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## CHAPTER XII - LIQUOR

### Section 1200 – General provisions

#### 1200.01. State law adopted.

The provisions of Minnesota Statutes, chapter 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Ordinance as if set out in full. It is the intention of the city council that all future amendments to Minnesota Statutes, chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Ordinance is adopted. In the event that provisions in this chapter are more stringent than similar provisions in Minnesota Statutes, chapter 340A the provisions in this chapter will be controlling.

#### 1200.03 Definitions.

The definitions contained in Minnesota Statutes, section 340A.101, as it may be amended from time to time, are hereby adopted except the following words, terms, and phrases, when used in this chapter, will have the meanings ascribed to them in this section:

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

*Restaurant.* An eating facility, other than a hotel, under the control of a single proprietor or manager, which is open on at least four days per week, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. Notwithstanding the requirement that a restaurant allow guests to order from a printed menu, an establishment which serves a pre-determined multi-course meal to guests, such as a tasting menu, shall also be considered a restaurant. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by Minnesota Statutes, section 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in Minnesota Statutes, section 157.16, subd. 3(d), as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served shall not be considered to be a restaurant for purposes of this ordinance unless

it meets the definitions of a “small establishment”, “medium establishment” or “large establishment”.

[Revised 5-18-15, Ordinance 427]

### **1200.05. Nudity on the premises of licensed establishments prohibited.**

Subdivision 1. The city council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this ordinance. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this ordinance, as set forth in this section, reflects the prevailing community standards of the city.

Subd. 2. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

Subd. 3. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of sections 1215.07 and 1215.09.

### **1200.07. Consumption in public places.**

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

### **1200.09. Gambling prohibited.**

No retail establishment licensed to sell liquor may keep, possess, operate or permit the keeping, possession, or operation on the licensed premises of dice or any other gambling device as defined in Minnesota Statutes, section 349.30 without the approval of the city council and unless authorized to do so under Minnesota Statutes, section 349.166.

### **1200.11. Raffles and silent auctions of wine, beer, or intoxicating liquors.**

No person shall conduct a silent auction, raffle or other fund raising event pursuant to Minnesota Statutes, section 340A.707, Minnesota Statutes, section 349.165 and Minnesota Statutes, section 349.166 with prizes or awards of wine, beer or intoxicating liquors without notifying the city clerk of the event at least thirty days prior to the occurrence of the event and obtaining all required licenses and permits including but not limited to a special event permit if required. The event holder shall provide the city with the following information: the person or organization holding the event, the day, time and location of the event, type of fund raising event (silent auction, raffle or otherwise), type and amount of wine, beer, intoxicating liquor to be awarded as prizes, and the charitable purposes to which the event proceeds will be donated.

### **1200.13. Tampering or refilling bottles.**

Subdivision 1. No person shall sell, offer for sale or keep for sale, liquor in any original package, which has been refilled or partially refilled.

Subd. 2. No person may directly or through another person dilute or in any manner, tamper with the contents of any original package so as to change the composition or alcohol content while in the original package. Possession on the licensed premises by a licensee 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.

## **Section 1205 – Licenses**

### **1205.01. License Required.**

No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the required license or permit.

### **1205.03. Numbers of licenses which may be issued.**

State law establishes the number of liquor licenses that a city may issue. However, the Council is not required to issue the full number of licenses that it has available.

### **1205.05. Term and expiration of licenses.**

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

### **1205.07. Kinds of liquor licenses.**

The Council is authorized to issue the following licenses and permits, up to the number specified in the provisions of Minnesota Statutes, chapter 340A, as they may be amended from time to time:

- (a) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- (b) 3.2 percent malt liquor off-sale license.
- (c) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
- (d) Off-sale intoxicating liquor licenses, which may be issued only to

exclusive liquor stores.

(e) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by Minnesota Statutes, section 340A.101, as it may be amended from time to time: hotels, restaurants, bowling centers, theaters or congressionally chartered veterans organizations, theaters and exclusive liquor stores. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of Minnesota Statutes, section 340A.404, subdivision 4b, as it may be amended from time to time.

(f) On-sale intoxicating liquor licenses to a club, which may only be issued to incorporated organizations that meet the criteria listed by Minnesota Statutes, section 340A.101, as it may be amended from time to time. Such licenses may be issued only with the approval of the Commissioner of Public Safety.

(g) Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in section 1200.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food.

