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## ARTICLE 7 - LICENSES

### **7-100 General Provision**

This Article related to the licensing of certain activities within the City. All licenses shall be applied for on application forms prepared by the City Administrator, and unless specified to the contrary, all licenses shall be issued by the City Administrator.

### **7-110 Fees**

Excepting matters for which fees are established by State or Federal law, the fees for all licenses issued under this Article shall be established from time to time by resolution of the City Council.

### **7-120 Violations**

Requirements for all licenses are ongoing in nature, and the violation of any condition of issuance of a license shall be grounds for sanctions to be imposed by the City, including, without limitation, revocation or suspension of a license, after due process of law.

### **7-130 Special Provisions for Alcohol, Non-Intoxicating Malt Liquor and Tobacco Licenses**

#### **7-131 Age Compliance Checks**

At least one time each calendar year, the City's law enforcement personnel shall conduct age compliance checks of every holder of a license issued under Articles 7-400, 7-700, 7-800, 7-829 and 7-831 of this code

#### **7-132 Definitions**

For the purposes of this Article, the following terms are defined.

a) **“Alcohol”** means any liquor, beer wine, intoxicating or non-intoxicating malt beverages sold by a licensee under Articles 7-700, 7-800, 7-829 or 7-831 of this Code.

b) **“Tobacco”** means cigarettes, cigars, pipe tobacco, chewing tobacco or any other tobacco product sold by a licensee under Article 7-400 of this Code.

c) **“Minor”** the word “minor” means a person under the age of 18 years for tobacco age compliance checks, and means a person under the age of 21 years for alcohol age compliance checks; the phrase “of legal age” means 18 years old or older for tobacco age compliance checks, and

means 21 years old or older for alcohol age compliance checks.

**d) “Drug Paraphernalia”** includes any of the following: cigarette paper sold or offered for sale without the availability of pouch cigarette tobacco from the retailer; smoking pipes sold or offered for sale without the availability of pipe tobacco from the retailer; roach clips; one-hitters; bongos; water-pipes.

**7-133 Conditions of Compliance Checks** The following general guidelines shall be observed by the law enforcement personnel in conducting age compliance checks.

**a)** A minor shall be recruited (with parental consent if under 18) for the purpose of attempting to purchase tobacco or alcohol at the premises of each licensee.

**b)** No attempt shall be made to disguise a minor to appear of legal age, nor shall minors whose natural appearance makes them appear to be of legal age be recruited for compliance operations.

**c)** The minor shall not attempt to induce a sale by any gift, offer of extra money or means other than a direct request to buy tobacco or alcohol, nor shall the minor attempt to cajole, persuade or intimidate a salesperson into making a sale once identification has been requested of the minor.

**d)** Inquiry shall be made of each minor used in the operation as to any history of that person’s usage of a fake identification, and no minor shall be used in the compliance operation if the minor has any history of ever having used or possessed a fake identification card.

**e)** The City’s law enforcement personnel will notify the City Administrator of each age compliance check, and the result thereof, within two business days after each compliance check. This information will include the date and time of day of the check, the location, and if a failure resulted, the name of the salesperson and the details of the sale.

**f)** If a licensee has not failed a compliance check after five checks have been made at the licensee’s location, efforts will be made to limit compliance checks at that licensee’s premises so that on average, that licensee is not checked more than one time per twelve months. This clause does not prohibit more than one compliance check for such a licensee in a given twelve-month period, but merely establishes a general guideline for an average over an extended number of years. If a licensee fails an age compliance check, there is no limit on the frequency of

compliance checks until five consecutive successful checks have been made.

**g)** If a licensee passes an age compliance check, the City Administrator shall promptly notify the licensee by letter signed by the City Administrator, of the successful result, including the date and time of day that the compliance check was made.

#### **7-134 Civil Procedures on Sales to Minors**

If the agent of any licensee shall sell tobacco or alcohol to a minor, whether in an age compliance check or otherwise, the following civil procedures shall take place in addition to, and not in place of, any criminal proceedings which may take place.

##### **a) Notification to Licensee**

The City Administrator shall notify the licensee in writing of the failure, within fourteen days of any sale to a minor, including the date, time and circumstances of the sale, and the consequences of the failure.

##### **b) Civil Penalty**

The notice to the licensee shall also inform the licensee that a civil penalty is assessed against the licensee as a result of the sale to a minor. The civil penalty shall be in the following amounts:

**i)** For tobacco licensees, the penalty shall be \$250.00, plus \$250.00 for each previous compliance check failure in the preceding ten years, up to a maximum of \$1,500.00;

**ii)** For alcohol licensees, the penalty shall be \$500.00, plus \$500.00 for each previous compliance check failure in the preceding ten years, up to a maximum of \$3,000.00;

The civil penalty shall be due and payable in full within 30 days after notice of the penalty is given to the applicant. No subsequent license for tobacco or alcohol shall be issued to the licensee, or to any subsequent applicant for a license for sales of tobacco or alcohol from the location at which the delinquent licensee operated, until and unless the penalty is paid in full.

