CHAPTER 112: ALCOHOLIC BEVERAGES

Section

General Provisions

112.001 Nudity on the premises of licensed establishments prohibited

3.2% Malt Liquor Licenses

112.010 Definitions
112.011 License required
112.012 Qualifications of licensees
112.013 On-sale licenses; types of establishments
112.014 Duration of licenses
112.015 Application for license
112.016 Proof of financial responsibility required
112.017 Investigation of applicant
112.018 License fees
112.019 Transfers restricted
112.020 Conditions
112.021 Display of license
112.022 Dancing restricted
112.023 Clubs: members only
112.024 Gambling prohibited
112.025 Sobriety required
112.026 Visibility
112.027 Intoxicating liquor prohibited
112.028 Rights of entry
112.029 Minors
112.030 Deliveries
112.031 Suspension or revocation
112.032 Training; education requirements

Intoxicating Liquors

112.050 Definitions
112.051 Application for license
112.052 Application for special Sunday license
112.053 Application for on-sale wine license
112.054 Proof of financial responsibility required
112.055 On-sale licenses
112.056 No multiple on-sale licenses
112.057 Off-sale licenses
112.058 Qualifications of licensee
112.059 Limitation of licenses issued
112.060 Premises licensed
112.061 Prohibited in certain areas
112.062 Revocation of licenses; training; education requirements
112.063 Ownership and transfers
112.064 Fees
112.065 Expiration and pro-rating of fees
112.066 Hours of sale
112.067 Inspections
112.068 Regulations
112.069 Visibility
112.070 Sales to minors or intoxicated persons
112.071 Minors permitted only with parents
112.072 Unauthorized premises
112.073 Employment of minors
112.074 Sobriety required
112.075 Gambling and certain conduct
112.076 Dancing restricted
112.077 Booth restrictions
112.078 Posting a license
112.079 Misrepresentation of age
112.080 Drinking in public
112.081 One-day consumption and display permit
112.082 Public dance permits

112.999 Penalty

GENERAL PROVISIONS

§ 112.001 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% malt liquor license or the imposition of a civil penalty under the provisions of § 112.999.
(Am. Ord. passed 6-24-09) Penalty, see § 112.999

3.2% MALT LIQUOR LICENSES

§ 112.010 DEFINITIONS.

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

3.2% MALT LIQUOR. Any malt beverage containing more than .5% of alcohol by volume, but not more than 3.2% of alcohol by weight.

BONAFIDE CLUB. An organization for social or business purposes, or for intellectual improvement, or for the promotion of sports, where the serving of 3.2% malt liquor is incidental and not the major purpose of the club.

MINOR. Any person under the age of 21 years.

OFF-SALE LICENSE. A license, which permits the licensee to sell 3.2% malt liquor at retail in original packages for consumption off the premises only.

ON-SALE LICENSE. A license, which permits the licensee to sell 3.2% malt liquor at retail for consumption on the licensed premises.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.011 LICENSE REQUIRED.

No person shall sell 3.2% malt liquors at retail in the city without first obtaining a license to do so in accordance with the provisions of this subchapter.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.012 QUALIFICATIONS OF LICENSEES.

(A) State statute prohibits issuing licenses to the following people:

(1) A person under 21 years of age;

(2) A person who has had an intoxicating or 3.2% malt liquor license revoked within five years of the license application;

(3) A person who at the time of a liquor violation:

(a) Owns any interest in the premises;

(b) Holds more than 5% of the capital stock of a corporation licensee; or

(c) Was a partner in the business or firm where the violation occurred;

(4) A person not of good moral character and repute; or

(5) A person with a direct or indirect interest in a liquor manufacturer, brewer or wholesaler.

(B) The city or the Alcohol and Gambling Enforcement Division may require applicants to provide fingerprints that will be forwarded to law enforcement for the purposes of a criminal background check.

(C) The application shall be signed and verified by the applicant in person, and if the applicant is a corporation, it must be signed by an officer of the corporation. It shall be unlawful to make any false statements on such application.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.013 ON-SALE LICENSES; TYPES OF ESTABLISHMENTS.

On-sale licenses shall be granted only to drug stores, restaurants, hotels, bona fide clubs and establishments for the sale of 3.2% malt beverages, cigars, cigarettes, and all forms of tobacco, beverages and soft drinks of retail. A club or charitable religious or non-profit organization may be issued a temporary on-sale license for the sale of 3.2% malt liquor.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.014 DURATION OF LICENSES.

