

CHAPTER 5

ALCOHOLIC BEVERAGES LICENSING AND REGULATION

SEC. 5.01. ADOPTION OF STATE LAW BY REFERENCE. The provisions of M.S. 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 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 Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

SEC. 5.02. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW. The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

SEC. 5.03. DEFINITIONS. In addition to the definitions contained in Minn. Stat. § 340A.101 as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

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

SEC. 5.04. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

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.
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.
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 Section 5.31(B).

SEC. 5.05. 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 ordinance, in a municipal liquor dispensary if one exists in the city, where the consumption and display of liquor is lawfully permitted or where permission has been specifically granted or licensed by Council. Provided, that this section shall not apply to: the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers. Provided, further, that this section shall not apply to the exceptions as listed in State Statute § 169A.35 Subd. 6.

SEC. 5.06. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS. It is unlawful for any person to introduce upon, or have in his possession upon or in any public school ground or school building, any Alcoholic Beverage, except for experiments in laboratories, and those organizations which have been issued temporary Licenses to sell Alcoholic Beverages, and persons who have lawfully purchased Alcoholic Beverages from such organizations.

SEC. 5.07. 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 Minn. Stat. § 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.

SEC. 5.08. GAMBLING PROHIBITED. It is unlawful for any Licensee to keep, possess, or operate, or permit the keeping, possession, or operation on Licensed Premises of dice or any gambling device., as defined by State Statute, or permit raffles to be conducted, except such as are authorized by Statute or the City Code.

SEC. 5.09. NUMBER OF LICENSES WHICH MAY BE ISSUED. State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this ordinance is limited to the number of license which were issued as of the effective date of this ordinance, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by Minn. Stat. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of Minn. Stat. § 340A.413, subd. 3 as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

Council hereby authorizes the following number of licenses to be issued annually:

- A. Off Sale Intoxicating; 1 license per 500 population of the City of Becker.
- B. On Sale Club Intoxicating; 1 license
- C. On Sale Wine Licenses; 1 license per 500 population of the City of Becker.
- D. On Sale; 5 licenses
- E. On Sale - Exempt from State Counts; 1 license per 500 population of the City of Becker.
- F. Sunday On Sale; 1 license per 500 population of the City of Becker.
- G. On Sale 3.2 percent malt liquor; 1 license per 500 population of the City of Becker.
- H. Off Sale 3.2 percent malt liquor; 1 license per 500 population of the City of Becker.
- I. Temporary On-Sale Intoxicating; not more than 12 days' worth of temporary licenses per year, per organization or location.
- J. Temporary Off-Sale Wine; 2 per year
- K. Community Festival Permits; 1 license per 1000 population of the City of Becker per event
- L. Sports, Convention & Cultural Facility Permits; not more than 12 days' worth of temporary licenses per year, per organization or location.
- M. Consumption and Display Permits; 1 license per 500 population of the City of Becker.
- N. Temporary Consumption and Display Permits; not more than 10 one-day permits per year per organization.

SEC. 5.10. 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 July 19 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.

SEC. 5.11. KINDS OF LIQUOR LICENSES. The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in Section 5.9.

- 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 or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section 5.12 shall not exceed \$240 or a greater amount which may be permitted by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.
- E.** On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by Minn. Stat. § 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 stores.
 - 1.** 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 5.12 of this ordinance shall not exceed the amounts provided for in Minn. Stat. § 340A.408, subd. 2(b) as it may be amended from time to time.
 - 2.** 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 Minn. Stat. § 340A.404, subd. 4(b) 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 any convention, banquet, conference, meeting, or social affair (sports, convention and cultural facility permit) conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of Minn. Stat. § 340A.404, subd. 4(a) 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.

- F.** 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 as defined in Section 5.3 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 5.12 of this ordinance, shall not exceed \$200, or the maximum amount provided by Minn. Stat. § 340A.504, subd. 3(c) as it may be amended from time to time.
- G.** 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; a political committee registered under state law; or a state university. 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.
- H.** 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 Minn. Stat. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in Section 5.3; to licensed bed and breakfast facilities which meet the criteria in Minn. Stat. § 340A.4011, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of Minn. Stat. § 340A.404, subd. 1(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 5.12 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license.
 - 1.** 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.
- I.** 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.
- J.** Approval of the issuance of a consumption and display permit is 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 5.12 of this ordinance shall not exceed \$300, or the maximum amount permitted by Minn. Stat. § 340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

- K.** 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.
- L.** 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 5.12.
- M.** 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 Minn. Stat. § 340A.24, 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 5.11 (N) 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.
- N.** Brewer pub off-sale malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 5.11 (M) above and otherwise meets the criteria established at Minn. Stat. § 340A.24, 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 Minn. Stat. § 340A.285 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 5.11 (M) 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.

