



City of Blaine
Anoka County, Minnesota
Signature Copy

10801 Town Square
Drive
Blaine MN 55449

Ordinance: ORD 15-2335

File Number: ORD 15-2335

SECOND READING

**ORDINANCE AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES,
ARTICLE II. - INTOXICATING LIQUOR AND 3.2 PERCENT MALT
LIQUOR**

CHAPTER 6 – ALCOHOLIC BEVERAGES

ARTICLE II. - INTOXICATING LIQUOR AND 3.2 PERCENT MALT LIQUOR

Sec. 6-31. - Adoption of state law by reference.

The provisions of Minn. Stat. ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sale, 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 article as if set out in full. It is the intention of the city council that all future amendments to Minn. Stat. ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this article is adopted.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-32. - City may be more restrictive than state law.

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

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-33. - Definitions.

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

Brewer is a person or entity who manufactures malt liquor for sale.

Brewer taproom means an area on the premises of a brewery or on the premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

Brew pub is a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in by State Statute.

Liquor, as used in this article, without modification by the words "intoxicating" or "3.2 percent malt," includes both intoxicating liquor and 3.2 percent malt liquor.

Restaurant means an eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this term in this article, an establishment shall have a license from the state as required by Minn. Stat. § 157.16. With the exception of a brewer taproom license, all restaurants [and] shall derive a significant portion of their gross sales revenue from food.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2192, 9-3-2009)

Sec. 6-34. - Nudity on the premises of licensed establishments prohibited.

- (a) The city council finds that it is in the best interest of the public health, safety and general welfare of the people of the city that nudity is prohibited on the premises of any establishment licensed under this article as provided in this section. 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 article, as set forth in this section, reflects the prevailing community standards of the city.
- (b) It is unlawful for any licensee, responsible party or other person 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 nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a nontransparent material.
- (c) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation, suspension or nonrenewal of any liquor, wine or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of subsection 6-53(b) of this article.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-35. - Consumption in public places.

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this article.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-36. - License required; number of licenses.

- (a) No person or entity shall directly or indirectly deal in, sell or keep for sale any liquor without first having received a license to do so pursuant to this article.
- (b) The city council shall issue off-sale liquor licenses in such a manner that no license shall be issued to a property which is located within one mile of the location of an existing off-sale license. The number of off-sale licenses issued shall not exceed a ratio of one license for every 7,000 population. The council is not required to issue the full number of off-sale licenses that it has available.
- (c) Off-sale liquor licenses issued in conjunction with brewer taprooms or brew pubs are exempt from Sec. 6-36(b).

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-37. - 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 June 30 of each year unless another date is provided by article. All licenses shall expire on the same date. Temporary licenses expire according to their terms. ~~[The license term for annual licenses in effect and in good standing at the time this article becomes effective shall be extended until June 30, 2008, by issuance of a six-month license for the period from January 1, 2008, through June 30, 2008, provided all applicable license fees are paid pursuant to section 6-39 of this article.]~~

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-38. - Kinds of liquor licenses.

The Blaine City Council is authorized to issue the following licenses and permits, up to the number specified in section 6-36 of this article. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subdivision unless the provision is explicitly inconsistent with this subdivision.

- (1) ~~[Three and two-tenths]~~ 3.2 percent malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers with the incidental sale of tobacco and soft drinks.

