

CHAPTER 114: LIQUOR REGULATIONS

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INTOXICATING LIQUOR SALES

§ 114.01 STATE STATUTE ADOPTED BY REFERENCE.

Subject to the modifications set forth in this chapter, the provisions of M.S. Chapter 340A, as may be amended from time to time, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters related to the retail sale, distribution, and consumption of intoxicating liquor are hereby adopted and made part of this code as if set out here in full.

(Ord. passed 6-20-97)

§ 114.02 LICENSE REQUIRED.

No person may directly or indirectly, on any pretense or any devise, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction within the city without first having received a license therefor as provided in this chapter.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.03 LICENSE CLASSIFICATIONS.

Intoxicating liquor licenses shall be of five types: on-sale, temporary on-sale, off-sale, wine, and club:

(A) *On-sale.* An on-sale license shall only permit the sale of intoxicating liquor for the purposes of consumption on the licensed premises. An on-sale license may only be issued to:

- (1) Hotels;

(2) Restaurants;

(3) Bowling centers;

(4) Clubs or Congressionally chartered veterans' organizations, subject to the prior approval of the Commission of Public Safety, provided that the organization has been in existence for at least three years and meet all requirements of this code and of the state statutes, and liquor sales shall only be made to members or bona fide guests;

(5) Exclusive liquor stores; and

(6) Banquet facilities.

(B) *Temporary on-sale.* Subject to the approval of the Commissioner of Public Safety, a temporary on-sale license may be issued for a period of up to four consecutive days, to a club or charitable, religious, or other nonprofit organization, provided that the organization has been in existence for at least three years, or to a political committee properly registered under the state statutes. A temporary on-sale license shall authorize the sale of intoxicating liquor on the licensed premises in conjunction with a special social or city sponsored event.

(C) *Off-sale.* An off-sale license shall authorize the sale of intoxicating liquor in its original container or packaging for the removal from and consumption off of the licensed premises. An off-sale license should only be granted to an exclusive liquor store, which shall be the Municipal Liquor Store, unless its operation is discontinued by the city or pursuant to applicable laws.

(D) *Wine.* A wine license shall authorize the sale and consumption of wine on the licensed premises, in the absence of a full on-sale liquor license. Subject to the approval of the Commissioner of Public Safety, a wine license shall only be issued to qualifying restaurants.

(E) *Club.* A club license shall authorize the sale and consumption of intoxicating liquor on the licensed premises. Subject to the approval of the Commissioner of Public Safety, club licenses shall only be issued to clubs incorporated for civic, fraternal, social, business, intellectual improvement, or sports promotion purposes, or to a Congressionally chartered veterans' organization; provided that the group has been in existence for at least three years and meets all other requirements of this code and of the state statutes.

(Ord. passed 6-20-97; Am. Ord. 379, passed 11-20-08)

§ 114.04 APPLICATION FOR LICENSE.

All applicants for a license under this subchapter shall make their application on a form to be supplied by the city. The application shall set forth the applicant's name, age, representation of character (and all references requested), location of premises to be licensed and the length of time the

business has been at that location, the type of license sought, whether the application is for a new license or for a renewal of an existing license, whether the applicant is the owner and/or operator of the business for which the license is being sought and if not who the owner and/or operator is, the length of time the applicant has been involved with the business, whether the applicant has within the last five years been denied either an intoxicating or a 3.2% malt liquor license or had a liquor license revoked, the names of all officers, partners, and stockholders if the applicant is a corporation or partnership, and any other information that the Council shall require. It shall be unlawful for an applicant to make any false statement in his or her application.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.05 FEE.

(A) The applicant for any license required under this subchapter shall, at the time he or she submits an application, pay the fee required for the desired license. All fees shall be placed in the city's General Fund. If an application is rejected, the fee shall be refunded in full to the applicant. No other refund of a fee shall be made except as authorized by state statute.