##### **c) Hearing on Penalty**

Within ten days after receipt of the notice of the penalty, the licensee may request a hearing before the

City Council for the purpose of appealing the penalty. The request must be in writing and addressed to the City Administrator. The payment requirement shall be in abeyance during the appeal period, and the City Council



may, in their discretion, either hear the appeal at a regular City Council meeting or at a special meeting. Following the hearing, the City Council may, in their discretion, ratify the penalty, reduce the penalty, or abate the penalty. Any penalty owing after the hearing shall be due and payable immediately if the original 30 days for payment have elapsed, and due and payable within the original 30 days if those days have not yet elapsed.

**d) Suspension or Revocation of License**

In addition to, and not in place of the civil penalties prescribed above, licensees who fail age compliance checks repeatedly shall be given the following sanctions:

**i)** If a licensee fails a check which results in a circumstance in which one of the sanctions listed in Article 7-134 (d) (ii) or (iii) below will take place if the next check is failed, the licensee shall be given written notice of the consequence of the subsequent failure.

**ii)** If a licensee fails three consecutive checks, the license shall be summarily suspended by the City Administrator as soon as the appeal time has elapsed, or, if an appeal is heard, upon ratification of the suspension by the City Council. The suspension shall be for thirty days.

**iii)** If a licensee fails four consecutive checks, or if a licensee fails seven checks within a ten-year period, the license shall be summarily revoked by the City Administrator as soon as the appeal time has elapsed. If an appeal is requested, the license shall remain in effect until a decision is made by the City Council as to sanctions

**e) Hearing on Suspension or Revocation**

Within ten days after receipt of a notice of failure which might result in suspension or revocation of a license, the licensee may request a hearing before the City Council for the purpose of appealing the sanction. The request must be in writing and addressed to the City Administrator. The City Council may, in their discretion, either hear the appeal at a regular City Council meeting or at a special meeting. Following the hearing, the City Council may, in their discretion, revoke the license, suspend the license for any period of time, or abate the sanctions. If a license is revoked, no new license shall be issued to that licensee or its principals for any alcohol or tobacco sales, nor shall the premises from which the illegal sales were made be

subsequently eligible to house a licensed seller of alcohol or tobacco.

**7-135 Eligibility for License**

No applicant shall be eligible to receive a license to sell alcohol or tobacco if the premises at which the sales are to be made carries as part of its stock in trade any drug paraphernalia as defined by Article 7-132 (d) of this Code.

**7-136 Criminal History Background Investigations**

Criminal History Background Investigations may be conducted by City Staff using publicly available websites, by the Anoka County Sheriff's Office for liquor, beer, wine or non-intoxicating malt liquor licenses or for other lawful purposes on request of City Staff, or by the Minnesota Bureau of Criminal Apprehension where nationwide background data is required. All background investigations shall first be approved by the City Administrator.

**7-136.1 Required Investigations**

- A. Employment with City.** All persons seeking employment with the City shall be subject to a criminal history background investigation at such time and the person is selected for a job interview. The extent of the background check shall be in accord with State and Federal laws pertaining to the nature of the duties to be performed by the prospective employee.
- B. Beverage Licenses.** Persons seeking City on-sale or off-sale licenses to sell intoxicating liquor, beer, wine or non-intoxicating malt liquor shall be subject to statewide background checks.
- C. Specific Permits or Licenses.** Persons seeking permits or licenses for Transient Merchant, Peddler, Canvasser, Solicitor, Massage Therapy or Lawful Gambling shall be subject to statewide or nationwide background checks.
- D. Institutional Ownership.** If the applicant for a liquor, beer, wine, non-intoxicating malt liquor or lawful gambling license is a corporation, limited liability company or partnership, the entity shall designate a responsible managing person, and the person so designated shall be subject to the background check.

**7-136.2 Use of Data** Data obtained in any background check shall not be public data, and shall be maintained in the manner provided by law by all agencies having possession of the data.

**7-136.3 Consent Form** Prior to conducting or requesting a background check, the applicant shall be required to execute a written consent form compliant with the provisions of Minnesota Statutes Chapter 13. The City staff shall maintain and update such forms for this purpose.

**7-136.4 Denial of Employment or Request** No person shall be denied employment by reason of information discovered in a background check unless the information consists of a criminal history that relates directly in whole or in part to the position being sought, and the conviction level is higher than a petty misdemeanor. No person shall be denied a permit or license based on information discovered in a background check unless the information consists of a criminal history that relates directly in whole or in part to the activity for which the license or permit is being sought, and the conviction level is higher than a petty misdemeanor. If employment, permitting or licensure is denied to any applicant based on information received in a background check, City staff shall give a written notice to the applicant stating the following:

- A. The reason for the denial;
- B. The complaint and grievance procedures set forth in Minnesota Statutes Chapter 364.06;
- C. The earliest date that the applicant may re-apply;
- D. That if the applicant has competent evidence of rehabilitation, all such evidence will be considered by the City upon reapplication.

