

CITY OF BACKUS

**ORDINANCE NO. 02 (SERIES 2)
AN ORDINANCE OF THE CITY OF BACKUS,
MINNESOTA, AMENDING BACKUS CITY CODE CHAPTER 4
ENTITLED LIQUOR LICENSING**

THE CITY COUNCIL OF THE CITY OF BACKUS, MINNESOTA, DOES ORDAIN:

SECTION 1. Chapter 4 of the Ordinance code of the City of Backus, Minnesota, is hereby amended by the addition of Section 400.12 and Section 410.14 to read as follows:

400.12 Schedule Of Presumptive Civil Penalties

Subd. 1. Fine, Suspension and Revocation

Upon evidence that a licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages, the City Clerk/Administrator shall impose the following civil penalties and requirements on the licensee:

First violation: Two (2) days suspension plus Five Hundred Dollar (\$500.00) civil fine. The sum of Two Hundred Fifty Dollars (\$250.00) will be waived if all employees attend a City-approved Alcohol Awareness Training or an Alcohol Merchant/Employee Training Program, and provide proof of completion of same to Clerk within sixty (60) days of City demand for civil fine.

Second violation within a sixty (60) month period of the first violation: Four (4) days suspension plus One Thousand Dollar (\$1,000.00) civil fine. The sum of Two Hundred Fifty Dollars (\$250.00) will be waived if all employees attend a City-approved Alcohol Awareness Training or an Alcohol Merchant/Employee Training Program, and provide proof of completion of same to Clerk within sixty (60) days of City demand for civil fine.

Third violation within a sixty (60) month period of the first violation: Seven (7) days suspension plus One Thousand Five Hundred Dollar (\$1,500.00) civil fine. The sum of Two Hundred Fifty Dollars (\$250.00) will be waived if all employees attend a City-approved Alcohol Awareness Training or an Alcohol Merchant/Employee Training Program, and provide proof of completion of same to Clerk within sixty (60) days of City demand for civil fine.

Fourth violation within a sixty (60) month period of the first violation: Thirty (30) days suspension plus Two Thousand Dollar (\$2,000.00) civil fine.

Fifth violation within a sixty (60) month period of the first violation: Up to sixty (60) days suspension or revocation plus Two Thousand Dollar (\$2,000.00) civil fine.

The foregoing list of presumptive penalties shall not restrict the City Council from ordering the revocation of the license, suspension of the license for up to sixty (60) days, imposing a civil penalty up to Two Thousand Dollars (\$2,000.00) or imposition of any combination thereof. Additionally, the sanctions imposed by this ordinance are not exclusive and are in addition to any other sanctions available to the City under any other statute, rule, or ordinance.

Subd. 2. Payment of Fines

The licensee shall pay all civil fines within twenty (20) days of demand. Payment to be made to the City Clerk. Failure to pay the fine within said time period shall be grounds for suspension, not to exceed sixty (60) days, or revocation of any intoxicating liquor license.

Subd. 3. Licensee's Right To Appeal and Timing of Suspension/Revocation

Except in cases of failure of financial responsibility, no suspension or revocation of a license under this Section shall take effect until the licensee has been given an opportunity for a hearing under Sections 14.57 to 14.69 of the Minnesota Administrative Procedure Act. In the event the licensee fails to timely request a hearing or fails to appear at a scheduled hearing, the licensee shall be deemed to have waived his/her right to a hearing and shall be subject to the license action imposed hereunder.

No suspension or revocation shall take effect until the time for appeal has run, or, if appeal is brought, until the City Council has rendered a decision.

Subd. 4. State Law Adopted

Relevant provisions of Minnesota Statutes Chapter 340A are adopted by reference as if set out at length in this Ordinance. In the event the other provision(s) in this Ordinance are more stringent than the provisions of Minnesota Statutes Chapter 340A, such other provisions shall be controlling.

Subd. 5. Severability and Savings Clause

If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve to invalidate or affect the validity or ability to enforce any other section or provision of this Ordinance.

410.14 Schedule Of Presumptive Civil Penalties

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No suspension or revocation shall take effect until the time for appeal has run, or, if appeal is brought, until the City Council has rendered a decision.