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

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

(j) On-sale wine licenses, with the approval of the Commissioner of Public Safety to:

(1) Theaters;

(2) Restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minnesota Statutes, section 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in section 1200.03; and

(3) Licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of Minnesota Statutes, section 340A.404 (b), as it may be amended from time to time.

The holder of an on-sale wine license who concurrently holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with content over 3.2 percent (strong beer) without an additional license.

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

(l) Consumption and display permit may be issued with the approval of the Commissioner of Public Safety. Consumption and display permits shall expire on March 31 of each year. No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner

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

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

(o) Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at Minnesota Statutes, section 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale

under 1205.07 (p) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(p) Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under 1205.07 (o) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at Minnesota Statutes, section 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by Minnesota Statutes, section 340A.301 subd. 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license 1205.07 (o) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

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

#### **1205.09. License fees; pro rata.**

Subdivision 1. No license or other fee established by the city shall exceed any limit established by Minnesota Statutes, chapter 340A, as it may be amended from time to time, for a liquor license.

Subd. 2. The Council may establish from time to time in its fee schedule ordinance, the fee for any of the liquor licenses it is authorized to issue. The license fee is intended to cover the costs of issuing the license and other costs directly related to the enforcement of the liquor laws and this ordinance. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

Subd.3. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

Subd. 4. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.



Subd. 5. A refund of a pro rata share of an annual license fee may occur only if authorized by Minnesota Statutes, section 340A.408, subd. 5, as it may be amended from time to time.

Subd. 6. Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minnesota Statutes, section 340A.408 if at the time of initial application or renewal they:

- (a) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
- (b) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;
- (c) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check; and
- (d) Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to section 1215.07 of this ordinance.

#### **1205.11. Council discretion to grant or deny a license.**

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

## **Section 1210 – License application**

### **1210.01. Application for license.**

#### Subdivision 1. Form.

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

#### Subd. 2. Financial responsibility.

Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, section 340A.409, as it may be amended from time to time, with regard to liability under Minnesota Statutes, section 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minnesota Statutes, section 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this ordinance without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license. A liability insurance policy required by this section must provide that it may not be cancelled for any cause by either the insured or the insurer unless the canceling party has first given ten days' notice in writing to the issuing authority of intent to cancel the policy.

### **1210.03. Applicant Eligibility.**

No liquor license may be issued to:

- (a.) A person not a citizen of the United States or a resident alien;

- (b.) A person under 21 years of age;
- (c.) A person who, within five years of the license application, has been convicted of a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of an alcoholic beverage;
- (d.) A person who has had a liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- (e.) A person not of good moral character and repute; or
- (f.) A person who is not the proprietor of the establishment for which the license is sought.

#### **1210.05. Description of premises.**

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

- (a.) The license shall be effective only for the licensed premises specified in the approved application.
- (b.) No license will be granted for operation on any premises on which state, city or county taxes, assessments, or other financial claims of the state, city, or county are delinquent and unpaid.
- (c.) No liquor license may be granted within the same block of any school or within 1000 feet of any school or church. The distance will be measured as provided in section 1210.13, subdivision 6.
- (d.) The erection of a school or church within the prohibited area after the original license application has been granted will not, in and of itself, render such premises ineligible for renewal of the license.
- (e.) No intoxicating liquor license of any kind will be issued unless the applicant provides adequate off-street parking and exterior lighting and complies with Minnetrista city code Chapter V: Planning and Land Use Regulation.

### **1210.07. Applications for renewal.**

At least 90 days, but not more than 120 days, before a license issued under this ordinance is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the council. No licensee has a right to have the license renewed.

### **1210.09. Transfer of license.**

Subdivision 1. No license issued under this ordinance may be transferred without the approval of the council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license. Any change of ownership or beneficial interest in shares of stock entitled to be voted at a meeting of the stockholders of a corporate licensee which results in a change of voting control of the corporation by the persons owning shares of stock will be deemed to be equivalent to a transfer of the license issued to the corporation and any such change in ownership or beneficial interest of shares without prior council approval is a ground for revocation of the license.

Subd. 2. The council may at any reasonable time examine the stock transfer records and minute books of any corporation licensee in order to verify the names of stockholders and persons holding beneficial interests and persons holding meetings of the corporation. The council may examine business records of any other licensee to the extent necessary to disclose the interest that others than the licensee have in the licensed business.