- (2) [~~Three and two tenths~~] 3.2 percent malt liquor off-sale license.
- (3) Temporary 3.2 percent malt liquor licenses, which may be issued only to a club, charitable, religious or nonprofit organization. Any temporary license issued under this section shall be for a period not to exceed seven consecutive days.
- (4) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores, brewer taprooms or brew pubs. The fee for an off-sale intoxicating liquor license shall not exceed the maximum amount provided by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.
- (5) On-sale intoxicating liquor licenses, which may be issued only to restaurants as defined in section 6-33 of this article and to clubs and hotels as defined by Minn. Stat. § 340A.101, as it may be amended from time to time. Club licenses may be issued only with the approval of the commissioner of public safety. The fee for club licenses shall not exceed the maximum amount provided by Minn. Stat. § 340A.408, subd. 2(b), as it may be amended from time to time.
- (6) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by Minn. Stat. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant or brewer taproom, as defined in section 6-33 of this article, or a club or hotel, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The fee for this license shall not exceed the maximum amount provided by Minn. Stat. § 340A.504, subd 3(c), as it may be amended from time to time.
- (7) On-sale wine licenses, with the approval of the commissioner of public safety to restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minn. Stat. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurants in section 6-33 of this article; and to licensed bed and breakfast facilities which meet the criteria in Minn. Stat. § 340A.041, subd. 1 as it may be amended from time to time. The fee for an on-sale wine license shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- (8) Culinary limited on-sale intoxicating liquor licenses, may be issued pursuant to Minn. Stat. § 340A.4041. The fee for such a license shall be set by city council resolution and shall be in compliance with Minn. Stat. § 340A.4041, subd. 2, as it may be amended from time to time.
- (9) Brewer taproom license may be issued to the holder of a brewer's license issued by the commissioner of public safety. A brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. The fee for such a license shall be set by city council and shall be in compliance with Minn. Statute.
- (10) Small brewer off-sale license may be issued, with the approval of the commissioner of public safety, to a licensee that holds a small brewer license to sell growlers or 750

milliliter bottles of the malt liquor produced on the licensed premises, subject to the conditions outlined in Sec. 6-53. The fee for such a license shall be set by city council and shall be in compliance with Minn. Statute.

(11) On-sale brew pub license may be issued only to restaurants operated in the place of a manufacturer and shall permit the sale of malt liquor produced on the licensed premises. The fee for such a license shall be set by city council and shall be in compliance with Minn. Statute.

(12) Off-sale brew pub license may be issued, with the approval of the commissioner of public safety, to a licensee that holds an on-sale brew pub license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises, subject to the conditions outlined in Sec. 6-53. The fee for such a license shall be set by city council and shall be in compliance with Minn. Statute.

(13) Special 2:00 a.m. Licenses.

(a) State Permit Required. No licensee may sell intoxicating or 3.2 malt liquor "on-sale" between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner of the MN Department of Public Safety, Liquor Control Division, pursuant to Minnesota Statutes.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-39. - License fees.

- (a) No license or other fee established by the city for a liquor license shall exceed any limit established by Minn. Stat. ch. 340A, as it may be amended from time to time.
- (b) The council may establish from time to time by ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this article. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licenses at least 30 days before the hearing. [~~As a result of the new term of the license period being implemented by this article, the license fee for the time period between January 1, 2008, and June 30, 2009, shall be at the rate of 150 percent of the 2007 license fee.~~]
- (c) All license fees shall be paid in full at the time of the original application or at the time the application for renewal is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- (d) A refund of a pro rata share of an annual license fee may occur only if authorized by Minn. Stat. § 340A.408, subd. 5, as it may be amended from time to time.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-40. - Council discretion to suspend, revoke, grant, deny, renew or not renew license.

- (a) The city council in its sound discretion may either grant or deny the application for any license or grant or deny a request for the transfer, modification or renewal of any license. No applicant has a right to a license under this article.
- (b) The city council may take into consideration any nuisance call or calls relating to the premises when considering the operation of the premises, application, transfer, modification or renewal of any license. For the purposes of this section, "nuisance call" shall be defined as follows. Any activity, conduct, or condition occurring on or related to the licensed premises, which results in a call or report to the Blaine Police Department or other law enforcement agency, including, but not limited to, calls and reports related to the following:
 - (1) Any conduct, activity or condition alleged to constitute disorderly conduct, pursuant to Minn. Stat. § 609.72.
 - (2) Any conduct, activity or condition alleged to constitute a public nuisance, pursuant to Minn. Stat. § 609.74.
 - (3) Any conduct, activity or condition alleged to constitute an assault pursuant to Minn. Stat. § 609.224.
 - (4) Any conduct, activity or condition alleged to constitute a violation of Minnesota Statutes relating to prostitution, controlled substances, use of firearms, criminal sexual conduct, and gambling.
 - (5) Any conduct, activity or condition alleged to constitute disorderly house, pursuant to sections 50-141 through 50-145 of the Blaine Code.
 - (6) Any conduct, activity or condition alleged to constitute a violation of this article.
 - (7) A failure to meet the minimum criteria for a restaurant or license holder.
- (c) Any violation of any provision of this article, or any nuisance call, regardless whether or not a criminal charge has been brought or a criminal conviction has been obtained, may be used by the council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification, or renewal of any license.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2192, 9-3-2009)

Sec. 6-41. - Application for license.