## **7-200 Construction Activities**

### **7-210 License Required**

Before any person, firm, corporation or other entity shall engage in the business of doing or performing any of the various types of work listed in this Article, they shall obtain a license: A license may be obtained from the City, or, if the activity is licensed or bonded by the State, then a State License or bond shall suffice or, in the case of a City License, no license shall be recognized until the applicant shall furnish a policy of insurance. Licenses shall be required for:

- (1) Cement work, cement block work, cement block laying or brick work;
- (2) General construction including erection, alteration or repair of buildings;
- (3) The moving or wrecking of buildings;
- (4) Plastering, outside stucco work, or lathing;
- (5) Blacktopping (parking lots, driveways, etc.);
- (6) Plumbing including installation, repair and pumping of outside sewer disposal systems;
- (7) Roofing;
- (8) Sign and billboard erecting;
- (9) Excavators (for basements, foundations, grading of lots, etc.);
- (10) Heating, ventilating and air conditioning.

### **7-220 Insurance**

No license shall be issued, or, in the case of a State License, no License shall be recognized, until the applicant shall furnish a policy of insurance insuring such applicant against liability imposed by law on account of injury to persons in the amount of \$100,000.00 per person and \$300,000.00 for each accident and a policy insuring the applicant against liability imposed by law on account of damage or destruction to property in the amount of \$50,000.00. The licensee shall furnish the City with a copy of or evidence of the insurance policy or policies, which shall provide that same shall not be canceled by the insurer or the insured without ten days prior written notice thereof being given to the City. In case of cancellation of such insurance, such license shall be suspended automatically until such insurance shall be replaced.

### **7-230 Expiration**

All licenses, except those relating to liquor or beer, issued under this Article shall expire on December 31, following the date of issuance unless sooner revoked or forfeited. If a license granted hereunder is not renewed previous to expiration then all rights granted by such license shall cease and any work performed after the expiration of the license shall be in violation of this Code.

## **7-300 Public Dances and Cabaret Licenses**

### **7-310 Public Dances**

#### **7-311 License**

No person, corporation or other party shall hold or maintain or permit any public dance in the City except in accordance with the provisions of this Article and after obtaining a license. License shall be issued on application for either a single dance or for periodic dances through a year's period of time. Licenses for single dances may be issued by the City Clerk in the discretion of the Clerk; licenses for a year's period shall be issued by the City Clerk only after approval by the City Council.

#### **7-312 Security**

There shall be in attendance at the expense of the licensee at all public dances held in the City, a trained security officer.

#### **7-313 Exceptions**

Public dances subject to license and regulation under this Article shall include both those dances for which admission is charged and those for which admission is not specifically charged for entry to the premises upon which the dancing is to be presented or conducted, but shall not include private dances where admission is obtained by prior invitation such as wedding dances and similar dances, and shall include any dancing by two or more persons whether to music personally played or to recorded or other mechanically produced music, unless a special cabaret license is in effect, pursuant to other articles of the City Code.

#### **7-314 Persons Ineligible for License**

No such license shall be granted to any person of bad character or who has been convicted of a felony, gross misdemeanor or violation of any provision of Article 7-300, nor to any person who is or has been a keeper of any disorderly house of any kind, nor for any place which has direct or indirect communication with any room in which intoxicating liquor is sold or otherwise used, except establishments possessing a valid on-sale liquor license, nor for any place other than a licensed hotel, having so-called private apartments or private rooms which adjoin such dancing place, or which may be reached by stairs, elevator or passageway leading from such dancing place, and no such license shall be issued under this Article, unless the City Council is satisfied that the place where said dance is to be given or held is properly ventilated and equipped with necessary toilets, washrooms, lighting facilities, and that such place is not likely to become a public nuisance or detrimental to public morals.

### **7-320 Cabaret Licenses**

#### **7-321 License Required**

No person holding any on-sale intoxicating liquor license, or on-sale non-intoxicating malt liquor (beer) license shall hold, provide, maintain or permit any of the following activity, without first obtaining a cabaret license: Dances or dancing, or the provision of any form of entertainment for patrons, including, but not limited to instrumental music, singing or vaudeville entertainment, stage shows or amusement, whether by an individual or more than one person.

#### **7-322 Term**

Such license shall be either for a yearly period or for a period to be set therein.

#### **7-323 Persons Ineligible for License**

No such license shall be granted to any person of bad character or who has been convicted of a felony, gross misdemeanor or violation of any provision of Article 7-300 nor to any person who is or has been a keeper of any disorderly house of any kind.

#### **7-324 Exceptions**

Nothing herein shall prohibit the use of radio, television or jukeboxes, without dancing in conjunction therewith, when such does not constitute or become a nuisance or violate any other portion of the City Code or of the State of Minnesota.