Subd. 4. State Law Adopted

Relevant provisions of Minnesota Statutes Chapter 340A are adopted by reference as if set out at length in this Ordinance. In the event the other provision(s) in this Ordinance are more stringent than the provisions of Minnesota Statutes Chapter 340A, such other provisions shall be controlling.

Subd. 5. Severability and Savings Clause

If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve to invalidate or affect the validity or ability to enforce any other section or provision of this Ordinance.

SECTION 2. Effective Date. This ordinance shall be effective upon publication according to law. ENACTED BY THE CITY COUNCIL OF THE CITY OF BACKUS, MINNESOTA, THIS 7th DAY OF March, 2005.

Ayes 5, Nays 0

CITY OF BACKUS

By: Cloie F. Smith
Cloie Smith, Mayor

Attest: Carol Vredenburg
Carol Vredenburg, Clerk/Treasurer

CHAPTER 4 LIQUOR LICENSING

SECTION 400 - INTOXICATING LIQUOR

400.01 PROVISIONS OF STATE LAW ADOPTED. The provisions of Minnesota Statutes Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this Section as if set out in full, except as otherwise amended by this chapter.

400.02 LICENSE REQUIRED.

Subd. 1 General Requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in this Section. Liquor licenses shall be of five kinds: "on-sale", "temporary on-sale", "on-sale" wine, "off-sale", and club licenses.

Subd. 2 On-sale Licenses. "On-sale" licenses shall be issued only to hotels, clubs, bowling centers, restaurants and exclusive liquor stores, and shall permit "on-sale" of liquor only.

Subd. 3 On-sale Wine Licenses. “On-sale” wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A .404, Subd. 5, and shall permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

Subd. 4 Temporary On-sale Licenses Subject to the approval of the commissioner of public safety, “temporary on-sale” licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee and subject to restrictions imposed by the state liquor act. Sales under a temporary on-sale license shall not exceed three consecutive days. Sales shall only be made on the premises licensed, but those premises need not be owned or permanently occupied by the licensee. A licensee may contract for liquor catering services with the holder of a full-year on-sale liquor license.

Subd. 5 Off-sale Licenses. “Off-sale” licenses shall be issued only to drug stores and exclusive liquor stores and shall permit “off-sale” of liquor only.

Subd. 6 Special Club Licenses. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence at

least three years. Sale of intoxicating liquor under a club license shall be restricted to bona-fide members of said club and their guests.

Subd. 7 Special License for Sunday Sales. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least 30 guests at one time and which has an on-sale license.

400.03 APPLICATION FOR LICENSE.

Subd. 1 Form. Every application for a license to sell liquor shall state the name of the applicant, his or her age, representations as to his or her character (with such references as the Council may require), his or her citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place, and such other information as the Council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes, Section 340A.802 during the preceding year. In addition to containing such information, the application shall be in the form prescribed by the bureau of criminal apprehension and shall be verified and filed with the City Clerk-Treasurer. No person shall make a false statement in an application.

Subd. 2 Financial Responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes § 340A.409 with regard to liability under the statutes, § 340A.801. Such proof shall be filed with the commissioner of public safety. Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409.

Subd. 3 Approval of Security. The security offered under Subdivision 2 of this Subsection shall be approved by the Council and in the case of applicants for “on-sale” wine licenses and “off-sale” licenses, by the state commissioner of public safety. Liability insurance policies required by this Section but not by state laws shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subdivision 2 shall be cause for revocation of the license.

400.04 LICENSE FEES.

Subd. 1 Fees. The annual fee for the liquor license shall be \$1,350 for an “on-sale” license, \$25 base fee plus \$5 per day for a temporary “on-sale” license, \$675 for an “on-sale” wine

license, \$100 for an “off-sale” license, \$200 for a Sunday “on-sale” license, and for a special club license as follows:

Number of Members	Cost of License
200 or less	\$300
201 to 500	500
501 to 1,000	650
1,001 to 2,000	800
2,001 to 4,000	1,000
4,001 to 6,000	2,000
6,000 and over	3,000

Subd. 2 Payment. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee required under Subsection 400.05, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.

