

CHAPTER 112: LIQUOR REGULATIONS

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GENERAL PROVISIONS

112.01 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.

112.02 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.

112.03 DEFINITIONS.

In addition to the definitions contained in M.S. ' 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

LIQUOR. As used in this chapter, without modification by the words "intoxicating" or "3.2 percent malt," includes both intoxicating liquor and 3.2 percent malt liquor.

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 M.S. ' 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 M.S. ' 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 chapter unless it meets the definitions of *Small establishment*, *Medium establishment* or *Large establishment*.

112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. 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 chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of ' 112.99(B).

Penalty, see ' 112.99

112.05 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 chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Penalty, see ' 112.99

112.10 TOBACCO LICENSING

- A. Purpose. Because the City recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. §144.391.
- B. Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:
1. Tobacco or Tobacco Products. "Tobacco" or "Tobacco products" shall mean any substance or item containing tobacco leaf, including, but not limited to, cigarettes; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; Cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.
 2. Tobacco Related Devices. "Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designated or intended to be used in a manner which enables the chewing sniffing, or smoking of tobacco or tobacco products.
 3. Self-Service Merchandising. "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the Customer and

the licensee or employee. Self-service merchandising shall not include vending machines.

4. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco-related device.
 5. Individually Packaged. "Individually packaged" shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.
 6. Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.
 7. Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.
 8. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.
 9. Moveable Place of Business. "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
 10. Sale. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.
 11. Compliance Checks. "Compliance Checks" shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.
- C. License. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related device without first having obtained a license to do so

from the City.

1. Application. An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the City. •The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City of Lanesboro for action at its next regularly scheduled Council meeting. If the Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
 2. Action. The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.
 3. Term. All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.
 4. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.
 5. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.
 6. Moveable Place of Business. No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.
 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
 8. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
- D. Fees. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be no less than \$60.00 and the fee for such license shall be set on a year-to-year basis by Resolution of the City of Lanesboro. The license fees may be prorated on a monthly basis for licenses issued during the license

year. However, no refunds shall be issued should the licenses no longer carry on said licensed activity.

- E. Basis for Denial of License. Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section. The following shall be grounds for denying the issuance or renewal of a license under this ordinance
 - 1. The applicant is under the age of 18 years.
 - 2. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
 - 3. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
 - 4. The applicant fails to provide any information required on the application, or provides false or misleading information.
 - 5. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.
- F. Prohibited Sales. It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, or tobacco-related device:
 - 1. To any person under the age of eighteen (18) years.
 - 2. By means of any type of vending machine, except as may otherwise be provided in this ordinance.
 - 3. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, or tobacco-related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco-related device between the licensee or the licensee's employee, and the customer, other than for cartons or multi-pack units as allowed by Section 800 herein.
 - 4. By means of boogies as defined in Section 200 of this ordinance.
 - 5. Containing opium, morphine, jimson weed, bella donna, strychnos cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
 - 6. By any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.
- G. Vending Machines. It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine.
- H. Self-Service Sales. It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by

any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this ordinance is adopted shall comply with this Section within 60 days following the effective date of this ordinance. However, cartons and multi-pack units may be offered and sold through open displays accessible to the public until the effective date and implementation of Code of Federal Regulations, Title 21, Part 897.16(c), which are incorporated herein.

- I. Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this ordinance, State or Federal law, or other applicable law or regulation.
- J. Compliance Checks and Inspections. All licensed premises shall be open to inspection by the City or city police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.
- K. Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance:
 - 1. Illegal Sales. It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco-related device to any minor;

2. **Illegal Possession.** It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, or tobacco-related device. This subdivision shall not apply to minors lawfully involved in a compliance check. Further, minors of the age of 16 or 17 employed as a clerk on the licensed premises may transact a sale of tobacco, tobacco products, or a tobacco-related device, not otherwise in violation hereof.
3. **Illegal Use.** It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.
4. **Illegal Procurement.** It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This subdivision shall not apply to minors lawfully involved in a compliance check.
5. **Use of False Information.** It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

L. **Violations.**

1. **Notice.** Upon discovery of a Suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
2. **Hearings.** If a person accused of violating this ordinance so requests in writing addressed to the City Clerk, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
3. **Hearing Officer.** The Lanesboro City Council shall serve as the hearing officer.
4. **Decision.** If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 1300 of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.
5. **Appeals.** Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.

6. Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City elects to seek Misdemeanor prosecution, no administrative penalty shall be imposed.
7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

M. Penalties.

1. Licensees and Employees. Any licensee, found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$100.00 for a first violation of this ordinance; \$200.00 for a second offense at the same licensed premises within a 24-month period; and \$300.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days. Nothing shall prevent the City from imposing a suspension on either the first or second offense.
 2. Other Individuals. Other individuals, other than minors regulated by subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee of \$100.00.
 3. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be in violation of this ordinance and shall be charged an administrative fee of \$50.00 for a first violation, \$100.00 for a second violation, and \$200.00 for a third violation. Upon violation, the appropriate school officials shall be notified of the violation. Additionally, the minor may be referred to the local authority for prosecution as a juvenile offender under applicable State of Minnesota law, and shall have the consequences from that referral in addition to the penalties hereunder.
 4. Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this ordinance or applicable State Law.
 5. Exceptions and Defenses. Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.
- N. 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 as an invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

LICENSING

112.20 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 chapter is limited to the number of licenses which were issued as of the effective date of this chapter, 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 M.S. 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 M.S. ' 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.

112.21 TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

112.22 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 ' 112.20. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in ' 112.55.

(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 ' 112.23 shall not exceed \$240 or a greater amount which may be permitted by M.S. ' 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 M.S. ' 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. 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 ' 112.23 shall not exceed the amounts provided for in M.S. ' 340A.408, Subd. 2(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. ' 340A.404, Subd. 4(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. ' 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 M.S. 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 112.03, 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 112.23, shall not exceed \$200, or the maximum amount provided by M.S. 340A.504, Subd. 3(b), as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for

longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(I) 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 M.S. ' 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in 112.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. ' 340A.4011, Subd. 1, as it may be amended from time to time and to theaters that meet the criteria in M.S. ' 340A.404 Subd. 1(b). The fee for an on-sale wine license established by the Council under the provisions of 112.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) 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.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of ' 112.23 shall not exceed \$300, or the maximum amount permitted by M.S. ' 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.

(L) 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.

(M) Temporary off-sale wine licenses, with the approval of the Commissioner 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 ' 112.23.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2% 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 M.S. ' 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (O) 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.

(O) Brewer off-sale intoxicating liquor license, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established as M.S. ' 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. ' 340A.301, Subd. 7 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (N) 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.

(P) 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.

(Q) Brewer taproom 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 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 M.S. ' 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.

(R) A cocktail room license may be issued to the holder of a microdistillery license under M.S. ' 340A.301 subd. 6(c). A microdistillery cocktail room license authorizes on-sale of distilled liquore produced by the distiller for consumption on the premises of or adjacent to ne distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operated 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 M.S. ' 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.

112.221 BREWPUBS, BREWERIES, MICRODISTILLERY COCKTAIL ROOM AND TAPROOMS

A. Definitions.

Brewpub. A restaurant-brewery that sells 85% or more of its malt liquor on-site. The malt liquor is brewed primarily for sale in the restaurant and bar, and may be dispensed directly from the brewery's storage tanks. Brewpubs may also sell malt liquor for off-sale consumption in growler containers.

Brewery. Manufactures processes and warehouses malt liquor for wholesale distribution in off-sale packages to retail liquor establishments and may retail malt liquor product for on-site consumption in a taproom or for off-site consumption as growlers. A brewer may not have an ownership interest in a brewery licensed under Minnesota Statutes Section 340A.301, Subd. 6, clause (d).

Micro distillery. Manufactures, processes and warehouses distilled liquor for wholesale distribution in off-sale packages to retail liquor establishments and may retail distilled liquor produce for on-site consumption in a cocktail room or for off-site consumption, subject to compliance with the conditions set forth in Chapter 10 of this Code.

Micro distillery cocktail room. The on-sale sale of distilled liquor produced by the distiller on the premises of or adjacent to a micro distillery location owned by a distiller, subject to compliance with the conditions set forth j Minnesota statutes and any other regulations under this ordinance.

Taproom. A room that is ancillary to the production of malt liquor at a

brewery where the public can purchase and/or consume only the malt liquor produced on site. A taproom may also sell malt liquor for off-sale consumption in growler containers.