### **7-400 Tobacco and Tobacco Products**

No person, firm, or corporation shall directly or indirectly or by means of any device keep for retail sale, sell at retail, or otherwise dispose of any cigarette, cigarette paper, cigarette wrapper, cigar, electronic delivery devices or other tobacco or tobacco items, at any place in the City unless a license therefore shall first have been obtained.

**7-410 Term**

All such licenses shall be issued only after approval of the City Council. Licenses shall expire on December 31 of each year.

**7-420 Posting**

Every license shall be kept conspicuously posted at the location for which the license is issued and shall be exhibited to any person upon request.

**7-430 Persons to Whom License May Be Issued**

No license shall be issued to any of the following:

- a) Persons under the age of 18 years;
- b) Persons who have had a tobacco license revoked within twelve months of the application;
- c) Persons who have been convicted of violating any state or federal law pertaining to tobacco sales, transport or possession;
- d) Persons who have been convicted of violating any City Ordinance pertaining to tobacco sales or possession.

**7-440 Location of Sales**

No license shall be issued to an applicant for the sale of cigarettes, cigarette papers, cigarette wrappers, cigars or other tobacco or tobacco items at any place other than his established place of business. No license shall be issued for the sale of cigarettes, cigarette papers, cigarette wrappers, cigars, or other tobacco or tobacco items at a movable place of business, nor shall any one license be issued for the sale of cigarettes, cigarette papers, cigarette wrappers, cigars or other tobacco or tobacco items at more than one place of business.

**7-450 Vending Machines**

Vending Machines shall be prohibited, except where located in sections of on-sale liquor establishments which are primarily used for the preparation and dispensing of alcoholic beverages, more commonly referred to as the "bar" area, and on condition that a remote lockout device be installed on the machine which permits the machine to be activated only by an employee over the age of eighteen years.

**7-460 Prohibited Sales**

No licensee shall sell any tobacco product under the following circumstances:

- a) to any person under the age of eighteen years;
- b) in any manner violative of any State or Federal law or regulation;
- c) by any means other than the direct exchange of the tobacco product between the customer and an employee of the licensee.
- d) in any form other than manufacturer's cartons or sealed individual packages.

**7-470 Conflicting State or Federal Provisions**

In the event that any State or Federal law or administrative rule is established subsequent to the effective date of this ordinance which is in conflict with this ordinance, including, without limitation, a complete prohibition on cigarette vending machines, any such conflicting provision shall be automatically adopted by reference, and compliance with such law or rule shall be a condition of continued licensure.

## **7-500 Amusement and Vending Machines**

### **7-510 License Required**

Excepting non-profit organizations, no person or corporation or business shall keep, for public operation, any billiard device, jukebox, or other machine used for amusement, or vending machine of any kind, without first securing a license therefore.

### **7-520 Term**

Licenses shall be issued for one-year periods, and shall expire on December 31 of each year.

### **7-530 Posting**

The license, once issued, shall be affixed to the machine or device, in a conspicuous place.

### **7-540 Exception**

Machines which vend items for human consumption, except cigarettes, shall be exempt from municipal licensing, but shall be required to meet the rules and regulations of all other governmental jurisdictions having authority with respect to such machines.

## **7-600 Field Parties and Large Assemblies**

### **7-610 Field Parties**

#### **7-611 Definitions**

- A. “**Field Party**” is defined as a gathering of 50 or more people, held partially or completely out of doors, on public or private property and at which intoxicating beverages, non-intoxicating malt liquors or other intoxicating chemicals are used or dispensed by any participant, whether or not a fee is collected for any participant.
- B. “**Out of Doors**” is defined as any place outside of a building as defined in Minn. State. Ch. 609.58 (Subd. 1 (2)).

#### **7-612 Licensing Provisions**

No person shall permit, maintain, promote, conduct, advertise, participate in, be present at, act as entrepreneur, undertake, organize, manage, or sell or give tickets to, a field party held in any area of the City of Ham Lake whether on public or private property, unless a license to hold the assembly has first been issued by the City Administrator, application for which must be made at least 30 days in advance of the assembly. Furthermore, if any police officer, upon discovering a field party which is unlicensed or upon declaring any

license to be void, shall order the persons present to disperse, it shall be unlawful for any person to continue to be present at the field party.

**7-613 Application for License**

- A. Forms.** Application shall be made to the City Clerk on forms to be supplied by the City and shall contain the following information:
- (1) The names, addresses and telephone numbers of the applicant(s).
  - (2) The precise location of the proposed field party, as well as the date and specific times during which the field party will be in progress and the expected number of guests.
  - (3) The name, address and telephone number of the owner of the land.
  - (4) A written acknowledgment of consent by the owner of the land to the conducting of the proposed field party.
  - (5) A statement as to whether or not intoxicating beverages or non-intoxicating malt liquors will be furnished, and if so, whether a fee of any kind will be collected, or whether voluntary contributions will be collected. If a fee of any kind will be collected or if voluntary contributions will be collected, it shall be necessary for the applicant to comply with the licensing, bonding and insurance provisions of Ham Lake City Code Article 7-800, and for the purposes of this Code, the following shall apply:
    - a. If intoxicating beverages are involved, then the field party shall be deemed to be a “club” as contemplated by Minnesota Statutes and the seating capacity requirement found therein shall be deemed satisfied.
    - b. If non-intoxicating malt liquors are involved, the field party shall be deemed to be a “bona fide club” as contemplated by Article 7-810.15 (D).
    - c. Any license issued for a field party under the provisions of Article 7-600 shall be for no longer than the duration of the field party.
  - (6) A written statement demonstrating that the applicant has adequate plans for measures designed to protect the safety of participants, including the following:
    - a. The means by which the field party will be illuminated;
    - b. The means by which emergency vehicles may be summoned, the means of access of emergency vehicles to the field party site; and the provisions for on-site first aid to be present on the field party site.
- B. Fees.** A fee shall be charged for field party licenses as set by the City Council by resolution from time to time.