(B) The intoxicating liquors shall also include a category for Sunday liquor on-sale at an additional fee, for those licensed businesses able to comply with the provisions of M.S. § 340A.504(3), as may be amended from time to time.

(C) Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee. If an application for a license is rejected, the Treasurer shall refund the amount paid as the license fee.

(D) Each license shall be issued for a period of one year, except that if the application is made during the licensed year, a license may be issued for the remainder of the year for a pro-rata fee, with any unexpired fraction of a month being counted as one month.

(Ord. passed 6-20-97)

§ 114.06 FINANCIAL RESPONSIBILITY; PROOF REQUIRED.

No license may be issued or renewed under this subchapter until the applicant has provided proof of financial responsibility as defined in M.S. § 340A.409, as may be amended from time to time, with regard to liability under M.S. § 340A.801, as may be amended from time to time. This proof shall be filed with the Commissioner of Public Safety. Any insurance policy intended to satisfy the requirements of this section shall conform with the requirements of M.S. § 340A.409, as may be amended from time to time. All proof of financial responsibility must be approved by the Council.

(Ord. passed 6-20-97; Am. Ord. 340, passed 11-20-03)

§ 114.07 ISSUANCE OF LICENSE; TERMS.

(A) *Investigation.* Upon receipt of an application for a new on-sale license under this subchapter, the Council shall conduct or cause to have conducted a preliminary background and financial investigation pursuant to the requirements of state law. In addition, the Council may require an investigation to be conducted for any application for a renewal or transfer of a license if it believes an investigation is necessary. If the Council determines that a further comprehensive investigation is required, it shall conduct or have conducted that investigation. No license shall be issued, renewed, or transferred, as the case may be, until the Council is satisfied through the investigation that the granting of the license will not adversely affect the health, safety, and welfare of the general public. An investigation fee, not to exceed \$500 for all applicants, may be charged to the applicant and deposited in the city's General Fund. The fee shall be non-refundable even if the license is denied.

(B) *Public hearing.* Prior to granting a license under this subchapter, the Council shall hold a public hearing at which time all persons shall be given the opportunity to be heard speaking for or against the granting of the license.

(C) *Issuance.* After conducting the investigation and holding the public hearing, the Council, in its discretion, may either grant or deny the requested license. Any license requiring the approval of Commissioner of Public Safety shall not be valid until his or her approval has been granted.

(D) *Term.* Unless otherwise specified on the license, and except for temporary on-sale licenses that shall only be valid for the duration of the event for which the license was issued as specified on the license, all licenses issued under this subchapter shall be valid for one year and shall expire on December 31 of each year.

(E) *Transfer.* Each license issued under this subchapter shall be valid only for the premises stated in the license and only for the applicant. No license shall be transferred to another location or to another person without the approval of the Council. A transfer of 10% or more of stock shall constitute a transfer when the license is a corporation.

(F) *Renewal.* Prior to the expiration of any license issued under this subchapter, the licensee shall submit an application for the renewal of the license along with the appropriate fee as set by the Council. Failure to apply for a renewal prior to the last day of validity of a license shall cause the license to expire, and the licensee shall have to subsequently apply as if seeking a new license.

(Ord. passed 6-20-97)

§ 114.08 INELIGIBLE PERSONS AND PLACES.

(A) *Persons ineligible for license.* No license may be issued under this subchapter to any person who fails to comply with the provisions of this subchapter, who would be ineligible for a license under state law, or who has an outstanding lien against his or her property for an unpaid debt to the city.

(B) *Places ineligible for license.* No license shall be issued for any premises which would not be eligible for a license under state statutes or the provisions of this chapter, or for any property for which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(Ord. passed 6-20-97; Am. Ord. 379, passed 11-20-08; Am. Ord. 450, passed 5-16-19)

§ 114.09 CONDITIONS OF LICENSE.

(A) *Insurance.* All licenses issued under this subchapter shall be subject to the requirements of continual satisfaction of the financial responsibility requirements of this subchapter.