Each license other than a temporary on-sale license shall be issued for a period of one year and shall expire on the first day of March following the date of the issuance, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the license year. Each temporary on-sale license shall be issued for a term of not to exceed seven consecutive days.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.015 APPLICATION FOR LICENSE.

An applicant for a license under this subchapter must file with the City Clerk a sworn application in writing on a form to be furnished by the City Clerk which shall reasonably require:

(A) Name, age, citizenship and residence address of the applicant;

(B) Type of license desired;

(C) A complete description of premises where 3.2% malt liquor is to be sold;

(D) A statement as to whether the applicant has ever been convicted of any crime or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed thereof;

(E) A statement as to the applicant's status with respect to the establishment for which the license is requested.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.016 PROOF OF FINANCIAL RESPONSIBILITY REQUIRED.

(A) An applicant for any license issued under this subchapter whose annual sales or projected sales of 3.2% malt liquor are $25,000 for an on-sale license and $50,000 for an off-sale license or more shall, in addition to the information required by § 112.015, file with the City Administration Office at the time of application or renewal, evidence of financial responsibility. For purposes of the requirements of this section, evidence of financial responsibility shall be established by the applicant in the manner provided in M.S. § 340A.409, as amended from time to time.

(B) A license issued pursuant to this chapter may be summarily revoked by the Council if the licensee fails to maintain financial responsibility in the manner required by M.S. § 340A.409, as amended from time to time.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.017 INVESTIGATION OF APPLICANT.

(A) Each application received shall be referred to the Olmsted County Sheriff who shall conduct such investigation of the applicant's moral character and repute and the accuracy of the statements in the application, as he deems necessary for the protection of the public interest.

(B) After completion of such investigation, the Olmsted County Sheriff shall report any discrepancies, omissions or mis-statements with respect to any application by attaching a statement thereof to the application and shall also recommend the denial of a license to any applicant deemed unsuitable as the result of the investigation. In addition to the foregoing, whenever the Olmsted County Sheriff is aware that the applicant or any employee of the applicant has been convicted of violating any law relating to the sale of 3.2% malt liquor, a statement shall be attached to the application setting forth the pertinent facts of such conviction.

(C) All applications with reports and recommendations, if any, attached thereto, shall be returned by the Olmsted County Sheriff to the City Administration Office and shall thereafter be presented by the City Clerk to the Council.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.018 LICENSE FEES.

License fees for non-intoxicating malt liquor licenses will be reviewed annually by the City Council and changed accordingly on the annual ordinance establishing license and compensation fees. The licenses that are affected are:

(A) Off-sale license;

(B) Annual license;

(C) Temporary on-sale; and

(D) Annual dance license.

(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. 603, passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.019 TRANSFERS RESTRICTED.

(A) Licenses issued may be transferred from one licensee to another licensee or to another place only with the consent of the Council and upon payment of a transfer charge as determined by the annual fee schedule set by the City Council.

(B) No sale of 3.2% malt liquors shall be made on Sunday neither between the hours of 1:00 a.m. and 8:00 a.m. No sale shall be made between the hours of 1:00 and 8:00 a.m. on any weekday, Monday through Saturday inclusive. No on-sale licensee shall permit any person to consume any 3.2% malt liquor on the premises except within the hours when the sale of such 3.2% malt liquor is permitted, nor shall any person consume any 3.2% malt liquor on the licensee's premises except within the hours when the sale of such malt liquor is permitted.

(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.020 CONDITIONS.

Each license is granted subject to the conditions set forth in §§ 112.011 through 112.017.

(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.021 DISPLAY OF LICENSE.

The license issued shall be posted in a conspicuous place on the licensed premises at all times.

(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.022 DANCING RESTRICTED.

Dancing is permitted on premises licensed for the on-sale of 3.2% liquor under the following conditions:

(A) No dancing is permitted within ten feet of any standing or serving bar.

(B) An unobstructed floor area of not less than 144 square feet shall be devoted to dancing purposes.

(C) The licensee shall first procure a dancing license. Such license shall be issued by the Council, signed by the Mayor and attested by the City Clerk and shall expire on the first day of March which occurs after the effective date of the license. Applications for a dancing license shall be made on forms provided by the City Clerk, and shall be accompanied by a fee as determined by the annual fee schedule set by the City Council.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.023 CLUBS: MEMBERS ONLY.

No club shall sell on-intoxicating malt liquor except to members and to guests in the company of members.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.024 GAMBLING PROHIBITED.