B. Conditional Uses within Downtown Commercial District and Industrial is hereby amended to add the following language, so that the following are allowed conditional uses:

1. Brewery with taproom provided that:
 - a) *License*. The owner of the brewery qualifies for and receives a brewer license and a malt liquor wholesale license (if wholesale of malt liquor is an intended activity) from the State of Minnesota, according to Minnesota Statutes Section 340A.
 - b) *Brewery taproom license*. An ancillary brewer's taproom for the on-sale of malt liquor produced on-site shall require a brewery taproom license from the City of Lanesboro.
 - c) *Off-sale*. Off-sale of malt liquor in the form of growlers shall require a brewery license for off-sale of malt liquor.
2. Micro distillery with cocktail room provided that:
 - a) *License*. The owner of the micro distillery qualifies for and receives a micro distillery license from the State of Minnesota, according to Minnesota Statutes Section 340A.
 - b) *Micro distillery cocktail room – on-sale license*. The owner of the micro distillery qualifies for and receives a micro distillery cocktail room – on-sale license from the City of Lanesboro.
 - c) *Off-sale*. Off-sale of liquor produced in the micro distillery shall require a micro distillery license for off-sale of liquor.

112.23 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. 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 chapter. 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 M.S. ' 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 M.S. ' 340A.408 if at the time of initial application or renewal 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 of 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 division 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 ' 112.36 of this chapter.

112.24 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 chapter.

112.25 APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this chapter 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.

(B) *Financial responsibility.* Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. ' 340A.409, as it may be amended from time to time, with regard to liability under M.S. ' 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 M.S. ' 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license. Penalty, see ' 112.99

112.26 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.

112.27 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter 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.

112.28 TRANSFER OF LICENSE.

No license issued under this chapter 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.

Penalty, see ' 112.99

112.29 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 \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) *Comprehensive background and financial investigation.* If 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.

112.30 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.

112.31 RESTRICTIONS ON ISSUANCE.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold. Penalty, see ' 112.99

112.32 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 an organization approved by the Council. 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 chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(F) Failure by an off-sale intoxicating liquor licensee who has received a fee reduction pursuant to ' 112.23(F) of this chapter to abide with the provisions of 112.23(F).

Penalty, see ' 112.99

112.33 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. 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 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(E) Any violation of any condition of this section may be grounds for revocation or suspension of the license.
Penalty, see 112.99

112.34 MINORS ON PREMISES.

(A) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, 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.
Penalty, see ' 112.99

112.35 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 M.S. ' 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.

Penalty, see ' 112.99

112.36 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 chapter 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, M.S. ' ' 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 chapter or M.S. 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 112.04, 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 chapter for at least the minimum periods as follows:

(a) 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.

(b) 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.

(c) 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.

(d) 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 chapter 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 (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of ' 112.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

Penalty, see ' 112.99

112.37 NON-INTOXICATING MALT LIQUOR LICENSING AND REGULATION

A. Definition of Terms.

1. **Beer.** As used in this ordinance, "beer" or "non-intoxicating malt liquor" means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths by weight.
2. **Beer Store.** "Beer Store" means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

B. License Required.

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".
2. Regular on-sale. Regular "on-sale" licenses shall be granted only to bona fide clubs, beer stores, exclusive "on-sale" liquor stores, drug stores, restaurants and hotels 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.

3. Temporary "on-sale". Temporary "on-sale" licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of beer for consumption on the premises only.
4. Off-sale. "Off-sale" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

C. License Applications.

1. Form. Every application for a license to sell beer shall be made to the city clerk on a form supplied by the city and containing such information as the clerk or the city council may require.. It shall be unlawful to make any false statement in an application.
2. Proof of Financial Responsibility. Prior to the issuance of a beer license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes Section 340.11, Subdivision 11, with reference to liability under the statutes, Section 340.95. Such proof shall be filed With the Commission of Insurance except that if a license is issued prior to March 1, 1983, or involves sales of beer of a prospective vendor who is not required by law to file such proof with the Commissioner of Insurance, such • proof shall be filed with the City Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 340.12.
3. Approval of Security. Liability insurance policies required by this ordinance but not by state law Shall be approved as to form by the City Attorney. Operation of a business licensed by this ordinance without having on file with the State Insurance Commissioner or the city at all times effective security as required in Subdivision 2 is a cause for revocation or suspension of the license.