Subd. 3 Term; Pro Rata Fee. Each license shall be issued for a period of one year except that if the application is made during the license 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. Every license shall expire on the last day of July.

Subd. 4 Refunds. No refund of any fee shall be made except as authorized by statute.

400.05 GRANTING OF LICENSES.

Subd. 1 Preliminary investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with his or her application a base investigation fee of \$50 plus actual costs, and the City shall conduct a preliminary background and financial investigation of the applicant. The application in such cases shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2 Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subd. 1 of this Subsection. 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 discretion, grant or refuse the application. No "on-sale" wine license or "off-sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

Subd. 3 Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without Council approval. Any transfer of more than 10%, or any percentage resulting in a change in the controlling interest, of the stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license.

400.06 PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to any person made ineligible for such a license by state law. No more than one "off-sale" intoxicating liquor license shall be directly or indirectly issued within the City to any one person.

400.07 PLACES INELIGIBLE FOR LICENSE.

Subd. 1 General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2 Time in Business. No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for 12 months.

Subd. 3 Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

400.08 CONDITIONS OF LICENSE.

Subd. 1 In General. Every license shall be subject to the conditions in the following subdivisions and all other provisions of this Section and of any other applicable ordinance, state law, or regulation.

Subd. 2 Insurance. Compliance with financial responsibility requirements of state law and of this section is a continuing condition of any license granted pursuant to this section.

Subd. 3 Sales to Minors or Obviously Intoxicated Persons. No alcoholic beverage shall be sold or served to any obviously intoxicated person or to any person under 21 years of age.

Subd. 4 Consumption by Minors. No person under the age of 21 years shall be permitted to consume any alcoholic beverage on the licensed premises.

Subd. 5 Employment of Minors. No person under the age of 18 years shall be employed on the premises of any premise licensed under this Section.

Subd. 6 Presence of Minors. No minor shall be present on the premises of any premise licensed under this section unless accompanied by a parent or legal guardian.

Subd. 7 Licensee's Responsibility. Every licensee shall be responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 8 Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

400.09 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subd. 1 Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor “on-sale” or a consumption and display permit from the commissioner of public safety under Minnesota Statutes, § 340A.414, and no person shall consume liquor in any such place.

Subd. 2 Consumption in Public Places. No person shall consume liquor on a public highway, or other public place unless otherwise provided by resolution of the Council.

Subd. 3 Minors. Except as otherwise authorized by law, it shall be unlawful for any person:

- (1) Under the age of 21 years to purchase or attempt to purchase any intoxicating liquor; or
- (2) To induce a person under the age of 21 years to purchase or procure any intoxicating liquor; or,
- (3) Under the age of 21 years to possess any intoxicating liquor; or,

- (4) Under the age of 21 years to enter an establishment licensed under this Section in order to purchase intoxicating liquor or have intoxicating liquor served or delivered; or,

- (5) Under the age of 21 years to misrepresent his or her age for the purpose of purchasing intoxicating liquor. Proof of age for purchasing or consuming intoxicating liquor may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

400.10 HOURS. No sale of intoxicating liquor shall be made during the hours prohibited by State law, nor after 1:00 a.m. closing time any day of the week.

400.11 SUSPENSION AND REVOCATION.The Council shall either suspend for up to 60 days or revoke any 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 Minnesota Statutes §§ 14.57 to 14.69 of the Administrative Procedure Act. Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities,

shall effect an immediate suspension of any license issued pursuant to this Section without further action of the Council. Notice of cancellation, lapse of a current liquor liability 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 such a request is made in writing to the Clerk-Treasurer, a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this paragraph shall continue until the Council determines that the financial responsibility requirements of this section have been met. A schedule of presumptive civil penalties shall be established by resolution of the City Council. These penalties shall be the standard by which the City Council determines the amount of civil fines, length of license suspensions and the propriety of revocations and shall apply to all premises licensed and individuals charged under this Section. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exists substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the State or City to prevent the sale of alcohol to minors. When deviating from the schedule of presumptive civil penalties, the Council will provide written findings that support the penalty selected.