**7-614 Issuance of Licenses**

- A. Issuance Criteria.** Licenses shall be issued by the City Clerk. The City Clerk shall issue the license if all of the provisions of this Code have been satisfied, PROVIDED, that with regard to Article 7- 613



(A) (6) hereof, the following shall be prohibited to protect the safety of participants:

1. Illumination primarily from motor vehicle headlights, ground fires, or other light sources located less than 10 feet above ground.
2. The lack of a reliable communication device located within 1,000 feet of the proposed site. A common citizens band radio shall not be deemed a reliable communication device.
3. The existence of the site at a location greater than 1,000 feet from any traveled public road, or the existence of access to a traveled public road which access is not marked by reflectorized markings, or not passable by a four wheeled motor vehicle, or not of sufficient width to accommodate the passage of emergency vehicles.

**B. Review by City Council.** If the City Clerk refuses to issue a license, the applicant shall have the right to have the application reviewed by the City Council, by placement on the agenda of the next regular Council Meeting.

**C. Report to Sheriff.** If a license is issued, a copy thereof shall be forwarded to the office of the Anoka County Sheriff.

**D. Conditions of License.** Any license issued shall be subject to the following conditions, which shall be printed on the face of the license, and shall read as follows:

“This license shall be rendered void if any of the following conditions are found to exist at the field party site.”

1. The commission of the crime of assault, disorderly conduct, or breach of the peace by any participant on the field party site;
2. The consumption or possession of any intoxicating beverage or non-intoxicating malt liquor by any person 21 years of age or younger;
3. The failure of any applicant to be physically present at the field party site during the entire duration of the field party.
4. The maintenance of any nuisance under any existing or future municipal ordinance.

Upon observing the violation of any of the conditions of a license, a peace officer shall declare the license to be void, and shall order the participants to disperse.

#### **7-615 Exceptions**

Any field party which commences during daylight hours, and is completely dispersed prior to sunset shall be exempt from the requirements of obtaining a field party license. This exemption shall in no way affect the duty to comply with Article 7-800 if the same applies.

## **7-620 Large Assemblies**

### **7-621 Definitions**

“Assembly” means a company of persons gathered together at any location at any single time for any purpose.

### **7-622 License Required**

No person shall permit, maintain, promote, conduct, advertise act as entrepreneur, undertake, organize, manage, or sell or give tickets to an actual or reasonable anticipated assembly of 200 or more people which continues or can reasonably be expected to continue for four or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the governing body of this City. When applying for any assembly license, the sponsor must submit certified copies of other necessary Minnesota State licenses and/or permits to support the application. A license to hold an assembly issued to one person or entity shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly. The following shall apply to all licenses:

- A.** A separate license shall be required for each event and each location in which 200 people assemble or can reasonably be anticipated to assemble. The non-refundable application and license fee shall be in accordance with the City fee schedule as adopted by the City Council.
- B.** A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the licensed location more than the maximum permissible number of people.
- C.** This Code shall not apply to any regularly established permanent place of worship, stadium, golf course, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held. This license requirement shall not apply to activities carried on by a Farm Winery licensed by the State of Minnesota under Minnesota Statutes Chapter 340A. 315 and which also operates under a Conditional Use Permit issued under Ham Lake City Code Articles 9-210.32 (b) (vi) and 9-330.4.
- D.** This Code shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other state laws and regulations of this City.
- E.** No overnight camping or other occupancy overnight shall be permitted.
- F.** No license shall be issued unless there is in full force and effect a liability insurance policy issued by an insurance company authorized to do business in the State of Minnesota with a

minimum combined single limit of \$500,000 per occurrence and \$1,500,000 aggregate covering personal injury and property damage.

- G.** The event shall not exceed 72 hours in duration;
- H.** Application forms shall be submitted with the application which contain the following information:
  - 1. The name, residence, and mailing address of all persons.
  - 2. The address and legal description of all property upon which the assembly is to be held, together with the name, residence, and mailing address of the record owner(s) of all such property;
  - 3. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for an assembly of 200 or more persons;
  - 4. A site plan drawn to scale, showing the dimensioned locations of all activities, structures, parking and driveways, concession areas, rest rooms/toilet facilities, vendor booths, tents or other vendor areas, and any other physical features to be involved.
  - 5. A written narrative describing the activity, its purpose, the charitable beneficiaries of the event, if any, the hours of operation and duration of the event, and the estimated attendance for each day.

