occurring within five (5) years of the date of the previous two incidents by the same licensee at the same licensed premises;~~

~~—(D) A \$2,000 fine and a suspension of the license for a minimum of 30 days, or in the alternative, a revocation of the license, for a fourth incident occurring within five (5) years of the date of the previous three incidents by the same licensee at the same licensed premises. A multiple-day license suspension shall run consecutively beginning at 12:01 a.m. on the first day of the suspension period and ending at midnight on the last day of the suspension period.~~

~~—(d) *Hearing.* No civil penalty will be imposed by either the city council or the issuing authority until the licensee has been provided with written notice to the most recent address listed on the license application and provided with an opportunity for a hearing.~~

~~—(e) *Total penalty.* If the Commissioner of Public Safety has imposed a civil penalty against the same licensee for the same act, imposition of an additional penalty or suspension by the city is not precluded provided that the total penalty or suspension does not exceed the maximum specified by state law.~~

~~—(f) *Employee of licensee.* Every licensee is responsible for the conduct in the licensed establishment and any sale of an alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee.]~~

Section 2. That this ordinance is effective upon publication.

Passed and adopted this 24th day of February, 2020.

/s/ Tim Busse

Mayor

ATTEST:

/s/ Denise M. Christenson
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney