

ORDINANCE NO. 15
CITY OF MAPLE LAKE

AN ORDINANCE REGULATING
THE POSSESSION, SALE AND CONSUMPTION
OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR,
AND THE MUNICIPAL LIQUOR STORE
WITHIN THE CITY OF MAPLE LAKE, MINNESOTA

THE CITY COUNCIL OF THE CITY OF MAPLE LAKE, MINNESOTA DOES ORDAIN:

15.01 ADOPTION OF STATE LAW BY REFERENCE

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.

15.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW

The Council is authorized by the provisions of Minnesota Statutes, Chapter 340A.509, as it may be amended from time to time, to impose, and has imposed in this Ordinance, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minnesota Statutes, Chapter 340A, as it may be amended from time to time.

15.03 DEFINITIONS

In addition to the definitions contained in Minnesota Statutes, Chapter 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this Ordinance:

- A. CLUB LICENSE. A Club License shall be issued only to an incorporated organization organized under the law of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which has been in existence for 3 years or more, has more than 30 members, 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 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.

- B. INTOXICATING LIQUOR. Intoxicating Liquor is ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.
- C. 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.
- D. MALT LIQUOR. Malt Liquor is any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.
- E. 3.2 PERCENT MALT LIQUOR. 3.2 Percent Malt Liquor is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.
- F. ON-SALE WINE LICENSE. An On-sale Wine License shall be issued only to restaurants having facilities for seating at least 25 guests at one time, a licensed bed and breakfast facility, and theaters. A wine license permits the sale of wine of up to 14 percent and shall permit only the sale of wine not exceeding 14 percent alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week. Restaurants holding an On-Sale Wine License which are also licensed to sell 3.2 Percent Malt Liquor On-sale and whose gross receipts are at least 60 percent attributable to the sale of food, may sell intoxicating malt liquors (strong beer) at on-sale without an additional license.
- G. RESTAURANT: 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 section, an establishment shall have a license from the state as required by Minnesota Statute, Chapter 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, Chapter 157.16, Subdivision 3d, 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".

15.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

- A. 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.

- B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, 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.
- C. 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 Section 15.30(B).

15.05 CONSUMPTION IN PUBLIC PLACES.

Except in conjunction with a City festival, no person shall consume intoxicating liquor or 3.2 percent malt liquor 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 Ordinance, in a municipal liquor dispensary if one exists in the City, or where the consumption and display of liquor is lawfully permitted. Except in conjunction with a City festival, no person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park except said consumption shall be permitted within the picnic shelter at the Community Park located on Division Street and Park Avenue and pursuant to any temporary licenses issued for Irish Stadium and Bolduan Park.

In conjunction with a City festival, the sale or consumption of alcohol outside of the area described in the licensee's license, including a parking lot, shall be permitted pursuant to an approved established festival area. The festival area shall define a sale area and consumption area and shall be approved by the City. In deciding whether to approve a festival area, the City may impose reasonable regulations, including but not limited to:

- 1) Double Fencing (approximately 8 feet distance between);
- 2) Separate entrance (1 only) and separate exit (1 only);
- 3) Security personnel to monitor entrance/exit and perimeter;
- 4) An illustration showing all requirements imposed by the City, including but not limited to the above items.

The approved festival area shall be good for as long as the licensee holds a liquor license provided that no changes are made to the festival area. An individual or entity requesting changes to the festival area must seek approval from the Council.

15.06 RAFFLES, SILENT AUCTIONS AND FUND RAISING EVENTS FOR CHARITABLE PURPOSES OF WINE, BEER OR INTOXICATING LIQUORS

No person shall conduct a silent auction, raffle or other fund raising event pursuant to Minnesota Statute, Chapter 340A.707 with prizes or awards of wine, beer or intoxicating liquors without notifying the City Clerk of the event at least ten days prior to the occurrence of the event. 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.

15.07 NUMBER OF LICENSES WHICH MAY BE ISSUED

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

15.08 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 December 31 of each year unless another date is provided by Ordinance. 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.

15.09 KINDS OF LIQUOR LICENSES

The Council of a City which has a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in Section 15.07.

- 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. On-sale intoxicating liquor licenses.

1. The Council may issue on-sale intoxicating liquor licenses to the following establishments as defined by Minnesota Statute, Chapter 340A.101, as it may be amended from time to time, and this Ordinance: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor store.
 2. The Council may issue in its sound discretion on-sale licenses to a club under Minnesota Statute, Chapter 340A.404, Subdivision 1(4), 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 established by the Council under Section 15.10 of this Ordinance shall not exceed the amounts provided for in Minnesota Statute, Chapter 340A.408, Subdivision 2b, as it may be amended from time to time.
 3. 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 Statute, Chapter 340A.404, Subdivision 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of Minnesota Statute, Chapter 340A.404, Subdivision 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises. The application shall specify the area in which intoxicating liquor must be dispensed and consumed.
- E. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by Minnesota Statute, Chapter 340A.504, Subdivision 3, as it may be amended from time to time, may be issued only to a restaurant as defined in Section 15.03 of this Ordinance, 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. The maximum fee for this license, which shall be established by the Council under the provisions of Section 15.10 of this Ordinance, shall not exceed \$200, or the maximum amount provided by Minnesota Statute, Chapter 340A.504, Subdivision 3c, as it may be amended from time to time.
- F. 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.

- G. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minnesota Statute, Chapter 340A.404, Subdivision 5, as it may be amended from time to time, and which meet the definition of restaurant in Section 15.03; to licensed bed and breakfast facilities which meet the criteria in Minnesota Statute, Chapter 340A.401, Subdivision 1, as it may be amended from time to time and to theaters that meet the criteria of Minnesota Statute, Chapter 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 15.10 of this Ordinance, 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.
- H. 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.
- I. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 15.10 of this Ordinance shall not exceed \$300, or the maximum amount permitted by Minnesota Statute, Chapter 340A.14, Subdivision 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
- J. 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.
- K. 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. The licenses are subject to the terms, including license fee, imposed by Section 15.10.
- L. 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 Statute, Chapter 340A.301 Subdivision 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 Section 15.09 (M) 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.

- M. 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 Section 15.09 (L) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at Minnesota Statute, Chapter 340A.301 Subdivision 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 Statute, Chapter 340A.301, Subdivision 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 under Section 15.09 (L) 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.
- N. 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.

15.10 LICENSE FEES; PRO RATA

- A. No license or other fee established by the City shall exceed any limit established by Minnesota Statute, Chapter 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish, from time to time, the fee for any of the liquor licenses it is authorized to issue. The fee shall be as set forth in Maple Lake Zoning Ordinance, Section 80 Fees. 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 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.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.
- D. All license fees shall be paid in full prior to issuance of the license.

- E. A pro rata share of an annual license fee may be refunded in the manner required by Minnesota Statute, Chapter 340A.408, Subdivision 5, as it may be amended from time to time as follows:
1. The business ceases to operate because of destruction or damage.
 2. The licensee dies.
 3. The business ceases to be lawful for a reason other than a license revocation.
 4. The licensee ceases to carry on the licensed business under the license.
 5. A refund under this Section may be granted upon the written request of the current license holder. The refund will be prorated on a monthly basis. Any unexpired fraction of a month shall be counted as one full month from the date of application for refund.

15.11 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.

15.12 APPLICATION FOR LICENSE.

- A. Form. Every application for a license issued under this Ordinance shall be on a form provided by the City. All applications shall include at least the following information:
1. The applicant's full legal name.
 2. The applicant's age.
 3. Representations as to the applicant's character, with references as the Council may require.
 4. The type of license applied for.
 5. The business in connection with which the proposed license will operate and its location.
 6. A description of the premises.
 7. Whether the applicant is owner and operator of the business.
 8. How long the applicant has been in that business at that place, and other information as the Council may require from time to time.

9. 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.