(B) *Licensee responsibility.* Every licensee under this subchapter shall be responsible for the conduct in and on the licensed premises, and for all sales of alcoholic beverages by any employee authorized to work in or on the licensed premises and to sell alcoholic beverages. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and he or she shall be liable to all penalties provided by this chapter and the law equally with the employee. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(C) *Display of license.* All licenses issued under this subchapter shall be displayed on the licensed premises during the hours during which public sales are permissible.

(D) *Inspections.* All premises licensed under this subchapter shall be open and accessible for inspection without a warrant by any peace officer, health officer, or other designated public officer or employee of the city during the regular business hours of the licensed premises, and no licensee or agent or employee of any licensee shall prohibit or interfere with any authorized person from making an inspection.

(E) *Federal stamps.* No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.10 HOURS.

(A) *On-sale.* No sale of intoxicating liquor shall be made for consumption on a licensed premise between the hours of 1:00 a.m. and 8:00 a.m. Monday through Saturday, or after 1:00 a.m. on Sunday.

(B) *Off-sale.* No sale of off-sale intoxicating liquor shall be made before 8:00 a.m. or after 10:00 p.m. Monday through Saturday, Sundays before 11:00 a.m. or after 4:00 p.m., nor on Easter, Thanksgiving Day, Christmas Day (December 25), nor after 8:00 p.m. on Christmas Eve (December 24).

(C) *Sunday sales.* A restaurant, club, bowling center, or hotel with seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 1:00 a.m. on Mondays, provided the establishment desiring to serve intoxicating liquor on Sundays, obtains a Sunday license.

(Ord. passed 6-20-97; Am. Ord. 328, passed 10-18-01; Am. Ord. 415, passed 10-15-15; Am. Ord. 425, passed 6-14-17) Penalty, see § 10.99

§ 114.11 FINES; SUSPENSION AND REVOCATION.

The Council may suspend for up to 60 days or revoke any license issued under this subchapter, or impose a civil fine not to exceed \$2,000 for each violation of this subchapter or for any violation of state law or other applicable regulation or ordinance relating to intoxicating liquor or alcoholic beverages in general. Except as otherwise provided, no suspension or revocation shall take effect until the licensee has been granted the opportunity to be heard pursuant to the administrative hearing requirements of M.S. §§ 14.57 through 14.69, as may be amended from time to time. A lapse in the financial responsibility required under this subchapter shall be grounds for immediate suspension of any license issued under this subchapter. In this situation, the licensee may request a hearing within 10 days of the request.

(Ord. passed 6-20-97)

3.2% MALT LIQUOR SALES**§ 114.25 DEFINITIONS.**

(A) For the purpose of this subchapter, the following interpretations shall apply unless the context clearly indicates or requires a different meaning.

- (1) The singular number shall include the plural, and vice-versa.

(2) The masculine shall include the feminine and neuter, and vice-versa.

(B) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

BANQUET FACILITIES. An establishment that provides transient occupation of hotel and motel rooms for a fee, together with congregate dining in connection with scheduled events, but does not provide restaurant facilities.

BONA FIDE CLUB. Any incorporated club organized for civic, fraternal, social, or business purposes, or for intellectual improvement, or for the promotion of sports, or a Congressionally chartered veterans' organization, where the serving of these liquors is incidental to and not the major purpose of the club.

CAFÉ or RESTAURANT. Any place where preparing and serving lunches or meals to the public to be consumed on the premises constitutes the major business thereof.

ORIGINAL PACKAGE. The bottle or sealed container in which the liquor is placed at the place of manufacture.

PERSON. Includes a natural person of either sex, persons, co-partnerships, corporations, and associations of persons, and shall include the agent or manager of any of the aforementioned.
(Ord. passed 6-20-97; Am. Ord. 379, passed 11-20-08)

§ 114.26 LICENSE REQUIRED.

(A) No person may directly or indirectly, on any pretense or any devise, sell, barter, keep for sale, charge for possession, or otherwise dispose of 3.2% malt liquor beverages as part of a commercial transaction within the city without first having received a license therefor as provided in this subchapter.