D. License Fees.

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.
2. Expiration; pro rata fees. Every license except a temporary license shall expire on the last day of December 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 such 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 and such period shall be stated on the license.
3. Fees. The annual fee for a regular "on-sale" license is \$50,00. The annual fee for an "off-sale" license is \$10.00. The fee for a temporary "on-sale" license is \$1.9) per day.

4. Refunds. No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the council within 7 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, when operation of the licensed business ceases not less than one month before expiration of the license because of:
 - a) destruction or damage of the licensed premises by fire or other catastrophe
 - b) the licensee's illness.
 - c) a change in the legal status of the municipality making it unlawful for the licensed business to continue.,
 - d) the licensee's death.
- E. Granting of License.
1. Investigation and Hearing. The city 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.
 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.
- F. Persons Ineligible for License. No license shall be granted to or held by any person who would not be eligible under State law, and, 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 Minnesota Statutes Section 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee.
- G. Places Ineligible for License.
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 ordinance, or of the State beer or liquor law, or where any license hereunder has been revoked for cause until one year after such conviction or revocation.
 2. Delinquent Obligations to City. No license shall be granted for operation on_ any premises upon which taxes or assessments or other financial claims of the City are delinquent and unpaid.
- H. 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 10 persons.
- I. Closing Hours. No sale of beer shall be made between the hours of one a.m., and eight a.m. on any weekday Monday through Saturday inclusive. Neither shall any sale of such beer be made on any Sunday between the hours of one a.m. and twelve noon.

- J. Clubs. No club shall sell beer except to members and to guests in the company of members.
- K. Restriction on Purchase and Consumption.
 - 1. Age Misrepresentation. No minor shall misrepresent his age for the purpose of obtaining beer.
 - 2. Liquor Consumption and Display. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.
- L. Suspension and Revocation. The council may either suspend, for a period not to exceed 60 days or revoke any beer license upon a finding that the licensee or his agent has failed to comply with any applicable statute, regulation, or ordinance relating to beer. Except in the case of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at a place licensed to sell beer under this ordinance and except in cases of failure of financial responsibility, no suspension or revocation by the council shall take effect until the license has been afforded notice and an opportunity for a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The council may suspend any license pending a hearing on revocation or suspension. The holding of a federal liquor dealer's special tax stamp without a license to sell intoxicating liquors or the lapse of required ram 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 ordinance without further action of the City Council. Receipt of a federal retail liquor dealer's special tax stamp without an intoxicating liquor license or notice of cancellation or 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 suspension under the paragraph may request a hearing thereon and if such a request is made in writing to the clerk a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirements and other requirements of this ordinance have again been met.
- M. Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700.00 or imprisonment in the county jail for not more than 90 days, or both, plus the cost of prosecution in any case.

112.38 LIQUOR SALES HOURS

- A. A bona fide restaurant, hotel, or club, which meets requirements of Minnesota Statutes Chapter 340 (as amended) and Lanesboro Code Chapter VIII Section 316, Section 2B, and is the holder of a Sunday

license from the City, pursuant to the terms hereof, shall be allowed to sell intoxicating liquor on-sale between the hours of 12:00 o'clock noon on Sunday and 1:00 A.M. on the immediately following Monday.

- B. Any Sunday Sales Licensee who offers for sale any intoxicating liquor on Sunday, except during the hours allowed herein, shall be considered as violating the liquor law and shall, as a penalty, forfeit its Sunday Liquor License for the remainder of the year.

112.39 ALLOWING WINE LICENSE HOLDERS TO SELL MALT LIQUOR

- A. The holder of an on-sale wine license issued pursuant to Minn. Stat. 340A.404 Subd. 5(a), upon proof or evidence of qualification under Minn. Stat. 340A.404(b), shall be permitted and authorized to sell intoxicating malt liquors at on-sale without an additional license. Such authorization shall be issued by the City Clerk/Administrator, in writing, upon submission of said proof or evidence. Said proof or evidence shall be in the form and detail as prescribed by the City Administrator/Clerk. Said authorization shall be good for one year, and authorization shall be reissued upon evidence of continued compliance with the provisions of Minn. Stat. §340A.404.Subd. 5.
- B. Fees. There shall be no application fee for the authorization provided under this ordinance. As an administrative fee, a successful applicant shall pay an annual fee of \$50.00, said fee being due and payable at the time of the underlying wine license renewal.