**7-623 Conditions for Issuing License**

Prior to acting on the license, the City Administrator shall refer the plan for comment to the Planning Commission, the Anoka County Sheriff's Office and any other agency deemed appropriate by the City Administrator, which comments shall be due within 30 days after request by the City. For purposes of the Minnesota "60-day rule", the submission shall not be deemed complete until the City has received responses from all agencies solicited, or until the deadline for comments has elapsed, whichever occurs first.

The City Administrator may also direct that the Planning Commission hold a public hearing on the proposed license, with notice being given in the manner provided by law for zoning change proposals. If a public hearing is required, then the Planning Commission response shall not be due for 45 days after request.

Agencies or institutions from which comment is solicited may address any or all of the following areas in their comments, but are not limited to the following areas:

1. The need for any fencing or gating;
2. The need and standards for potable water supplies;
3. The need and specifications for toilet facilities;
4. Solid waste disposal, including recycling methods;
5. The need for health care professionals and facilities on site;
6. The need for illumination;
7. Parking, traffic circulation and access-ingress points to public roads, including traffic control measures;
8. Security issues, including, without limitation, security measures to be taken and the number and qualifications of security personnel to be provided;
9. Fire protection/prevention needs;
10. Sound abatement needs;
11. Central administration (contact persons) and chain-of-command;
12. Limits on attendance both as to the event in general and occupancy loads of any tents, bleachers or other structures;

**7-624 Issuance**

The application for a license shall be processed in accord with the Minnesota "60-day rule".

**7-625 Revocation**

The license may be revoked by the governing body of this City at any time, if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.

**7-626 Enforcement**

Violations of the conditions of the license shall be considered misdemeanors and may be subsequently prosecuted in the manner provided by law. The City may take into account the occurrence of such violations in determining whether to issue a license in the succeeding year. In the event of a situation present that constitutes a serious threat to the health, safety or welfare of a substantial number of persons or which constitute a significant threat of property damage, the City may

impose any or all of the following sanctions by action of its City Administrator, after conferring with law enforcement representatives, the Mayor or Acting Mayor, and the City Attorney:

- A. The applicant may be directed to cease or modify certain practices or activities;
- B. The applicant may be directed to implement certain preventive or safety measures;
- C. The License may be summarily revoked and the applicant directed to discontinue all activities. This latter measure shall not be invoked unless the applicant has failed to comply with sanctions ordered under items 7-626 (A) or (B), or if the threat to public health, safety or welfare is immediate and dangerous, including, without limitation, rioting, drunkenness, brawling, vandalism, assault, illegal drug usage or presence or unsafe conditions of a particular nature.

**7-628 Exemptions**

Private social gatherings held on the premises of a private residence and confined to the immediate area of the dwelling unit, garage or accessory buildings on the parcel and which meet the following criteria shall be exempt from the provisions of this Article 7-620.

- a) The gathering is a bona fide celebration of a high school graduation or religious rite, a wedding, wedding anniversary, a family reunion, memorial or other similar event;
- b) No more than 300 persons are present on the premises at the same time;
- c) All persons present are either residents of the dwelling or invited guests personally invited by and known to the dwelling occupant; persons present in response to blanket announcements made to the general public through social media or otherwise are not "invited guests".
- d) There is no direct or indirect fee, contribution or other consideration paid or given by attendees as a condition of attendance or a condition of consuming food or beverages;
- e) The event does not generate noise from music or sound amplification equipment that can be heard on neighboring properties;
- f) The event does not run for more than twelve consecutive hours;

### **7-629 Summary License Issuance by Administrator**

Notwithstanding any of the foregoing provisions of Article 7-620, the City Administrator may summarily issue Large Assembly Licenses without referral to either the Planning Commission or City Council under the following circumstances:

- A.** The activity for which the license is sought has been previously issued a license, and the new application does not present any significant changes in the scope of the previous license, and under conditions in which activities under the previous license did not generate any significant complaints or verified allegations of violations of the conditions of the previous license; or
- B.** The activity for which the license is sought has not had a previous license issuance, and is to take place mainly on or making use of city owned property or parks, public roads or trails, public waters or other public open space, and the event is sponsored by an entity promoting charitable, non-profit, civic, benevolent or public awareness causes;
- C.** The activity does not include any non-licensed dispensing of liquor or non-intoxicating malt liquor;
- D.** The activity does not generate any excessive noise from live music;
- E.** The activity is sponsored by the City, such as a fireworks display. Consistent with the foregoing summary license procedures, in reviewing an application for a license that may qualify for summary issuance, the City Administrator may waive certain other submission requirements for license issuance. The issuance of a summary license does not operate to obligate the City Administrator to issue a summary license in any subsequent renewal application.