(B) Licenses shall be of three kinds: on-sale, temporary on-sale, and off-sale.

(1) *On-sale.* On-sale licenses shall be granted only to drug stores, cafes, restaurants, hotels where food is prepared and served for consumption on the premises, and bona fide clubs. An on-sale license shall permit the sale of 3.2% malt liquor for consumption on the premises only.

(2) *Temporary on-sale.* Temporary on-sale licenses shall be granted only to clubs, or charitable, religious, or non-profit organizations for the sale and consumption of 3.2% malt liquor on the licensed premises, and may be for a period of up to seven days.

(3) *Off-sale.* Off-sale licenses shall be granted to permit the sale at retail and wholesale of 3.2% malt liquor in the original packages for removal from and consumption off the premises only.
(Ord. passed 6-20-97)

§ 114.27 APPLICATION FOR LICENSE.

All applications for any license to sell 3.2% malt liquor shall be made on forms to be supplied by the city, setting forth the name of the person asking for the license, his or her age, representation as to his or her character with references as may be required, his or her citizenship, the location where the business is to be carried on, whether the application is for on-sale, temporary on-sale, or off-sale, the business in connection with which the proposed license will operate, whether the applicant is owner and operator of the business, the time the applicant has been in that business at that place, and other information as the governing body may require from time to time. It shall be unlawful to make any false statement in an application.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.28 FEES.

(A) All applications for licenses shall be accompanied by payment of the required annual fee for the respective license. All application fees shall be paid into the General Fund of the municipality. Upon rejection of any application for a license, the Treasurer shall refund the amount paid.

(B) All licenses shall expire on the last day of December in each year. Provided that if eight months of any licensing year have elapsed when the application is made, the fee shall be reduced to one-half of the regular amount thereof.

(Ord. passed 6-20-97)

§ 114.29 GRANTING OF LICENSE.

The Council shall cause an investigation to be made of all facts set forth in the application. Opportunity shall be given to any person to be heard for or against the granting of any license. After the investigation, the Council shall grant or refuse any application in its discretion. All licensed premises shall have the license therefor posted in a conspicuous place at all times.

(Ord. passed 6-20-97)

§ 114.30 CONDITIONS OF LICENSE.

All licenses granted under this subchapter shall be subject to the following conditions and all other conditions of this chapter, and subject to all other code provisions applicable thereto:

(A) *Age of licensee.* No license shall be granted to any person under 21 years of age.

(B) *Criminal history of applicant.* No license shall be granted to any person who has been convicted of a felony or of violating the National Prohibition Act or any law of this state or local ordinance relating to manufacture or transportation of intoxicating liquors.

(C) *Location.* No license, except a temporary license, shall give permission to sell 3.2% malt liquor in any theater, recreation hall or center, dance hall, ballpark, or other place of public gathering, for the purpose of entertainment, amusement, or playing of games and no 3.2% malt liquor shall be consumed there. No premises which would not be eligible for a license under state statutes or the provisions of this chapter shall be permitted one herein.

(D) *Premises of another.* No license shall be granted to a person for sale on any premises of another where the landowner has been convicted of a violation of this subchapter, or state statute, or where any license for alcoholic beverages has been revoked for cause, for at least one year after the conviction or revocation.

(E) *Sales to minors.* No sale of any 3.2% malt liquor shall be made to any person less than 21 years of age.

(F) *Gambling.* Neither gambling, nor any gambling device, prohibited by law shall be permitted in any licensed premises.

(G) *Manufacturer exclusion.* No license shall be granted to any manufacturer of 3.2% malt liquor or to anyone interested in the control of any such place, and no equipment or fixture in any licensed place shall be owned in whole or in part by this type of manufacturer.

(H) *Residence and character requirement.* Licenses shall be granted only to persons who are persons of good moral character.

(I) *Club membership requirements.* No club shall sell any alcoholic beverage except to members and to guests in the company of members.