10. Proof of Worker's Compensation Insurance.

B. Financial Responsibility - Liability Insurance.

1. Prior to the issuance of any license under this Ordinance, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statute, Chapter 340A.409, as it may be amended from time to time, with regard to liability under Minnesota Statute, Chapter 340A.801, as it may be amended from time to time. This proof must be filed with and approved by 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 Statute, Chapter 340A.409, as it may be amended from time to time except that liability insurance limits of at least \$250,000 of coverage because of bodily injury to any one person in any one occurrence, and \$500,000 because of bodily injury to two or more persons in any one occurrence coverage for more than one person shall be required.

2. Operation of a business which is required to be licensed by this Ordinance without having effective proof of financial responsibility on file with the City at all times is a cause for revocation of the license.

C. Persons ineligible for license. No license shall be granted to or held by any person who:

1. Is under 21 years of age.

2. Has, within 5 years prior to the application for such license, been convicted of a felony or of violating any law of this state or local Ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Chapter 264.03, of sufficient rehabilitation and present fitness to perform the duties of a liquor license.

3. Is a manufacturer of liquor or has an interest in the control of any place where liquor is manufactured.

4. Is not a United States citizen.

5. Is not of good moral character.

6. Is, or during the period of this license becomes, the holder of a federal retail liquor dealer's special tax stamp for the sale of liquor at any place unless there has also been issued to him/her a local license to sell liquor at such place.
7. Is not the proprietor of the establishment for which the license is issued.

15.13 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.

15.14 APPLICATIONS FOR RENEWAL

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.

15.15 TRANSFER OF LICENSE

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. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of Section 15.12 shall apply.

15.16 INVESTIGATIONS AND INSPECTIONS

- A. 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 set forth in the Fee Schedule which shall be in addition to any license fee. If the cost of the preliminary investigation is less than the fee set forth in the 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.
- B. Comprehensive Background and Financial Investigation. If, in the sound discretion of the Council, the results of a preliminary investigation warrant a comprehensive background and financial investigation, the Council 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 set forth in the Fee

Schedule, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and a fee set forth in the Fee Schedule, 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.

- C. Inspection of Facility by Local Fire Department. 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 premises listed in the liquor license application shall be inspected by the local Fire Department. The fee for this inspection shall be as set forth in the City's Fee Schedule.

15.17 HEARING AND ISSUANCE

The Council 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.

15.18 RESTRICTIONS ON ISSUANCE

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one license shall be directly or indirectly issued within the City to any one person.
- C. 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.
- D. No license shall be issued for any place or any business ineligible for a license under state law.
- E. 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 (E) shall not apply to any license existing on the effective date of this Ordinance or to the renewal of an existing license.

15.19 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. Training shall be required for every person selling or serving liquor.
 - 1. On-Sale Liquor License: 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 the county or a private vendor. Proof of training shall be provided to the City by the licensee.
 - 2. Temporary and Other Liquor Licenses: Every person selling or serving liquor to customers shall receive training prior to the issuance of the license. In the sound discretion of the Council, this requirement may be waived or modified. The training shall be provided by the county or a private vendor. Proof of training shall be provided to the City 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 for 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 warrant.
- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E. Compliance with financial responsibility requirements of state law and of this Ordinance is a continuing condition of any license.

15.20 HOURS AND DAYS OF SALE

- A. The hours of operation and days of sale shall be those set by Minnesota Statute, Chapter 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.
- B. The sale of on-sale intoxicating liquor on Sunday shall be permitted only by a restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license and shall be in

accordance with Minnesota Statute, Chapter 340A.504, Subdivision 3. The licensee may sell intoxicating liquor on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays.

- C. 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.
- D. 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.
- E. 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.
- F. Any violation of any condition of this Section may be grounds for revocation or suspension of the license.

15.21 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, 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.
- B. 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 or is located in a separate banquet area.

15.22 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 Statute Section 340A.414, as it may be amended from time to time, which as been approved by the Council, and no person shall consume liquor in any such place.

15.23 SUSPENSION AND REVOCATION (LIQUOR VIOLATIONS)

- A. 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 Statute, Sections 14.57 to 14.69, 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.