### **7-700 Off-Sale Liquor**

#### **7-710 Provisions of State Law Adopted**

The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, condition of bonds of licensees, hours of sale, and all other matters pertaining to the retail “off-sale”, distribution, and consumption of intoxicating liquor are adopted and made a part of this Code as if set out in full herein.

#### **7-720 License Required**

- A. 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 “off-sale” in the City,

any intoxicating liquor without an “off-sale” license to do so as provided in this Code.

- B. “Off-Sale” Licenses.** Except for Brew pub and Brewer licenses outlined below, “Off-sale” licenses shall be issued only to exclusive stores and shall permit “off-sale” of liquor only at retail in the original package for consumption off of the licensed premises.
- C. Brew pub. “Off Sale” Licenses.** A brew pub, with the approval of the Commissioner of the Minnesota Department of Public Safety, that meets the criteria established in Minnesota Statute 340A.24 as it may be amended from time to time, may be licensed for the “off-sale” of intoxicating malt liquor or 3.2 malt liquor produced and packaged on the licensed premises, subject to the following special conditions:
1. “Off-sale” of malt liquor shall be limited to the same legal hours for “off-sale” at exclusive liquor stores in the city.
  2. The malt liquor sold at “off-sale” must be removed from the licensed premises before the applicable closing time at exclusive liquor stores in the city.
  3. The malt liquor shall only be packaged in “growlers” and must be sealed in compliance with Minnesota Statute 340A.285, as it may be amended from time to time.
  4. Sales under this license may not exceed 500 barrels per year.
  5. A licensee may hold both an “on-sale” brew pub license and an “off-sale” brew pub license. If a brew pub licensed under this Article also possesses an “on-sale” license under Article 7-831(D) the brew pub’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.
  6. Brew pubs eligible for “off-sale” brew pub licenses issued under this Article are exempt from the population-based limitations on the number of “off-sale” licenses available as set forth in Article 7-775.
- D. Small Brewer. “Off Sale” Licenses.** A brewer, with the approval of the Commissioner of the Minnesota Department of Public Safety, who holds a brewer’s license under Minnesota Statute 34A.301, subd. 6(c), (i), or (j) and meets the criteria established in Minnesota Statute 340A.28 as it may be amended from time to time, may be licensed for the “off-sale” of intoxicating malt liquor or 3.2 malt liquor produced and packaged on the licensed premises, subject to the following special conditions:
1. “Off-sale” of malt liquor shall be limited to the same legal hours for “off-sale” at exclusive liquor stores in the city.
  2. The malt liquor sold at “off-sale” must be removed from the licensed premises before the applicable closing time at exclusive liquor stores in the city.
  3. Sales under this license shall not exceed 500 barrels annually.

4. The malt liquor shall only be packaged in “growlers” and must be sealed in compliance with Minnesota Statute 340A.285, as it may be amended from time to time.
5. Brewers eligible for “off-sale” brewer licenses issued under this Article are exempt from the population-based limitations on the number of “off sale” licenses available as set forth in Article 7-775.

**7-730 Application for “Off-Sale” License**

**A. Form.** Every application for a license to sell “off-sale” liquor shall state the name of the applicant, his age, representation as to his character, with such references as the City Council may require, his citizenship, that the proposed business is an exclusive liquor store and its location, whether the applicant is owner and operator of the business, how long he has been in that business and such other information as the City Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Liquor Control Commissioner and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

**B. Liability Insurance.**

1) At the time of application, renewal or transfer of any Off-Sale Intoxicating Liquor license, the applicant shall furnish to the City the proof of financial responsibility required by Minnesota Statutes Chapter 340A.409, in the manner therein provided, in limits of not less than \$300,000.00 per occurrence.

2) The issuing liability insurance agent shall certify on the Certificate of Insurance words to the effect as follows:

*In the event of a policy cancellation, the insurer will send notice to the City of Ham Lake in the manner provided by Minnesota Statutes Chapter 340A.409, Subd. 1(e).*

3) If a liability insurance policy is cancelled, for any reason, the license affected thereby shall be deemed automatically suspended, and the licensee shall suspend all sales of intoxicating liquor until a replacement policy has been issued, proof thereof provided to the City, and a written notice of reinstatement of the license has been issued by the City Administrator or Clerk.

4) A licensee who has their liability insurance cancelled shall notify the City Administrator or Clerk, in writing, immediately upon notice of cancellation. Failure to so notify the City, or the continuation of sales of intoxicating liquors during any period of cancellation, shall be grounds for additional sanctions by the City, including, without limitation, the revocation of the license.



5) The City may reject any Certificate of Liability Insurance issued by any agent or insurer who has in the past failed to notify the City of any cancellation of a liability insurer in the manner provided above. This provision shall apply only to events occurring after the effective date of this code amendment. The duty to notify the City of any cancellation shall be absolute as to the agent or insurer, and shall not be excused if the cancellation is originated by a party providing financing for premiums.