No gambling or any gambling device shall be permitted except where licensed by the State of Minnesota.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.025 SOBRIETY REQUIRED.

Every licensee shall be responsible for the conduct of the place of business and shall maintain conditions of sobriety and order.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.026 VISIBILITY.

All windows in the front of any place licensed for on-sales of 3.2% malt liquors shall be of clear glass, and the view of the whole interior shall be unobstructed by screens, curtains or partitions. There shall be no partition, box, stall, screen, curtain or other device, which obstructs the view of any part of the room from the general observation of persons in the room; but partitions, subdivisions, or panels not higher than 48 inches from the floor shall not be considered obstructions.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.027 INTOXICATING LIQUOR PROHIBITED.

No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on 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.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.028 RIGHTS OF ENTRY.

Any peace officer shall have the unqualified right to 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.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.029 MINORS.

(A) No person shall induce a minor to purchase or procure 3.2% malt liquor.

(B) No minor shall purchase or procure 3.2% malt liquor.

(C) No minor shall misrepresent his or her age for the purpose of obtaining 3.2% malt liquor.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.030 DELIVERIES.

No delivery of 3.2% malt liquor by the use of public streets or alleys shall be made by any licensee or any public conveyance between the hours of 8:00 p.m. and 12:00 midnight or between 12:00 midnight and 8:00 a.m. on any weekday and no delivery shall be made at any time on Sunday.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.031 SUSPENSION OR REVOCATION.

Any license granted under this chapter may be revoked or suspended for cause. The violation of any provision or condition of this chapter or any other ordinance or state law relating to the sale of 3.2% malt liquors or intoxicating liquors by a licensee or agent shall be grounds for revocation or suspension of the license.
(Ord. 603, passed 12-18-96; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.032 TRAINING; EDUCATION REQUIREMENTS.

(A) All licensed owners/managers are required to annually attend a qualified and city-accepted alcohol training/education classes for the establishment. A certificate of completion shall be presented to the City of Byron upon completion of these classes by January 2 of each year. The training/education classes may be those classes prepared and presented by the State of Minnesota or classes approved, prepared and presented by the owner's liquor insurance company. Upon completion of these classes, the owners/managers must provide written documentation of attendance and certification of compliance.

(B) It is recommended that the owners/mangers of the liquor establishment provide and have each server of alcohol, for its establishment, attend classes annually.

(C) *When compliance checks occur.* Compliance checks and inspections will be performed by the County Sheriff's officers with aid from appropriate personnel.

(D) *Compliance checks and inspections.* All licensed premises shall be open to inspection by the Olmsted County Sheriff's Department during regular business hours. Those used for the purpose of compliance checks shall be supervised by Olmsted County Sheriff's Department. Those used for compliance checks shall not be guilty of unlawful possession of alcohol when such items are obtained as a part of the compliance check. Those used in compliance checks shall not attempt to use a false identification misrepresenting their age, and those lawfully engaged in a compliance check shall answer all questions about their age if 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.

(E) *Violations; owners/managers.*

(1) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a notification 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 chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) *Hearing officer.* The City Council shall serve as the hearing officer.

(4) *Decision.* If the hearing officer (the City Council) determines that a violation of this chapter has occurred, that decision, along with the hearing officer's reason for finding a violation and the penalty to be imposed under the following section shall be recorded in writing, and a copy of which shall be provided to the licensee/violator, likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such finding shall be recorded and a copy provided to the acquitted violator.

(5) *Appeals.* Appeals of any decision made by the hearing officer (the City Council) shall be filed in the district court for the city in which the alleged violation occurred.

(6) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
(Res. 09-04, passed 1-14-09; Am. Ord. passed 6-24-09)

INTOXICATING LIQUORS

§ 112.050 DEFINITIONS.

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

CLUB. A corporation organized under the laws of Minnesota for civic, fraternal, social, or business purposes, or for intellectual improvement or promotion of sports, having more than 50 members, and having for more than a year owned, hired or leased a building of such extent and character to be suitable and adequate for the reasonable and comfortable accommodation of its members, whose membership is not restricted on the bases of race, color, creed, religion or national origin, and whose affairs and management are conducted by a board of directors, executive committee or other similar bid chosen by

the members at a meeting held for that purpose, none of whose members, officers, profit from the distribution or sale of beverages to the members of the club or to its registered guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body. Whereas, alcoholic beverages can be served only to members and registered guests of the club. Hours of sale: see § 112.066.