(Ord. passed 6-20-97; Am. Ord. 450, passed 5-16-19) Penalty, see § 10.99

§ 114.31 INSPECTIONS.

All premises where any license is granted under this subchapter shall be open to inspection by any police or health officer or other properly designated officer or employee of the city at any time during which the place so licensed is open to the public for business.

(Ord. passed 6-20-97)

§ 114.32 LICENSE FOR PREMISE; TRANSFER RESTRICTED.

(A) All licenses granted under this subchapter shall be issued to the applicant only and shall be issued for the premises described in the application.

(B) A license shall not be transferred to another place without the approval of the Council.

(Ord. passed 6-20-97)

§ 114.33 HOURS.

No sales of 3.2% malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m., Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sundays. Sales of 3.2% malt liquor shall be permitted on Sundays between the hours of 12:00 noon and 10:00 p.m.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.34 SUSPENSION AND REVOCATION.

Any violation of any provision or condition of this subchapter, or any falsification of any statement in the application, shall be grounds for revocation. No portion of the license fee paid into the city treasury shall be returned upon revocation. The Council shall either suspend for up to 60 days or revoke any 3.2% malt liquor license or impose a civil fine not to exceed \$2,000 for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. §§ 14.57 through 14.69 of the Administrative Procedure Act, as may be amended from time to time. The lapse of required dram shop insurance or bond or the withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this subchapter without further action of the Council. Notice of cancellation or lapse of a current liquor policy or bond or withdrawal of deposited cash or securities 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 bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request

a hearing thereon, and if the request is made in writing to the Manager-Clerk, a hearing shall be granted within ten days or a longer period as may be required. Any suspension under this section shall continue until the Council determines that the financial responsibility of this subchapter has again been met. (Ord. passed 6-20-97)

§ 114.35 VIOLATIONS.

Any person violating any provision of this subchapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment not to exceed the maximum penalty authorized by state law and as set forth in § 10.99. (Ord. passed 6-20-97)

PROHIBITED ACTS; ENFORCEMENT

§ 114.45 MINORS; UNLAWFUL ACTS; PROOF OF AGE.

(A) It shall be unlawful for:

(1) Any person under the age of 21 years to enter a premise licensed under this chapter, except that nothing contained in this chapter shall prohibit a person 18, 19, or 20 years of age from entering the premises licensed for the sale of intoxicating or 3.2% malt liquor in order to perform work for the establishment, including the serving of alcoholic beverages;

(2) Any person under the age of 21 years to purchase or attempt to purchase, consume, or possess intoxicating liquors, wine, or 3.2% malt liquor;

(3) Any person to induce a person under the age of 21 to purchase, provide for, or procure intoxicating liquor, wine, or 3.2% malt liquor, or to sell to, provide for, or procure any intoxicating liquor, wine, or 3.2% malt liquor for any person under the age of 21 years;

(4) For a person under the age of 21 years to misrepresent his or her age for the purpose of purchasing any intoxicating liquor, wine, or 3.2% malt liquor;

(5) For any person to sell or provide intoxicating liquor, wine, or 3.2% malt liquor to any person under the age of 21; or

(6) For a person under the age of 21 years to enter any premise licensed under this chapter except as authorized by state law.

(B) Proof of age for purchasing or consuming 3.2% malt liquor or intoxicating liquors may be established only by a valid driver's license or state identification card, or in the case of a foreign national by a valid passport.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.46 PUBLIC CONSUMPTION PROHIBITED.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOLIC BEVERAGE. Any beverage classified as a 3.2% malt liquor beverage or an intoxicating liquor by M.S. §§ 340A.01 *et seq.*, as may be amended from time to time.

CITY. The city of Milaca, Minnesota.

PARK. A park, playground, and recreation area in the city, owned or used by the city and devoted to active or passive recreation. **PARKS** include but are not limited to the following described properties:

- (a) Recreation Park;
- (b) Trimble Park;
- (c) Reineke Park; and
- (d) Riverview Park.