1. Brewer off-sale malt liquor licenses (small brewer off-sale malt) may also be issued, with approval of the Commissioner, to a holder of a brewer's license under Minn. Stat. § 340A.301, subd. 6(c), (i) or (j) and meeting the criteria established by Minn. Stat. § 340A.28 as may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with Section 340A.285.
- O. 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.
 - P. A brewer taproom on-sale license, may be issued to the holder of a brewer's license under M.S. § 340A.301 Subd. 6(c), (i) or (j) as it may be amended from time to time. A brewer's 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. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under Minn. Stat. § 340A.301 Subd. 6(d) as it may be amended from time to time. A brewer taproom license may not be issued to 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. Within ten days of issuing a brewer taproom license the City Clerk will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The City Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.
 - Q. A cocktail room license may be issued to the holder of a state microdistillery license. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under Minn. Stat. § 340A.301 subd. 6 (a). No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the commissioner of public safety of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city

shall also inform the commissioner of public safety of a microdistillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

- R.** A microdistiller off-sale license may be issued to the holder of a state microdistillery license. A microdistiller off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

- S.** A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

SEC. 5.12. LICENSE FEES; PRO RATA.

- A.** No license or other fee established by the city shall exceed any limit established by Minn. Stat. Ch. 340A, as it may be amended from time to time, for a liquor license.
- B.** The Council may establish from time to time in the Ordinance Establishing Fees and Charges 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 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 at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- E.** 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.
- F.** Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. § 340A.408 if at the time of initial application or renewal if they:
 - 1.** 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;
 - 2.** Post a policy requiring identification checks for all persons appearing to be 30 years old or less;
 - 3.** 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;
 - 4.** 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 5.31 of this ordinance.

SEC. 5.13. 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.

SEC. 5.14. APPLICATION FOR LICENSE.

Subd. 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 the applicant, the applicant's age, representations as to the 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 the 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 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.

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 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 ordinance without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

SEC. 5.15. 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.

SEC. 5.16. APPLICATIONS FOR RENEWAL. At least 45 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.

SEC. 5.17. 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 this code applying to applications for a license shall apply.

SEC. 5.18. INVESTIGATION.

- 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 of \$150 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 the results of a preliminary investigation warrant, in the sound discretion of the Council, 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 \$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.

SEC. 5.19. 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.

SEC. 5.20. 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 granted or renewed for any applicant who intentionally makes a false statement or omission on any application form.
- E.** No license shall be issued for any place or any business ineligible for a license under state law.

Source: Ordinance 205, 2nd Series, Effective Date: October 8, 2018

SEC. 5.21. 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 any regional trainer as listed with the Alcohol and Gambling Enforcement Division of the Minnesota Department of Public Safety. 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 warrant.
- D.** No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E.** Anything tending to obstruct clear and easy viewing in to the licensed premises from the outside, including, but not limited to, curtains, blinds, shades or other window coverings, shall be removed (or opened, as the case may be) from all windows of the licensed premises during hours when sales are prohibited by this chapter, allowing City officials to ensure compliance.
- 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 license who has received a fee reduction pursuant to Section 5.12 (F) of this ordinance to abide with the provisions of Section 5.12 (F).

SEC. 5.22. 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, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- 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 20 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 may be grounds for revocation or suspension of the license.

SEC. 5.23. DUPLICATE LICENSE. Duplicates of all original licenses under this Chapter may be issued by the City Administrator or City Clerk without action by the Council, upon Licensee's affidavit that the original has been lost, and upon payment of the fee adopted by ordinance of the Council for issuance of the duplicate. All duplicate Licenses shall be clearly marked DUPLICATE.

SEC. 5.24. POSTING. All licensees shall conspicuously post their licenses in their places of business.

SEC. 5.25. MINORS.

Subd. 1. 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.

Subd. 2. Consumption. It is unlawful for any:

- A. Licensee to permit any Minor to consume Alcoholic Beverages on Licensed Premises.
- B. Minor to consume Alcoholic Beverages except in the household of the Minor's parent or guardian, and then only with the consent of such parent or guardian.