- (a) Form. Every application for a license issued under this article shall be on a form provided by the city. Such application form shall be completed to the satisfaction of the city. If the application form is not completed to the satisfaction of the city, the form and the application shall be returned by the city to the applicant. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the city may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, who will manage the business, how long the applicant has been in that business at that place, and other information as the city may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the commissioner of public safety and shall also contain

the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

- (b) Responsible party. Such application must identify a responsible party relative to each license. If the responsible party for a licensee will change, an application for the change shall be provided to the city clerk at least 30 days prior to such change and shall be treated the same as an application for a new license. In the event that a 30-day prior notice is not feasible, a written explanation will be submitted to the city clerk within one week of the known change documenting the reason(s) for the deviation; this is subject to approval by the police chief or his/her designee. Failure to file a timely application or explanation for a change in responsible party shall be grounds for revocation, suspension or non-renewal of any license.
- (c) Financial responsibility. Prior to the issuance of any license under this article, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stat. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minn. Stat. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this article without having on file with the city at all times effective proof of financial responsibility is a cause for revocation, suspension or non-renewal of the license. The licensee shall name the city as an additional insured on the insurance policy or bond. The city clerk shall submit evidence to the commissioner of liquor liability insurance for each license issued by the city.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2180, 4-16-2009)

Sec. 6-42. - 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. An application for the proposed enlargement, alteration or extension of any premises previously licensed shall be provided to the city clerk at least 30 days prior to such proposed enlargement, alteration or extension and shall be treated the same as an application for a new license. Failure to file an application for such enlargement, alteration or extension shall be grounds for revocation, suspension or non-renewal of any license. All premises licensed under this article shall be in compliance with all federal, state, municipal, building, zoning, and fire regulations. Failure to comply with any such federal, state, municipal, building, zoning and fire regulations shall be grounds for revocation, suspension or non-renewal of any license.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-43. - Application for renewal of license.

At least 90 days before a license issued under this article 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 city council. No licensee has a right to have a license renewed.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-44. - Transfer of license.

No license issued under this article may be transferred without the prior approval of the city 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 city council approval is grounds for revocation, suspension or nonrenewal of the license. An application to transfer a license shall be provided to the city clerk at least 30 days prior to such proposed transfer and shall be treated the same as an application for a new license. Failure to file an application for such transfer shall be grounds for revocation, suspension or non-renewal of any license.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-45. - Investigation of applicant for license.

- (a) Preliminary background and financial investigation. On an initial application for a license, on an application for transfer or modification of a license, and, in the discretion of the city, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the commissioner of public safety for the investigation. The applicant shall pay with the application an investigation fee [~~of \$500.00~~] as established by the City Council which shall be in addition to any license fee. The results of the preliminary investigation shall be sent to the commissioner of public safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
- (b) Comprehensive background and financial investigation. If in the discretion of the city, the results of a preliminary investigation warrant, a comprehensive background and financial investigation may occur. The city may either conduct the investigation itself or contract with the commissioner of public safety for the investigation. If a comprehensive background and financial investigation is conducted, and if any part of the investigation occurs outside of the state, the fee for such comprehensive background and financial investigation shall not exceed \$10,000.00, less any amount paid for the initial investigation. 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 background and financial 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.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-46. - Hearing and issuance of license.

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

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-47. - Restrictions on issuance of license.

- (a) Each license shall be issued only to the applicant for the premises described in the application.
- (b) Not more than one off-sale intoxicating liquor license shall be directly or indirectly issued within the city to any one person.
- (c) No license shall be granted, modified or renewed for operation on any premises on which taxes, assessments, utility charges, licensing fees, service charges or other financial claims of the city are delinquent and unpaid.
- (d) No license shall be issued to any person, or for any place or any business, which is ineligible for a license under state law.
- (e) No license shall be granted if the applicant, responsible party, owner, manager, or any other person involved with the licensee:
 - (1) Has been convicted, within five years prior to the application of such license, of any violation of any law of the United States, this state, or any other state or territory, or of any local ordinance regarding the manufacture, sale, or distribution of intoxicating liquor, or whose liquor license has been revoked for any violation of any law or ordinance.
 - (2) Is a manufacturer or wholesaler of intoxicating liquor, and no manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor.
 - (3) Is the spouse of a person ineligible for a license pursuant to this article or state law, or a person who, in the judgment of the council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.
- (f) No license, other than a temporary 3.2 percent malt liquor license or brewer taproom, shall be granted to a premises located within 500 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.
- (g) No brewer taproom or brew pub license shall be granted to a premises located within 250 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.