HOTEL. An establishment with resident, proprietor or manager, where, for payment, food and lodging is regularly furnished to transients, and which maintains, for use of its guests, not less than 25 guest rooms, with bedding and other suitable and necessary furnishings in each room, and which has a main entrance with suitable lobby, desk and office for registration of guests on the ground floor, and which employs an adequate staff to provide suitable and usual service and which maintains under the same management and control as the rest of the establishment and as an integral part thereof, a dining room with appropriate facilities for seating not less than 30 guests at one time, where the general public is, in consideration of payment, served with meals at tables. Provided that any hotel as herein described licensed for the first time after July 1992, shall have not less than 20 guest rooms and dining room having a capacity to seat not less than 100 guests.

RESTAURANT. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals to not less than 30 guests at one time, and where in consideration of payment therefore, meals are regularly furnished at tables to the general public, and which employs an adequate staff to provide usual and suitable service to its guests. Provided that any restaurant as herein described licensed for the first time after July 1992, shall have facilities for seating not less than 100 guests at one time.

INTOXICATING LIQUOR or ***LIQUOR.*** Ethyl alcohol and any distilled, fermented, spirituous, vinous or malt liquid of any kind, potable as a beverage, containing an alcoholic content in excess of 3.2% thereof by weight or 4% by volume.

MEDICINE. Such potable liquids as are prescribed by licensed physicians and dentists for therapeutic purposes, and United States pharmacopoeia and national formulary preparations, and preparations used for the medication of disease for external and internal purposes and not for beverage purposes.

OFF-SALE. The sale of liquor in original packages in retail stores, for consumption off or away from the premises where sold.

ON-SALE. The sale of liquor by the glass for consumption on the premises only.

ON-SALE LICENSEE. A person, corporation, partnership unincorporated association, or club having an on-sale license for the sale of intoxicating liquor issued by the city.

ON-SALE WINE LICENSE. A license authorizing the sale of wine not exceeding 14% alcohol by volume for consumption on the licensed premises only, in conjunction with the sale of food.

PACKAGE or ***ORIGINAL PACKAGE.*** Any container or receptacle holding liquor, which container or receptacle is corked or sealed.

SALE. All barter and all matter of furnishing intoxicating liquor.

SPECIAL SUNDAY LICENSE. A license issued to an on-sale licensee to sell liquor by the glass for consumption on the premises only in conjunction with the serving of food by the licensee.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.051 APPLICATION FOR LICENSE.

(A) State statute prohibits issuing licenses to the following people:

(1) A person under 21 years of age;

(2) A person who has had an intoxicating or 3.2% malt liquor license revoked within five years of the license application.

(3) A person who at the time of a liquor violation:

(a) Owns any interest in the premises;

(b) Holds more than 5% of the capital stock of a corporation licensee; or

(c) Was a partner in the business or firm where the violation occurred;

(4) A person not of good moral character and repute; and/or

(5) A person with a direct or indirect interest in a liquor manufacturer, brewer or wholesaler.

(B) The city or the Alcohol and Gambling Enforcement Division may require applicants to provide fingerprints that will be forwarded to law enforcement for the purposes of a criminal background check.

(C) The application shall be signed and verified by the applicant in person, and if the applicant is a corporation, by an officer of the corporation, and it shall be unlawful to make any false statements in such application.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999

§ 112.052 APPLICATION FOR SPECIAL SUNDAY LICENSE.

Any person to whom an on-sale license has been issued or hereafter may be issued for the sale of liquor at a hotel, restaurant, or club which has facilities for serving food to not less than 30 guests at one time, may apply for a Special Sunday license to serve liquor between the hours of 8:00 a.m. and 12:00 midnight on Sundays in conjunction with serving food. Application for a Special Sunday license shall be made to the City Council in the same manner and subject to the same conditions governing application for on-sale licenses. An application for a Special Sunday license may be included on an application for an on-sale license when both applications are made at the same time. A Special Sunday license shall only be issued to persons having an on-sale license.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09; Am. Ord. 2015-01, passed 8-25-14)

§ 112.053 APPLICATION FOR ON-SALE WINE LICENSE.

Any person desiring an on-sale wine license for a restaurant may make application to the Council in the same manner and subject to the same conditions governing applications for On-sale licenses. An on-sale wine license may only issued for the sale of wine at a restaurant. No on-sale wine license shall be effective until approved by the Commissioner of Public Safety of the State of Minnesota.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.054 PROOF OF FINANCIAL RESPONSIBILITY REQUIRED.