112.40 LICENSING AND REGULATING OF INTOXICATING LIQUOR

- A. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made part of this ordinance as if set out in full.
- B. License Required
 - 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 or permit to do so as provided in this ordinance. Liquor licenses and permits shall be of five kinds: "on-sale", "on-sale" Sunday, "off-sale", club licenses, and bottle club permits.
 - 2. "On-Sale" Licenses
 - a) Places Eligible "On-Sale" licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only.
 - b) Number of Licenses. The number of "on-sale" licenses issued shall be limited by the Minnesota Statutes and the City Council's discretion.

3. "On-Sale" Sunday Licenses

- a) A restaurant, exclusive liquor store, hotel, or club, which meets requirements of MN. Chapter 340 and this ordinance, and which is the holder of a Sunday License from the City, pursuant to the terms hereof, shall be allowed to sell intoxicating liquor on-sale-between the hours of 12:00 o'clock noon and 9:00 o'clock P.M. on any Sunday.
- b) Sunday on-Sale licenses shall be issued only to on-sale licensees who make such application on forms provided by the City Clerk. Only the Lanesboro City Council may grant on-sale Sunday Liquor License upon a majority vote at a regularly scheduled monthly City Council Meeting. The annual fee for a Sunday Liquor License shall be \$100. A license shall authorize only one serving station at the establishment issued said license.
- c) Any Sunday Sales Licensee who offers for sale any intoxicating liquor before 12:00 o'clock noon on Sunday or later than 9:00 o'clock P.M. shall be considered as violating the liquor law and shall, as a penalty, forfeit its Sunday liquor License for the remainder of the year.

4. Off-sale Licenses

- a) Places Eligible "Off-sale" licenses shall be issued only to exclusive liquor stores. An exclusive liquor store holding an "off-sale" license may also hold an "on-sale" license. In order for a place to qualify for an "off-sale" license, it must meet the following conditions:
 - i. The licensed place must have its "off-sale" operation physically separate from its restaurant operation or "on-sale operation. To be physically separate, the "off-sale" premises must be fully enclosed by solid walls extending from ceiling to floor, said enclosure broken only by such door or doors that are necessary for access to the premises. In order to facilitate safe exit in case of an emergency, said "off-sale" operation must have a standard-sized door opening to the outside of the entire licensed place.
 - ii. The physically separate "off-sale" area shall not allow consumption of liquor "on-sale", nor shall it allow the display of liquor for "on-sale" consumption. (b) Number: Only one "off-sale" liquor license shall be issued under this ordinance.

5. Special Club Licenses: Special Club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years. There is no limitation on the number of special club licenses that may be issued.

6. Bottle Club Permits: The City may issue bottle club permits, including one-day intoxicating liquor consumption and display permits, in such manner and to such applicants as M.S.A Section 340.119, as amended, provides.

C. Application for License

1. Form Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character, with such

references as the council may require, his 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 has been in that business at that place, and such other information as the council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

2. Bond Each application for license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided in Minnesota Statutes, Section 340.12. Such surety bond or other security shall be in the sum of \$5,000.00 for an applicant for an "on-sale" license, \$1,000.00 for an "off-sale" license, and \$3,000.00 for a special club license.
3. Liability Insurance. Prior to the issuance of a liquor license, the applicant shall file with the city clerk a liability insurance policy in the amount of \$50,000.00 coverage for one person and \$100,000.00 coverage for more than one person and shall comply with the provisions of Minnesota Statutes Section 340.11 relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under that, statute, the policy may be accepted by the council in lieu of the bond required under Subdivision 2.
4. Approval of Security. The security offered under Subdivisions 2 and 3 shall be approved by the city council and in the case of applicants for on-sale, "on-sale" Sunday and "off-sale" licenses, by the state commissioner of public safety. Surety bonds and liability insurance policies 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 Subdivisions 2 and 3 is a cause for automatic and immediate revocation of the license.