SECTION 410 - BEER LICENSING

410.01 DEFINITION OF TERMS.

Subd. 1 Beer. As used in this Section, beer or non-intoxicating malt liquor means any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

Subd. 2 Beer Store. Beer store means an establishment used exclusively for the retail sale of beer, with the incidental sale of tobacco and soft drinks.

410.02 LICENSE REQUIRED.

Subd. 1 Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the City without first having received a license as hereinafter provided. Licenses shall be of three kinds: 1) regular on-sale; 2) temporary on-sale; 3) off-sale.

Subd. 2 Regular On-Sale. Regular on-sale licenses shall be granted only to clubs, beer stores, exclusive on-sale liquor stores, drug stores, restaurants, hotels and bowling centers where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of beer for consumption on the premises only.

Subd. 3 Temporary On-Sale. Temporary on-sale licenses shall be granted only to clubs or charitable, religious or non-profit organizations for the sale of beer for consumption on the premises only.

Subd. 4 Off-Sale. Off-sale licenses shall permit the sale of beer at retail, in the original package, for consumption off the premises only.

410.03 LICENSE APPLICATIONS.

Subd. 1 Form. Every application for a license to sell beer shall be made to the Clerk-Treasurer on a form supplied by the City and containing information that the Clerk or the Council may require. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall include a copy of each summons received by the applicant under Minn. Stat. § 340A.802 during the preceding year.

Subd. 2 Proof of Financial Responsibility. Prior to the issuance of a beer license, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. § 340A.409, Subd. 1, with reference to liability under the Minn. Stat. § 340A.801. The proof shall be filed with the commissioner of public safety except that if a license involves sales of beer of a prospective vendor who is not required by law to file such proof with the commissioner of public safety, the proof shall be filed with the Clerk-Treasurer. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minn. Stat. § 340A.409.

Subd. 3 Approval of Security. Liability insurance policies required by this section, but not by state law, shall be approved as to form by the City Attorney. Operation of a business licensed by this section without having on file with the state insurance commissioner or the City at all times effective security as required in this section shall be cause for revocation or suspension of the license.

410.04 LICENSE FEES.

Subd. 1 Payment Required. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the treasurer shall refund the amount paid.

Subd. 2 Expiration; Pro Rata Fees. Every license, except a temporary license, shall expire on the last day of July in each year. Each license, except a temporary license, shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing the fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held. This period shall be stated on the license.

Subd. 3 Fees. The annual fees for a regular on-sale beer license, an off-sale beer license and a temporary on-sale beer license shall be as set by resolution of the City Council from time to time.

Subd. 4 Refunds. No part of the fee paid for any license issued under this Section shall be refunded except in the following instances upon application to the Council within thirty days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, if:

- (1) The business ceases to operate because of destruction or damage;
- (2) The licensee dies;

- (3) The business ceases to be lawful for a reason other than a license revocation; or
- (4) The licensee ceases to carry on the licensed business under the license.

410.05 GRANTING OF LICENSE.

Subd. 1 Investigation and Hearing. The Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application in its discretion.

Subd. 2 Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the Council.

410.06 PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or held by any person who:

- (A) Is under 21 years of age;

- (B) Has, within five years prior to the application for such license, been convicted of a felony or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors and cannot show competent evidence under Minn. Stat. § 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;
- (C) Is a manufacturer of beer or is interested in the control of any place where beer is manufactured;
- (D) Is not a U.S. citizen or resident alien;
- (E) Is not of good moral character;
- (F) Is not the proprietor of the establishment for which the license is issued.

410.07 PLACES INELIGIBLE FOR LICENSE.

Subd. 1 Conviction or Revocation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this section, or of the state beer or liquor law, or where any license has been revoked for cause until one year has elapsed after such conviction or revocation.

Subd. 2 One Year Prior Eligibility. No regular on-sale license shall be granted for a business or club which has not been in operation and eligible to receive a license for at least one year immediately preceding the application for a license.

410.08 CONDITIONS OF LICENSE.

Subd. 1 General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this section and of any other applicable ordinance of the City or state law.