An application for any license issued under this subchapter, except an on-sale wine license holder with an actual or projected annual sale of wine of less than $25,000 per year, shall, in addition to the information requested by this subchapter, file with the City's Administration office at the time of application or renewal, evidence of financial responsibility. For purposes of the requirements of this section, evidence of financial responsibility shall be established by the applicant in the manner provided in M.S. § 340.11, subd. 21, as it may be amended from time to time.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.055 ON-SALE LICENSES.

(A) The Council may issue such on-sale licenses to hotels, restaurants and exclusive liquor stores. The city will issue up to five such licenses. The city will follow M.S. § 340A.413 in determining what establishments count against the total number of on-sale licenses it will issue (restaurants, theaters, hotels, clubs and bowling centers will not count against the total number of available on-sale licenses).

(B) On-Sale licenses may be issued to clubs if such clubs are qualified as required in § 112.050.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.056 NO MULTIPLE ON-SALE LICENSES.

Not more than one on-sale license shall be issued to any person in this municipality.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.057 OFF-SALE LICENSES.

Not more than three off-sale licenses shall be issued for the sale of alcoholic beverages in original packages for consumption off the licensed premises.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.058 QUALIFICATIONS OF LICENSEE.

(A) No license shall be issued to anyone other than a citizen of the United States, over 21 years of age of good moral character and repute, nor to any person who shall be hereafter convicted of any willful violation of any law of the United States or the state or any city ordinance with regard to the manufacture, sale, distribution or possession for sale of distribution of intoxicating liquor, nor to any person whose license under the State Liquor Control Act or this subchapter shall be revoked for any willful violation of such Act or subchapter.

(B) No license shall be granted to any manufacturer or distiller of intoxicating liquor, nor to anyone interested in the ownership or operation of any such place, nor to a person operating a licensed place owned by a manufacturer, distiller or exclusive wholesale distribution agent.

(C) No license shall be granted for operation on any premises upon which or assessments or other financial claims of the city are delinquent and unpaid.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.059 LIMITATION OF LICENSES ISSUED.

(A) No more than one on-sale, off-sale license or combination thereof shall be directly or indirectly issued under this chapter to any one person or for any one place in the city. (With the exception of the existing 3-D's Sports Bar On-Sale and Off-Sale.) It is a misdemeanor for any person, partnership, or

corporation to knowingly have or possess a direct or indirect interest in more than one on-sale, off-sale license or combination thereof issued under this chapter and upon conviction therefore the Council may immediately revoke all licenses in which such person, partnership, or corporation has an interest. For the purposes of the requirements of this section, the number of licenses will be counted by the city in the manner provided in M.S. § 340A.413, subd. 4, as it may be amended from time to time.

(B) The term ***INTEREST*** includes any pecuniary interest in the ownership, operation, management, or profits of an establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to such establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or 10% or less interest in any corporation holding a license. A person who receives monies from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefore and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such license. In determining ***BONA FIDES*** the reasonable value of the goods or things received as consideration for any payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this section shall be considered.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 9-22-04; Am. Ord. passed 6-24-09)

§ 112.060 PREMISES LICENSED.

(A) No license shall be effective beyond the compact and contiguous space named therein for which the same was granted, except that an on-sale license or special Sunday license granted for sale in the dining room of the hotel, restaurant, or club and an on-sale wine license may permit sales of liquor with meals in additional dining rooms open to the public and specified on the license where meals are regularly served to guests therein. All licenses granted hereunder shall set forth the exact location within the building structure where such sales may be made an no sales shall be permitted except in that part of the premises defined in the license. The structure within which liquor is to be sold as authorized by this subchapter shall at all times be in compliance with applicable building and safety codes.

(B) Applicants for on-sale wine licenses, or on-sale licenses shall submit preliminary plans and sketches of the present or new structures or facilities within which licensed premises are to be located and such plans shall not be significantly altered without further review.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.061 PROHIBITED IN CERTAIN AREAS.

No license shall be issued for premises located within the areas restricted against commercial use by the zoning code of the city or other proceedings or legal processes regularly had for that purpose; and no license shall be issued contrary to the provisions of the chapter or ordinances of the city or general laws of the State of Minnesota restricting areas within which intoxicating liquor may be sold.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.062 REVOCATION OF LICENSES; TRAINING; EDUCATION REQUIREMENTS.