PERSON. Any **PERSON**, firm, partnership, association, corporation, company, or organization of any kind.

(B) *Prohibition.* No person shall mix, prepare, possess, or consume an alcoholic beverage in any city park, upon any public right-of-way, or other public place except as may otherwise be authorized by the Council in a temporary license issued under this chapter.

(C) *Confiscation.* Any peace officer charged with enforcement of the public laws shall have the authority to seize and confiscate any alcoholic beverage being consumed by or in the possession of any person in a park.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.47 NUDITY PROHIBITED ON LICENSED PREMISES.

(A) *Purpose.* The City Council has determined that it shall be in the best interest of the public health, safety, and welfare of the people of the city that certain types of activities as set forth in this section shall be prohibited upon any premises licensed under this chapter so as to best protect and assist the owners, operators, and employees of the licensed premises, as well as the patrons and the public in general. The Council has also determined that this section reflects the prevailing community standards of the city. This section shall be intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. This section shall also be intended to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault, and disorderly conduct.

(B) *Prohibited acts.* It shall be unlawful for any license holder, employee, patron, or other person to be on any premises licensed under this chapter without having his or her buttocks, anus, breasts, and genitals covered by a non-transparent material. It shall be unlawful for any license holder under this chapter to allow any person to be on the licensed premises unless the person's buttocks, anus, breasts, and genitals are covered by a non-transparent material.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.48 REMAINING ON PREMISES AFTER HOURS; RESTRICTIONS.

(A) *General prohibition.* It shall be unlawful for any person other than the person licensed under this chapter, and any employee of the licensee in the performance of his or her employment, to be or remain on the licensed premises after one-half hour following the time of the last legal sale of an alcoholic beverage under this chapter.

(B) *Exceptions.* The provisions of division (A) shall not apply to customers in a restaurant where food is served following the end of the sale of alcoholic beverages, provided the consumption of alcoholic beverages ceases and all alcoholic beverages are removed from the area where the food is being served within one-half hour following the time of the last legal sale of alcoholic beverages under this chapter. Likewise, the provisions of division (A) shall not apply to bowling alleys open after the time for the legal sale of alcoholic beverages under this chapter, provided the consumption of alcoholic beverages ceases and all alcoholic beverages are removed from the area in which the bowling and its incidentally related activities occur within one-half hour following the time of the last legal sale of alcoholic beverages under this chapter.

(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.49 ENFORCEMENT.

All police officers of the city may enforce the provisions of this subchapter and to search premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this chapter, and to prepare the necessary processes and papers thereof.
(Ord. passed 6-20-97)

§ 114.50 SALE TO INTOXICATED PERSON PROHIBITED.

No intoxicating liquor, wine, or 3.2% malt liquor shall be sold either for consumption upon the premises or for removal therefrom to a person who is in an intoxicated condition.
(Ord. passed 6-20-97) Penalty, see § 10.99

§ 114.51 VIOLATIONS.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in § 10.99.
(Ord. passed 6-20-97)

SOCIAL HOST LIABILITY

§ 114.60 AUTHORITY.

This subchapter is enacted pursuant to M.S. § 145A.05.
(Ord. 446, passed 8-16-18)

§ 114.61 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALCOHOL. Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled or fermented spirits, including dilutions and mixtures thereof from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE. Alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

EVENT or GATHERING. Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

HOST or ALLOW. To aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

PARENT. Any person having legal custody of a juvenile:

- (1) As natural, adoptive, or step-parent;
- (2) As a legal guardian; or
- (3) As a person to whom legal custody has been given by order of the court.

PERSON. Any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

RESIDENCE or PREMISES. 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, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for an event, gathering, party, or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

UNDERAGE PERSON. Any individual under 21 years of age.
(Ord. 446, passed 8-16-18)

§ 114.62 PROHIBITED ACTS.