Subd. 3. Purchasing. It is unlawful for any:

- A. Person to sell, barter, furnish, or give Alcoholic Beverages to a Minor unless such person is the parent or guardian of the Minor, and then only for consumption in the household of such parent or guardian.
- B. Minor to purchase or attempt to purchase any Alcoholic Beverage.
- C. Person to induce a Minor to purchase or procure any Alcoholic Beverage.

Subd. 4. Possession. It is unlawful for a Minor to possess any Alcoholic Beverage with the intent to consume it at a place other than the household of the Minor's parent or guardian. Possession of an Alcoholic Beverage by a Minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his parent or guardian.

Subd. 5. Misrepresentation of Age. It is unlawful for a Minor to misrepresent his age for the purpose of purchasing an Alcoholic Beverage.

Subd. 6. Proof of Age. Proof of age for purchasing or consuming Alcoholic Beverages may be established only by a valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the

licensed person; or by a valid military identification card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport.

SEC. 5.26. CONFECTIONS CONTAINING ALCOHOL. It is unlawful for any person to sell a confection containing Alcohol to any person under the age of 21 years. For purposes of this section, "confection containing Alcohol" means a confection containing or bearing not more than five percent Alcohol by volume where the Alcohol is in a non-liquid form by reason of being mixed with other substances in the manufacture of the confection, does not include "liqueur-filled candy" as herein defined, and may be sold only by an Exclusive Liquor Store Licensed under this Chapter or a business establishment that derives more than 50 percent of its gross Sales from the Sale of confections.

SEC. 5.27. LIQUEUR-FILLED CANDY. It is unlawful for any person to sell liqueur-filled candy to any person under the age of 21 years. For purposes of this section, "liqueur-filled candy" means any confectionery containing more than one-half of one percent Alcohol by volume in liquid form that is intended for or capable of beverage use, and may be sold only by an eligible Licensee under this Chapter.

SEC. 5.28. 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 Minn. Stat. § 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.

SEC. 5.29. SOCIAL HOST RESTRICTIONS

Subd. 1. Purpose and Findings. The Becker City Council intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Becker City Council finds that:

- A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- B. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of the irresponsible user.
- D. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and in some circumstances provided the alcohol.
- E. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- F. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 2 Definitions. For purposes of this ordinance, the following terms have the following meanings:

- A. Alcohol. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- B. Alcoholic beverage. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
- C. Event or gathering. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

- D. Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control or permit a gathering or event.
- E. Parent. "Parent" means any person having legal custody of a juvenile:
 - a. As natural, adoptive parent, or step-parent;
 - b. As a legal guardian; or
 - c. As a person to whom legal custody has been given by order of the court.
- F. Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- G. Residence or Premises. "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, where occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.
- H. Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

Subd 3. Prohibited Acts.

- A.** It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does consume any alcohol or alcoholic beverage or possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- B.** A person is criminally responsible under paragraph A. above if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.
- C.** A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd. 4 Exceptions.

- A.** This ordinance does not apply to conduct solely between an underage person and his or her parents while in the parent's presence and under the parent's guidance and supervision.
- B.** This ordinance does not apply to legally protected religious observances.
- C.** This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, Subd. 1 (a)(1).
- D.** This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Subd. 5 Enforcement. This ordinance can be enforced by any police officer or sheriff's deputy within the City of Becker.

Subd. 6 Severability. If any section, subsection, sentence, clause, phrase, word or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

SEC. 5.30. SUSPENSION AND REVOCATION.

- 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, 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 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 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, or violation of Section 5.4, the license shall be revoked.

 - 2.** The license shall be suspended by the Council after a finding under division (A) 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:
 - i. 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.

 - ii. 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.

 - iii. 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.

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

 - 3.** The 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 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 division (B) 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 5.31 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

SEC. 5.31. PENALTIES.

- A. Any person violating the provisions of this ordinance 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 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 Minn. Stat. Ch. 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, Minn. Stat. § 14.57 to 14.70, 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 following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:
 1. For the first violation within any three-year period, \$750.
 2. For the second violation within any three-year period, \$1,000.
 3. For the third and subsequent violations within any three-year period, \$2,000.
- C. The term “violation” as used in Section 5.30 includes any and all violations of the provisions in this section, 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. 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.

(Sections 5.32 through 5.98, inclusive, reserved for future expansion.)

SEC. 5.99. VIOLATION A MISDEMEANOR. A person violates a section, subdivision, paragraph or provision of this Chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, such violation shall be punishable as a misdemeanor except as otherwise stated in specific provisions hereof.

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