(A) All licensed owners/managers are required to annually attend a qualified and city-accepted alcohol training/education classes for the establishment. A certificate of completion shall be presented to the City of Byron upon completion of these classes by January 2 of each year. The training/education classes may be those classes prepared and presented by the State of Minnesota or classes approved, prepared and presented by the owner's liquor insurance company. Upon completion of these classes, the owners/managers must provide written documentation of attendance and certification of compliance.

(B) It is recommended that the owners/mangers of the liquor establishment provide and have each server of alcohol, for its establishment, attend classes annually.

(C) *When compliance checks occur.* Compliance checks and inspections will be performed by the County Sheriff's officers with aid from appropriate personnel.

(D) *Compliance checks and inspections.* All licensed premises shall be open to inspection by the Olmsted County Sheriff's Department during regular business hours. Those used for the purpose of compliance checks shall be supervised by Olmsted County Sheriff's Department. Those used for compliance checks shall not be guilty of unlawful possession of alcohol when such items are obtained as a part of the compliance check. Those used in compliance checks shall not attempt to use a false identification misrepresenting their age, and those lawfully engaged in a compliance check shall answer all questions about their age if 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.

(E) *Violations (owners/managers).*

(1) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a notification 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 chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) *Hearing officer.* The City Council shall serve as the hearing officer.

(4) *Decision.* If the hearing officer (the City Council) determines that a violation of this chapter has occurred, that decision, along with the hearing officers reason for finding a violation and the penalty to be imposed under the following section shall be recorded in writing, and a copy of which shall be provided to the licensee/violator, likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such finding shall be recorded and a copy provided to the acquitted violator.

(5) *Appeals.* Appeals of any decision made by the hearing officer (the City Council) shall be filed in the district court for the city in which the alleged violation occurred.

(6) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(F) Each applicant for a license shall specify that the establishment will be opened for business within a certain number of days after issuance of the license. If the establishment does not open for business within 30 days from the date so specified, the license shall be automatically revoked, unless prior thereto the licensee shall have been granted an extension of time by resolution of the Council. (Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.063 OWNERSHIP AND TRANSFERS.

(A) No license granted hereunder shall be transferable from person to person or to other premises without the consent of the Council which shall be evidenced by motion passed by the Council. Any change of a licensee's form of ownership and any change of ownership or beneficial interest in shares of stock in a corporate licensee shall be deemed equivalent to transfer of the license and the same shall not become effective until approved by the Council.

(B) Each corporate licensee shall report to the city's Administration Office any proposed change of legal ownership or beneficial ownership in the corporate stock. The report shall be in writing and shall list all stockholders, their age, occupation, residential address, and the number of shares held by each and whether the shares are held individually or for the benefit of others. The report shall include all powers of attorney for proxies granted that relate to the voting of the corporate share of stock.

(C) The Council or any other officer designated by the Council may at any reasonable hour examine the stock, transfer records, minute books and other business records of a corporate licensee for the

purpose of determining the extent of interest of any and all persons in the corporate licensee, the ownership and voting of shares of stock of the corporation, and to determine whether the extent of interest of any and all persons in the corporate licenses, the ownership and voting of shares of stock of the corporation , and to determine whether any change of the legal ownership of or beneficial interest in certain shares of stock has directly or indirectly resulted in multiple ownership or in a change of control of the licensee.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.064 FEES.

License fees for intoxicating liquor licenses will be reviewed annually by the City Council and changed accordingly on the annual ordinance establishing license and compensation fees. The licenses that are affected are:

(A) On-sale license;

(B) Off-sale license;

(C) Special Sunday license;

(D) On-sale wine license;

(E) Bottle club or set-up licenses;

(F) One day permit;

(G) Dance permits; and

(H) Any investigation fees required for the above listed licenses.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. 601, passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.065 EXPIRATION AND PRO-RATING OF FEES.

(A) Fees are not to be pro-rated except on the occasion that it is requested and granted by the City Council.

(B) The annual license fee for on-sale licenses must be paid in full when the license is granted.

(C) All licenses granted under the provisions of this chapter shall expire on the first day of March of each year, following the date of issuance.

(D) A penalty of 50% of the annual license fee, but not to exceed $300, shall be imposed on and collected from each applicant who files an application for renewal of a license after the commencement of the license year.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.066 HOURS OF SALE.

(A) No sale of liquor shall be made on Sundays after 2:00 a.m. and until 8:00 a.m. on Mondays, except that on Sundays, liquor may be sold under authority of a Special Sunday license and wine may be sold under authority of an on-sale wine license between the hours of 8:00 a.m. and 12:00 midnight in conjunction with the serving of food. An on-sale licensee or an on-sale wine licensee shall make no sale on any day of the week between 2:00 a.m. and 8:00 a.m.