(A) It is unlawful for any person to:

- (1) Host or allow an event or gathering;
- (2) At any residence, premises, or any other private or public property;
- (3) Where alcohol or alcoholic beverages are present;
- (4) When the person knows or reasonably should know that an underage person will or does:
 - (a) Consume any alcohol or alcoholic beverage; or
 - (b) Possess any alcohol or alcoholic beverage with the intent to consume it; and

(5) The person fails to take reasonable steps to prevent possession or consumption by the underage person.

(B) A person is criminally responsible for violating this section if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(C) Any person who hosts an event or gathering does not have to be physically present at the event or gathering to be liable for prosecution under this subchapter, provided their conduct falls within divisions (A) or (B) of this section.

(Ord. 446, passed 8-16-18)

§ 114.63 EXCEPTIONS.

(A) This subchapter does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

(B) This subchapter does not apply to legally protected religious observances.

(C) This subchapter does not apply to duly licensed on-sale or off-sale liquor licenses, 3.2% malt liquor licenses, municipal liquor stores, or bottle club permit holders who are regulated by M.S. § 340A.503, subd. 1(a)(1).

(D) This subchapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and within the scope of his or her employment.

(Ord. 446, passed 8-16-18)

§ 114.64 ENFORCEMENT.

This subchapter shall be enforced by any duly licensed law enforcement officer.

(Ord. 446, passed 8-16-18)

§ 114.65 PENALTY.

(A) Violation of § 114.62 is a misdemeanor, punishable by up to 90 days in jail and a fine in the amount of \$1,000; and

(B) A social host shall be liable for the costs of providing enforcement services in response to an event in which minors have obtained, possessed, or consumed alcoholic beverages. Such costs include, but are not limited to, attorney's fees in the event of litigation.

(Ord. 446, passed 8-16-18)

BREW PUBS, BREWER TAPROOMS, COCKTAIL ROOMS, DISTILLERIES AND WINERIES**§ 114.75 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BREWERY. A facility that produces for sale malt liquor containing not less than 0.5% alcohol by volume. A ***BREWERY*** may include a ***TAPROOM***.

BREW PUB. A ***BREWERY*** that operates a restaurant on the same premises as the ***BREWERY*** whose malt liquor production per calendar year shall be limited by state statute.

COCKTAIL ROOM. A micro-distillery licensed by the state that provides on-sale of distilled liquor produced by the distiller for the consumption on the premises of or adjacent to one ***DISTILLERY*** location owned by the distiller.

DISTILLERY. A facility that produces distilled liquor, including all dilutions and mixtures thereof, for nonindustrial uses. A ***DISTILLERY*** may include a ***COCKTAIL ROOM***.

TAPROOM. An area for the on-sale consumption of malt liquor produced by the brewer for consumption on the premise of a ***BREWERY*** or an abutting property in common ownership of the brewer, which may include sales of malt liquor produced and packaged at the ***BREWERY*** for off premise consumption as allowed by state statutes.

WINERY. A facility operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey, with a majority of ingredients grown or produced in Minnesota. A ***WINERY*** may include a tasting room.
(Ord. 442, passed 6-14-18)

§ 114.76 BREW PUBS.

(A) *License authorized.* Notwithstanding any provision of this code to the contrary, the Council may issue a brew pub license for the on-sale of intoxicating liquor or 3.2% malt liquor to the restaurant operated in the place of manufacture.

(B) A brew pub that holds an on-sale license issued pursuant to this section may, with the approval of the Commissioner, be issued a license by the municipality for off-sale of malt liquor produced and packaged on the licensed premises.

(C) Packaging of malt liquor for off-sale must comply with M.S. § 340A.285, as it now exists or may be amended from time to time.

(D) A brew pub's total retail sales at on- or off-sale may not exceed 3,500 barrels per year, provided that retail off-sales may not total more than 750 barrels.
(Ord. 442, passed 6-14-18)

§ 114.77 BREWER TAPROOMS.

(A) *License authorized.* Notwithstanding any provision of this code to the contrary, the Council may issue a brewer taproom license for the on-sale consumption of malt liquor produced on the licensed premises or adjacent to one brewery location owned by the brewer.