~~(g)~~ (h) No license shall be issued for a premises owned, operated or managed by a person or by the spouse of a person, who is the holder of an adult use license pursuant to chapter 22, article II, of this Code.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 13-2270, 8-1-2013)

Sec. 6-48. - Conditions of license.

Any violation of any condition of a license, including, but not limited to, the conditions set forth below, may be used by the council, at its discretion, when considering the granting, denying, suspension, revocation, transfer, modification or renewal, of any license, regardless of whether or not a criminal charge has been brought or a criminal conviction has been obtained.

- (1) Every licensee and the responsible party named in the license application shall be 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 and the responsible party, and the licensee and the responsible party shall be liable for all penalties provided by this article and the law equally with the employee.
- (2) Every licensee and the responsible party shall allow any peace officer, health officer, city employee, or any other person designated by the city to conduct at least two compliance checks per year and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant. The city, or its representative(s), right to inspect the premises shall also include the right to examine books, papers and records of a manufacturer, wholesaler, importer, or retailer for the purpose of determining whether the provisions of this article are being met.
- (3) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (4) Compliance with financial responsibility requirements of state law and of this article is a continuing condition of any license.
- (5) Within 60 days after employment, every person selling or serving liquor in an establishment shall receive training regarding the selling or serving of liquor to customers. The cost of such training shall be the responsibility of the employee or the licensee. Such training shall be provided and conducted in a manner by an organization approved by the city. A certificate indicating proof of such training for all employees is required and such certificate shall be maintained on the premises of the licensed establishment and a copy shall be provided to the city. Responsible parties and managers are required to complete approved training relating to selling or serving liquor within the City of Blaine.
- (6) Any restaurant holding an on-sale liquor license must provide food service to its customers everywhere on the premises where alcohol is present or served. For the purpose of this section "food service" means a licensed restaurant shall provide sandwiches, pizza, hamburgers, hot dogs, chicken wings or other principal food items, as approved by the city. Food items such as popcorn, peanuts, chips, pretzels, and other snack foods would not be considered food items.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2180, 4-16-2009; Ord. No. 09-2192, 9-3-2009)

Sec. 6-49. - Hours and days of sale.

- (a) The hours of operation and days of sale shall be those set by Minn. Stat. § 340A.504, as it may be amended from time to time. All Sunday growler and 750 milliliter bottle sales must be made between the hours of 8:00 a.m. and 10:00 p.m.
- (b) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (c) No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- (d) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (e) Any violation of any condition of this section shall be grounds for revocation, suspension or non-renewal of the license.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-50. - Minors on premises.

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

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-51. - Restrictions on purchase and consumption.

No person shall mix or prepare liquor for consumption in any public place or business unless it has a license to sell on-sale, and no person shall consume liquor in any such place.

(Ord. No. 07-2136, 7-19-2007)

Sec. 6-52. - License suspension or revocation, civil penalty, criminal penalty.

- (a) The council shall either suspend for a period not to exceed 60 days or revoke any liquor license, or impose a civil penalty, upon finding that the licensee has failed to comply with any provision of this article or other applicable statute or regulation relating to liquor, as provided in subsection (b) below. Neither the charging of a criminal violation nor a criminal conviction is required in order for the council to suspend or revoke a license or impose a civil penalty. The council shall impose a civil penalty of up to \$2,000.00 for each violation of this article and of Minn. Stat. ch. 340A as provided by the minimum schedule of presumptive civil penalties set forth below. The civil penalties shall be in addition to any criminal penalties imposed herein, or any suspension or revocation imposed herein. Except in cases of lapse of proof of financial responsibility, no suspension or revocation or imposition of a civil penalty shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70, as it may be amended from time to time. The council may act as the hearing body under the act, or it may contract with the office of hearing examiners for a hearing officer. Nonpayment of the penalty is grounds for revocation, suspension or non-renewal of the license.
- (b) The following are the minimum periods of suspension or revocation and minimum presumptive civil penalties, in addition to any suspension or revocation which must be imposed herein, which shall be imposed by the council for violations of the provisions of this article or Minn. Stat. ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time:
- (1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, the license shall be revoked.
 - (2) The license shall be suspended or a fine imposed by the council for at least the minimum periods and amounts set forth below after a finding that the licensee has failed to comply with any provision of this article or other applicable statute or regulation as set forth below:
 - (3) For a first violation within any two-year period, a fine of \$500.00 and a two-consecutive-day suspension, or a fine of \$1,000.00, at the option of the licensee.
 - (4) For a second violation within any two-year period, a fine of \$1,000.00 and a five-consecutive-day suspension, or a fine of \$2,000.00, at the option of the licensee.
 - (5) For a third violation within any two-year period, a mandatory ten-consecutive-day suspension.
 - (6) For a fourth violation within any two-year period, the license shall be subject to revocation at the council's discretion.