(B) No sale shall be made by an on-sale licensee or an on-sale wine licensee between 1:00 a.m. and 8:00 a.m. on any day of the week.

(C) No sale shall be made by an off-sale licensee before 8:00 a.m. on any day of the week or after 10:00 p.m. Monday through Saturday.

(D) No on-sale sales shall be made after 8:00 p.m. on December 24.

(E) No on-sale licensee or on-sale wine licensee shall permit any person to consume any liquor on the licensed premises except within the hours when the sale of such liquor is allowed, nor shall any on-sale licensee permit any consumer or person whomsoever, except the regular employees of the licensee, to remain at the place of business after 2:00 a.m.

(F) No off-sale sales shall be made on Thanksgiving Day or Christmas Day, December 25; but on the evening preceding such days, if sale of liquor is not otherwise prohibited on such evenings, off-sale sales may be made until 10:00 p.m. except that no off-sale sales shall be made on December 24 after 8:00 p.m.

(G) The 2:00 a.m. applies to only those premises that have received an *Optional 2 AM Special Closing License* issued through the state. For all others, the 2:00 a.m. is replaced with 1:00 a.m. throughout this section.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 4-28-04; Am. Ord. passed 6-24-09; Am. Ord. 2015-01, passed 8-25-14)

§ 112.067 INSPECTIONS.

All premises where any license hereunder is granted shall be open to inspection by any law enforcement or health officer or any other properly designated officer or employee of the city at any time during which the place so licensed shall be open to the public for business.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.068 REGULATIONS.

All licensees shall observe the regulations set forth in §§ 112.066 through 112.081 as applicable to the particular licensee.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.069 VISIBILITY.

No on-sale place of business shall be permitted to have swinging doors or opaque windows, and the view of the whole interior of the said place of business shall be unobstructed by screens, curtains or partitions. All sales shall be made in full view of the public.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02)

§ 112.070 SALES TO MINORS OR INTOXICATED PERSONS.

No liquor shall be sold or furnished for any purpose whatsoever to any person under 21 years of age, except as provided by state law, or to one obviously intoxicated or to any person to whom such sale is prohibited by any law of this state or chapter.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999

§ 112.071 PERSONS UNDER 21 PERMITTED ONLY WITH PARENTS

No persons under 21 years of age shall be allowed in any premises licensed for the sale of intoxicating liquor (applicable to bars only), unless accompanied by their parents or guardian, and if accompanied by their parents or guardian they shall not be permitted to remain therein after 10:00 p.m. A person 18, 19 or 20 may enter an establishment to perform work for the establishment, including the serving of alcoholic beverage, to consume meals, or to attend social functions that are held in a portion of the establishment where liquor is not sold. No person under 21 years of age shall be permitted in the premises used for the sale of intoxicating liquor for the sale of newspapers or any other merchandise.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.072 UNAUTHORIZED PREMISES.

No sale shall be made in any place or in any part of a building where such sales are prohibited by state law or this subchapter.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.073 EMPLOYMENT OF MINORS.

A person 18, 19 or 20 may enter an establishment to perform work for the establishment, including the serving of alcoholic beverages.
(Am. Ord. passed 6-24-09)

§ 112.074 SOBRIETY REQUIRED.

Every licensee is responsible for the conduct of the place of business, and required to maintain order and sobriety in such place of business.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.075 GAMBLING AND CERTAIN CONDUCT.

Except as may be permitted by a bingo or gambling license issued by the State of Minnesota, no licensee shall keep, possess or operate, or permit the keeping, possession or operation of, on any licensed premises or in any room adjoining the licensed premises, any slot machines, dice or gambling device or apparatus, or device used for gambling purposes, nor permit any gambling therein nor permit the licensed premises or any room in the same or in any adjoining building directly or indirectly under the licensee's control to be used as a resort for prostitution or other disorderly persons.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999

§ 112.076 DANCING RESTRICTED.

Dancing is permitted on premises licensed for the on-sale of intoxicating liquor under the following condition:

(A) No dancing is permitted within 10 feet of any standing or serving bar.

(B) An unobstructed floor area of not less than 144 square feet shall be devoted to dancing purposes.