(B) *Applicant.* The applicant for a license under this section must be a brewer licensed under M.S. §§ 340A.301, subd. 6(c), (i), or (j).

(C) *Terms and conditions of license.*

(1) No license is valid until approved by the Commissioner.

(2) The on-sale of malt liquor, permitted by this chapter, may only be made during the days and hours that on-sale of liquor may be made by holders of on-sale intoxicating liquor licenses issued pursuant to this chapter.

(3) A brewer may only hold one brewer taproom license under this chapter and may not have an ownership interest in a brewery licensed under M.S. § 340A.301, subd. 6(d).

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

(5) All other provisions of this chapter, and all other applicable laws, statutes, ordinances, rules, and regulations shall be applicable to licenses issued pursuant to this chapter and the licensees of such licenses, unless inconsistent with the provisions of this section.

(6) Nothing in this chapter precludes the holder of a brewer taproom license from also holding a license to operate a restaurant on the premises of the brewery.

(D) *Fees.* The annual license fee for a license issued pursuant to this chapter shall be as established from time to time by a resolution/fee ordinance amendment of the Council.
(Ord. 442, passed 6-14-18)

§ 114.78 OFF-SALE MALT LIQUOR.

(A) *License authorized.* Notwithstanding any provisions of this code to the contrary, the Council may issue a license for the off-sale of malt liquor produced and packaged on the licensed premises.

(B) *Applicant.* The applicant for a license under this section must be brewer licensed under M.S. §§ 340A.301, subd. 6(c), (i), or (j), in order to be licensed for the off-sale of malt liquor produced and packaged on the licensed premises.

(C) *Terms and conditions of license.*

(1) No license is valid until approved by the Commissioner.

(2) The malt liquor shall be packaged in 64 ounce containers commonly known as Agrowlers, or in 750 milliliter bottles, and bear a twist-type closure, cork, stopper, or plug.

(3) At the time of sale, all sealing, labeling, and packaging shall comply with the requirements of M.S. § 340A.285.

(4) A brewer's total retail off-sales under this chapter may not exceed 750 barrels per year.

(5) All other provisions of this chapter, and all other applicable laws, statutes, ordinances, rules, and regulations shall be applicable to licenses issued pursuant to this chapter and the licensees of such licenses unless inconsistent with the provisions of this section.

(D) *Fee.* The annual license fee for a license to be issued pursuant to this chapter shall be as established from time to time by a resolution of the Council.

(E) *Other licenses.* A brewer licensed under this section may hold or have an interest in a retail on-sale license issued pursuant to this chapter, unless the brewer licensed under this section was licensed as a brewer under M.S. § 340A.301, subd. 6(d).
(Ord. 442, passed 6-14-18)

§ 114.79 COCKTAIL ROOMS.

The holder of a micro-distillery 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 micro-distillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. § 340A.301, subd. 6(a). No single entity may hold both a micro-distillery cocktail room and a taproom license, and a micro-distillery cocktail room and taproom may not be co-located. Within ten days of the issuance of a micro-distillery 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 a micro-distillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

(Ord. 442, passed 6-14-18)

§ 114.80 DISTILLERIES.

(A) *Off-sale.* A micro-distiller off-sale license may be issued to the holder of a state micro-distillery license. A micro-distiller off-sale license authorized 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. Off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the city.

(B) *On-sale.* A micro-distiller temporary on-sale intoxicating liquor license may be issued to the holder of a state micro-distillery license. A micro-distillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the micro-distillery.

(Ord. 442, passed 6-14-18)

§ 114.81 BREWERIES AND WINERIES.

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.

(Ord. 442, passed 6-14-18)

§ 114.82 ADDITIONAL REQUIREMENTS.

These uses (brew pubs, brewer taprooms, off-sale malt liquor establishments, cocktail rooms, distilleries and wineries) are subject to § 156.038 of this code.

(Ord. 442, passed 6-14-18)