The city council shall select the day or days during which the license will be suspended.

- (c) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this article 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 city clerk, a hearing before the council shall be granted within ten days. Any suspension under this paragraph shall continue until the council determines that the financial responsibility requirements of state law and this article have again been met.

- (d) The provisions of this article pertaining to penalties may be imposed in addition to any suspension or revocation under this article.
- (e) Any licensee, responsible party or other person violating any provision of this article or Minn. Stat. ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter, is guilty of a misdemeanor and upon conviction shall be punished criminally as provided by law.
- (f) The term "violation" as used in this section includes any and all violations of any provision of this article, or of Minn. Stat. ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. Neither the charging of a crime nor a criminal conviction is required for the council to take the action set forth in this section.

(Ord. No. 07-2136, 7-19-2007; Ord. No. 09-2193, 9-3-2009)

Sec. 6-53. – [~~Reserved.~~] Further conditions for brewer taproom licenses; brew pub licenses.

(1) Brewer taproom license:

- (a) A brewer may only have one taproom license under this chapter and may not have an ownership interest in a brew pub licensed under this chapter.
- (b) A brewer taproom license cannot be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.
- (c) A licensing fee shall be imposed on a brewer holding a brewer taproom license under this chapter, subject to limitations applicable to license fees under section 340A.408, subdivision 2, paragraph (a).
- (d) The City shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.
- (e) Brewer taproom licenses may be issued to brewers licensed pursuant to Minn. Stat. § 340A.301 for the on-sale of malt liquor produced by the brewer on a licensed premises for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the following conditions:

(i) The on-sale of malt liquor may only be made during the days and hours that on-sale of liquor may be made, as prescribed by State Law or within Sec. 6-49.

(ii) The only alcoholic beverage that may be sold or consumed on the premises of a licensed brewer taproom will be the malt liquor produced by the brewer upon the brewer taproom premises.

(iii) A brewer may only hold one (1) brewer taproom license as prescribed by State Law.

(iv) Brewer taproom licenses shall only be issued in conjunction with an approved conditional use permit by the City Council.

(2) On-sale brew pub licensee cannot sell more than 3,500 barrels of the malt liquor produced on the licensed premises per year. A licensee may hold both an on-sale license and an on-sale brew pub license.

(3) Off-sale brew pub licensee that holds an on-sale brew pub license to sell growlers or 750 milliliter bottles of the malt liquor produced on the licensed premises, subject to the following conditions. A licensee may hold both an on-sale license and an on-sale brew pub license:

(a) The container must be packaged in a 64 ounce container commonly known as a growler or in 750 milliliter bottles.

(b) The growler or 750 milliliter bottle must be properly sealed with a twist type closure, cork, stopper or plug.

(c) At time of sale, the growler or 750 milliliter bottle must also bear a plastic or paper adhesive band, strip or sleeve that extends over the top of the container forming a seal that must be broken upon opening the growler.

(d) The seal and the growler or 750 milliliter bottle must bear the name and address of the brew pub and will be considered intoxicating liquor.

(e) Off-sale brew pub hours and days of sale shall be as provided in Sec. 6-49.

(f) Not more than 500 barrels of the brew pub's annual production may be sold at off-sale.

Signed by _____
Tom Ryan, Mayor

Date _____

Attest by _____
Catherine Sorensen, CMC, City Clerk

Date _____