(C) The licensee has first procured a license for dancing. The license shall be issued by the Council, shall be signed by the Mayor and attested to and shall expire on March 1 which occurs after the effective date of the license. Applications for a dancing license shall be made on forms provided by the city's Administration Office, and shall be accompanied by a fee of $750, provided that for a club as defined by § 112.050, the fee shall be $375 if the balance of the license year is six months or more and one-half the total fee if the balance of the license year is less than six months. In the event an application for dancing license is denied, the fee shall be refunded.

(D) Applications, for a one-day dancing permit shall be made on forms provided by the city, and shall be accompanied by a fee of $50, provided that for a club as defined by § 112.050 of this code, the fee shall be $25. Not more than five permits will be granted to any applicant in any one calendar year. (Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999

Cross-reference:

Regulation of public dances, see Ch. 97

§ 112.077 BOOTH RESTRICTIONS.

No booths shall be allowed, kept or used on any on-sale premises, greater than 42 inches in height. (Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.078 POSTING A LICENSE.

The license issued to such licensee shall be posted in a conspicuous place in that portion of the premises for which the license has been issued.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.079 MISREPRESENTATION OF AGE.

No person shall misrepresent his or her age to any licensee hereunder for the purpose of inducing a sale of intoxicating liquor in violation of this subchapter.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999

§ 112.080 DRINKING IN PUBLIC.

No person shall consume any intoxicating liquor in any public place unless such place is licensed hereunder, or unless a person using the premises has been issued a permit by the Commissioner of Public Safety to serve liquor for the purpose of mixing intoxicating liquor.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999

§ 112.081 ONE-DAY CONSUMPTION AND DISPLAY OF PERMIT.

A non-profit organization may obtain, subject to final approval by the Commissioner of Public Safety for the State of Minnesota, a one day consumption and display permit from the City Council, for a license fee of $5. The permit shall be valid only for the date issued, and shall permit the organization in conjunction with a social activity sponsored by the organization to allow consumption and display of intoxicating liquor, on the premises described hereunder shall be governed by M.S. § 340A.414, subd. 9, as it may be amended from time to time.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09)

§ 112.082 PUBLIC DANCE PERMITS.

(A) *Public dance defined.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC DANCE shall mean any dance where the general public may participate, whether or not a charge for admission for dancing is made.

(B) *Permit required.* It shall be unlawful for any person to give, hold or conduct a public dance, unless the owner or proprietor of the place where said dance is held, or the person giving the same or in charge thereof, shall first have procured a permit to hold, give and conduct said public dance from the City Council. A permit shall not be required if the owner or proprietor of the place where said dance is held has a license issued pursuant to § 112.076.

(C) *Type of permits.* A permit issued under this chapter may be a single dance permit or an annual permit. A single dance permit shall permit the holder thereof to give, hold, or conduct a public dance, or permit the owner or lessee of a premise to permit such premises to be used for the purpose of holding a public dance, on a single occasion. An annual dance permit shall permit the holder to give, hold or conduct a public dance, or the owner or lessee of a premise to permit such premises to be used for the purpose of holding a public dance on an unlimited number of occasions during a calendar year. Provided that no person or club shall be eligible for issuance of more than five single dance permits in any calendar year, nor shall any owner or lessee of a permit at that premises in any calendar year.

(D) *Fees.*

(1) The fee issuance of a single dance permit shall be determined by the City Council annual fee schedule.

(2) The fee for issuance of an annual dance permit is $150 if the balance of the license year is six months or more and one half the total fee if the balance of the license year is less than six months. In the event an application for a dancing license is denied, the fee shall be refunded.

(E) *Dancing restricted.* Dancing is permitted on premises licensed for the on-sale of intoxicating liquor under § 112.076.
(Ord. 601, passed 2-12-98; Am. Ord. passed 1-23-02; Am. Ord. passed 6-24-09) Penalty, see § 112.999
Cross-reference:
Regulation of public dances, see Ch. 97

§ 112.999 PENALTY.

(A) Any person violating any provision of this chapter for which a penalty is not otherwise specifically provided shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in § 10.99.

(B) *Licensees.* Any licensee found to have violated this chapter shall be charged an administrative fine of $250 for the first violation; $500 for a second offense and a $1,000 administrative fine for a third or subsequent offense at the same licensed premises within a 24-month period. The City Council reserves the right to revoke or suspend the license up to 30 days based upon the City Council's review of the circumstances associated with each violation. The City Council shall review each violation on a case by case basis to determine whether a revocation of the licensee's license is appropriate. The penalties in this section shall be revised from time to time as part of the City of Byron Fee Schedule.
(Res. 09-04, passed 1-14-09)