B. 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 Statute, 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:

1. The following violations require revocation of the license on the first violation:
 - a. For commission of a felony related to the licensed activity;
 - b. Sale of alcoholic beverages while the license is under suspension
 - c. Sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or
 - d. Violation of Section 15.04

2. After a finding under Section 15.23 (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this Ordinance, the license shall be suspended by the Council for at least the minimum periods listed below. This suspension or revocation shall be in addition to any criminal or civil penalties which may be imposed. The Council shall select the day or days during which the license will be suspended.

1 st or 2 nd Violation within 12 months	Suspension, Civil Penalty per Fee Schedule
3 rd Violation within 12 months	Penalty per Fee Schedule and suspension at Council discretion
4 th Violation within 2 years	At least one day suspension
5 th Violation within 2 years	At least 3 consecutive days suspension
6 th Violation within 2 years	At least 7 consecutive days suspension

C. Lapse of required proof of financial responsibility shall result in 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 this Section shall continue until the Council determines that the financial responsibility requirements of state law and this Ordinance have again been met.

- D. The provisions of Section 15.30 pertaining to civil penalty may be imposed in addition to or in lieu of any suspension or revocation under this Ordinance.

15.24 APPLICATION OF SECTIONS 15.25-15.29

Sections 15.25 to 15.29 apply only to the municipal liquor store.

15.25 EXISTING MUNICIPAL STORES

If the City has in existence on the effective date of this Ordinance a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in Section 15.29, no intoxicating liquor may be sold at retail elsewhere in the City.

15.26 LOCATION

The municipal liquor store shall be located at a suitable place in the City as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.

15.27 OPERATION

- A. **Manager.** The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this Ordinance from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the City, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the City or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this Ordinance and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.
- B. **Other employees.** The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the liquor store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

- C. Municipal liquor store fund. All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the City or to any other appropriate fund of the City by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of City funds generally.
- D. Financial statement. The City shall provide an audited balance sheet and statement of operations for publication using generally accepted accounting procedures of the municipal liquor store for each year. The balance sheet and statement shall be published in accordance with the provisions of Minnesota Statute, Chapter 471.6985, as it may be amended from time to time.
- E. Hours of operation. The hours during which the sale of intoxicating liquor may be sold shall be as provided in Section 15.20. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than 30 minutes after the time when the sale of intoxicating liquor must cease.
- F. Prohibited Business. No business other than the sale of liquor, beer, wine, soft drinks, and mixes shall be carried on in the municipal liquor store except the following incidental sales shall be permitted: the retail sale of cigars, cigarettes, all forms of tobacco, ice, cups, liqueur-filled candies, food products that contain more than one-half of 1% alcohol by volume, cork extraction devices, books and videos on the use of alcoholic beverages, and Minnesota State Lottery tickets.

15.28 PROOF OF FINANCIAL RESPONSIBILITY

The City shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of Minnesota Statute, Chapter 340A.409, as it may be amended from time to time.

15.29 ISSUANCE OF LICENSES

See Section 15.09

15.30 PENALTIES

- A. Any person violating the provisions of this Ordinance or Minnesota Statute, 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.
- B. The Council shall impose a civil penalty of up to \$2,000 for each violation of Minnesota Statute, 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 Statute, Chapter 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 shall 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 schedule of fees of presumptive civil penalties which must be imposed in addition to any suspension (unless the license is revoked) are as set forth in the City's Fee Schedule.

- C. The term "violation" as used in Section 15.23 includes any and all violations of the provisions in this Section, or of Minnesota Statute, 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 two-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

15.31 EFFECTIVE DATE

This Ordinance becomes effective on the date of its publication, or upon the publication of a Summary of the Ordinance as provided by Minnesota Statute, Chapter 412.191, Subdivision 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute, Chapter 331A.01, Subdivision 10, as it may be amended from time to time.

15.32 SUMMARY APPROVED

The Council hereby determines that the text of the Summary of this Ordinance marked "Official Summary of Ordinance No.15 and a copy of which is attached to this Ordinance, clearly informs the public of the intent and effect of this Ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this Ordinance. The Clerk shall file a copy of this Ordinance and the Summary in the Clerk's office which shall be available for inspection by any person during regular office hours. A copy of the Ordinance shall be available in the community library, if there is one, or if not, in any other public location which the Council designates.

Passed by the Council this 7th, day of July, 2009.