Subd. 2 Insurance. Compliance with financial responsibility requirements of state law and of this section is a continuing condition of any license granted pursuant to this section.

Subd. 3 Sales to Minors or Obviously Intoxicated Persons. No beer shall be sold or served to any obviously intoxicated person or to any person under 21 years of age.

Subd. 4 Consumption by Minors. No person under the age of 21 years shall be permitted to consume beer on the licensed premises.

Subd. 5 Employment of Minors. No person under the age of 18 years shall be employed on the premises of a beer store.

Subd. 6 Gambling. No illegal gambling or illegal gambling device shall be permitted on any licensed premises.

Subd. 7 Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the provisions of Minn. Stat. § 340A.301, Subd. 7. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 8 Sales of Intoxicating Liquor. No licensee who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this section.

Subd. 9 Searches and Seizures. Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensed premises in violation of this section.

Subd. 10 Licensee's Responsibility. Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell such beverages is the act of the licensee.

Subd. 11 Banquet Rooms. A regular on-sale license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 30 persons.

410.09 CLOSING HOURS. No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, nor between the hours of 1:00 a.m. and 8:00 a.m. on any other day of the week.

410.10 CLUBS. No club shall sell beer except to members and to guests in the company of members.

410.11 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subd. 1 Purchasing. It shall be unlawful for any person:

- (1) Under the age of 21 years to purchase or attempt to purchase beer; or
- (2) To induce a person under the age of 21 years to purchase or procure beer.

Subd. 2 Possession. It shall be unlawful for a person under the age of 21 years to possess beer.

Subd. 3 Entering Licensed Premises. It shall be unlawful for a person under the age of 21 years to enter an establishment licensed under this section in order to purchase beer or have beer served or delivered.

Subd. 4 Misrepresentation of Age. It shall be unlawful for a person under the age of 21 years to misrepresent his or her age for the purpose of purchasing beer.

Subd. 5 Proof of Age. Proof of age for purchasing or consuming beer may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

Subd. 6 Consumption Prohibited. It shall be unlawful for any person to consume beer in any theater, recreation hall or center, dance hall, ball park or other place of public gathering used for the purpose of entertainment, amusement or playing of games.

Subd. 7 Liquor Consumption and Display. No person shall consume or display any intoxicating liquor on the premises of a licensee who does not hold a consumption and display permit.

Subd. 8 Remaining on premises after last legal sale of alcohol. No person except an employee in the lawful performance of his or her duties shall remain on a licensed premise after one-half hour following the time of the last legal sale of an alcoholic beverage, except that customers in a restaurant or bowling center operating after the time for the legal sale of alcohol may remain on the premises provided all consumption of alcoholic beverages has ceased and such beverages have been removed from the tables and other general public area intended for eating or bowling.

410.12 PROHIBITED ACTIVITY. It shall be unlawful for any licensee to permit or allow any person to be upon the licensed premises when such person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

410.13 SUSPENSION AND REVOCATION. The Council shall either suspend for up to 60 days or revoke any beer 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 Minn. Stat. §§ 14.57 to 14.69 of the administrative procedure act. The lapse of required dram shop insurance or bond or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this Section without further action of the Council. Notice of cancellation, lapse of a current liquor liability 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 such a request is made in writing to the Clerk-Treasurer, a hearing shall be granted within ten days or such longer period as may be required. Any suspension under this paragraph shall continue until the Council determines that the financial responsibility of this section has again been met. A schedule of presumptive civil penalties shall be established by resolution of the City Council. These penalties shall be the standard by which the City Council determines the amount of civil fines, length of license suspensions and the propriety of revocations and shall apply to all premises licensed and

individuals charged under this section. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exists substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the State or City to prevent the sale of alcohol to minors. When deviating from the schedule of presumptive civil penalties, the Council will provide written findings that support the penalty selected.

SECTION 420 - VIOLATIONS AND PENALTIES

420.01 PENALTY. In addition to any license suspension or revocation, any person violating any provision of this Chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both, plus the cost of prosecution in any case, to the extent authorized by state law, the Rules of Court, and the Rules of Criminal Procedure.