Subd. 3. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

### **1210.11. Investigation.**

#### Subdivision 1. Preliminary background and financial investigation.

On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee as found in the Ordinance Establishing the City's Fee Schedule which shall be in addition to any license fee. If the cost of the preliminary investigation is less than the fee listed in the Ordinance Establishing the City's Fee Schedule, the unused balance shall be returned to the applicant. The results of the

preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

Subd. 2. Comprehensive background and financial investigation.

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

**1210.13. Hearing and Issuance.**

The city shall investigate all facts set out in the application and all facts investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

**1210.15. Restrictions on Issuance.**

Subdivision 1. Each license shall be issued only to the applicant for the premises described in the application.

Subd. 2. Not more than one license shall be directly or indirectly issued within the city to any one person.

Subd. 3. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

Subd. 4. No license shall be issued for any place or any business ineligible for a license under state law.

Subd. 5. No license shall be issued to any person who is not a resident of the

state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this subdivision (5) shall not apply to any license existing on the effective date of this ordinance or to the renewal of an existing license.

Subd. 6. No license shall be granted within the same block of any school or within 1000 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.

Subd. 7. An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a noncitizen who is not resident alien, or a person who has been convicted of a crime other than a violation of this chapter.

### **1210.17. Conditions of License.**

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

- (a.) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the council. Proof of training shall be provided by the licensee.
- (b.) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.
- (c.) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a search warrant.
- (d.) Every intoxicating liquor licensee must keep on file with the city clerk a current list of all persons having an interest in the licensed business and the extent of such interest. If the licensee is a corporation, the list must show all stockholders and the number of shares held by each stockholder either individually or beneficially for others. It will be

the duty of each licensee to notify the city clerk of any change in legal or beneficial ownership or interest in such business or in such shares.

- (e.) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (f.) Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.
- (g.) Failure by on off-sale intoxicating liquor licensee who has received a fee reduction pursuant to section 1205.09, subd. 6 of this ordinance to abide with the provisions of section 1205.09, subd.6.

## **Section 1215 – Liquor regulations**

### **1215.01. Hours and Days of Sale.**

Subdivision 1. The hours of operation and days of sale shall be those set by Minnesota Statutes, section 340A.504, as it may be amended from time to time, except that the city council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

Subd. 2. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

Subd. 3. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

Subd. 4. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

Subd. 5. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

### **1215.03. Minors on Premises.**

Subdivision 1. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

Subd. 2. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.



## **1215.05. Restrictions on Purchase and Consumption.**

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

## **1215.07. Suspension and Revocation.**

Subdivision 1. The council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this ordinance relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minnesota Statutes sections 14.57 to 14.70, as it may be amended from time to time. The council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

Subd. 2. The following are the minimum periods of suspension or revocation which shall be imposed by the council for violations of the provisions of this ordinance or Minnesota Statutes, chapter 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

- (a) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of section 1200.05, the license shall be revoked.
- (b) The license shall be suspended by the council after a finding under section 1215.07, subdivision 1 that the licensee has failed to comply with any applicable statute, rule, or provision of this ordinance for at least the minimum periods as follows:
  - (1) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
  - (2) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
  - (3) For the third violation within any three-year period, at least seven

consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

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

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

Subd. 3. Lapse of required proof of financial responsibility shall affect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the council shall be granted within ten days. Any suspension under section 1215.07, subdivision 2 shall continue until the council determines that the financial responsibility requirements of state law and this ordinance have again been met.

Subd. 4. The provisions of section 1215.09 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

### **1215.09. Penalties.**

Subdivision 1. Any person violating the provisions of this ordinance or Minnesota Statutes, chapter 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

Subd. 2. The council may impose a civil penalty of up to \$2,000 for each violation of Minnesota Statutes, chapter 340A, as it may be amended from time to time, and of this ordinance. Conviction of a violation in a court of law is not required in order for the council to impose the civil penalty. A hearing under the Administrative Procedures Act, Minnesota Statutes, sections 14.57 to 14.69, as it may be amended from time to time, is not required before the penalty is imposed, but the council may hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

(a.) For the first violation within any three-year period, \$500.

(b.) For the second violation within any three-year period, \$1,000.

(c.) For the third and subsequent violations within any three-year period, \$2,000.

Subd. 3. The term “violation” as used in section 1215.07 includes any and all violations of the provisions in this section, or of Minnesota Statutes, chapter 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.