D. License Fees.

1. Fees. The annual fee for liquor licenses and permits shall be \$1,500.00 for an "on-sale" license, \$100.00 for an "off-sale" license, \$100.00 for a special club license, \$100.00 for an "on-sale" Sunday license, and 3100.00 for a. bottle club permit.
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 Section 5, Subdivision 1, 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. the treasurer shall refund the amount paid as the license fee.
3. Term) PTO 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 December.

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

E. Granting of Licenses.

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 application an investigation fee of \$100.00 and the city shall conduct preliminary background and final investigation of the applicant. The application in such case shall be made on a 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 and 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.
2. Hearing and Issuance. The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. 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 "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. .
3. Persons 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 city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior approval is a ground for revocation of the license.

- F. 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 intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

G. Places Ineligible for License.

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

2. 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.

H. Conditions of License.

1. In General. Every license is subject to the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.
2. Licensee's Responsibility. Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well the licensee shall be liable to all penalties provided by this ordinance and law equally with the employee.
3. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, r inspect, and search the premises of the licensee during business hours without a warrant.
4. Display during Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
5. Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

I. Restrictions on Purchase and Consumption.-

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 permit from the commissioner of public safety under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.
2. Consumption in Public Places. No person shall consume liquor on a public highway, public sidewalk, public alley, or public parking lot within this municipality.

J. Suspension and Revocation. The council may either suspend for not to exceed 60 days or revoke one liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.70.

K. Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700 or imprisonment in the county jail for not more than 90 days, or both, plus the cost of prosecution in any case.

**112.401 AMENDMENT TO LICENSING AND REGULATING OF
INTOXICATING LIQOUR**

- A. Reference to State Statute. In cases where ordinance number 816 refers to Chapter 340 of Minnesota Statutes, said reference shall now be deemed to be in reference to Chapter 340A of the Minnesota Statutes, because Minnesota Statutes Chapter 340 has been replaced and superseded by Chapter 340A.
- B. Increase in number of available off-sale licenses. Section 2., Subd. 4 (b) is amended so as to read as follows: "Number. Only two off-sale' liquor licenses shall be issued under this ordinance."
- C. All other provisions remain effective. All other provisions of Ordinance number 816, entitled "an ordinance licensing and regulating the sale and consumption of intoxicating liquor, repealing inconsistent ordinances, and providing a penalty for violation", including all amendments thereto, shall remain in full force and affect

MUNICIPAL LIQUOR STORES

112.50 APPLICATION OF THIS SUBCHAPTER.

This subchapter, consisting of 112.50 through 112.55, applies only to a city that has in existence on the effective date of this chapter a municipal liquor store.

112.51 EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this chapter a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in ' 112.55, no intoxicating liquor may be sold at retail elsewhere in the city.

Penalty, see ' 112.99

112.52 LOCATION.

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

112.53 OPERATION.

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this chapter from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this chapter and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

(C) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

(D) *Financial statement.* The Council shall provide within 90 days following the end of the calendar year for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement shall be published in accordance with the provisions of M.S. ' 471.6985, as it may be amended from time to time.

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in ' 112.33. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer

than one-half hour after the time when the sale of intoxicating liquor must cease.

Penalty, see ' 112.99

112.54 PROOF OF FINANCIAL RESPONSIBILITY.

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. ' 340A.409, as it may be amended from time to time.

112.55 ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. ' 340A.404, Subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue on its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this section is governed by M.S. ' 340A.413, as it may be amended from time to time, as limited by the provisions of this chapter. The issuance of these licenses is governed by the provisions of this chapter.

(B) *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

(C) *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt liquor licenses in its sound discretion as provided in this chapter.

(D) *Brewer Taproom License.* The Council may issue brewer taproom licenses in its sound discretion as provided in this chapter.

(E) *Microdistillery Cocktail Room License.* The Council may issue microdistillery cocktail room licenses in its sound discretion as provided in this chapter.

112.99 PENALTY.

(A) Any person violating the provisions of this chapter or M.S. 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 M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. 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, M.S. ' ' 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 licenses is revoked:

(1) For the first violation within any three-year period, \$500.

(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 Aviolation@ as used in this section includes any and all violations of the provisions of this chapter, or of M.S. 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.