**C. Approval of Insurance.** The insurance offered under Article 7-730 (B) shall be approved by the City Council and by the Liquor Control Commissioner. Liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed “off-sale” business without having on file with the City at all times effective liability insurance as required by Article 7-730 (B) is a cause for revocation of the “off-sale” license.

#### **7-740 License Fees**

- A. Fees.** An annual fee for an “off-sale” liquor license shall be charged.
- B. Payment.** Each application for an “off-sale” liquor license shall be accompanied by the fee, and a receipt from the City Treasurer for payment in full of the license fee will then be issued. All fees shall be paid into the general fund. If an application for a license is rejected, the City Treasurer shall refund such amount so paid.
- C. Term; Pro Rata Fee.** Each “off-sale” 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 expired fraction of a month being counted as one month. Every “off-sale” license shall expire on the last day of June.

#### **7-750 Granting of Licenses**

- A. Investigation and Issuance.** 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 “off-sale” license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application.
- B. Investigation Fee Required.** Each new application for an “off-sale” license shall be accompanied by a fee, and a receipt from the City Treasurer for payment by the applicant for an investigation fee will then be issued. Any unused portion of said sum shall be refunded to any applicant whether or not the City Council does issue a license. The City shall not be obligated to pay any interest on said sum during the time the City Treasurer holds same in the City Account.
- C. Person and Premises Licensed; Transfer.** Each “off- sale” license shall be issued only to the applicant and for the premises described in the application. No “off-sale” license may be

transferred to another person or place without City Council approval. Any transfer of stock of a corporate license is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the “off-sale” license.

**7-760 “Off-Sale” Regulations**

1. No “off-sale” liquor license shall be issued except in commercial use district.
2. All applications, along with complete building plans and specifications and site plans, including landscaping data, shall first be presented to the Planning and Zoning Commission of the City for consideration, approval and recommendation to the City Council.
3. The building housing an “off-sale” liquor establishment shall conform to the architectural plan of the surrounding area; and shall be subject to the approval of the Planning and Zoning Commission, the City Engineer and the City Council.
4. Adequate security measures shall be provided in each such “off-sale” liquor business, which security measures shall include a burglar alarm system approved by the Anoka County Sheriff’s office.
5. No parking or placement of trucks, trailers, or other objects, on the premises of the building housing said “off-sale” liquor business, shall occur except during reasonable times for loading and unloading of goods for such business.
6. Adequate interior storage for all stock, empty cartons, cases or other items used in or associated with such “off-sale” liquor business shall be provided.
7. All signs, whether part of or on the “off-sale” liquor business building or upon land upon which such building is situated, shall comply with the City Sign Code.
8. Adequate security lighting, both inside the “off-sale” liquor business building and on the lands upon which such building is situated shall be provided.
9. All licensees must prove to the City Council that they are financially responsible and of good moral character.
10. The entire property of the “off-sale” liquor business shall be kept in a neat and orderly state at all times.
11. There shall be no “off-sale” of liquor on credit.

**7-770 Off-Sale License Standards**

**7-772 Places Ineligible for License**

- A. **In General.** Every “off-sale” liquor license is subject to the conditions in the following articles and all other provisions of this Code and any other applicable code, State law or regulation.
- B. **Licensee’s Responsibility.** Every “off-sale” liquor licensee is responsible for the conduct of his place of business and the

condition of sobriety and order in it. The act of any employee on the licensed premises authorized to sell “off-sale” intoxicating liquor is deemed to be an act of the licensee as well, and the licensee shall be liable to all penalties provided by this Code and the law equally with the employee.

- C. **Inspections.** Every licensee shall allow any police officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of the licensee during business hours without a warrant.
- D. **Federal Stamps.** No licensee shall possess a federal wholesale liquor dealer’s special tax stamp or a federal gambling stamp.

**7-773 Restrictions on Purchase and Consumption.**

With the exception of Brew Pubs and Brewer Taprooms licensed for “on-sale”, no person shall consume any liquor in the building for which an “off-sale” liquor license is granted or upon the lands upon which same is situated.

**7-774 Suspension and Revocation.**

The City Council may revoke any “off-sale” liquor license for violation of any Statute or Code relating to the sale of liquor or may suspend the license for a period not exceeding 60 days if revocation is not mandatory. No suspension or revocation shall take effect until the licensee has been offered an opportunity for a hearing pursuant to Minnesota Statutes, Sections 15.0418 to 15.0426.

**7-775 Number of “Off-Sale” Liquor Licenses to be Issued.**

The City Council may issue one “off-sale” liquor license for each 5,000 residents or fractional part thereof. The number of residents shall be determined by the most recent U.S. Census or a reasonable written estimate by the Twin Cities area Metropolitan Council, whichever results the higher figure. The City Council shall be the sole judge of whether or not the Metropolitan Council estimate is reasonable.

**7-800 Beer and On-Sale Liquor**

**7-810 General Requirements for all Beer and On-Sale Liquor Licenses.**

**7-810.1 Provisions of State Law Adopted.**

The provisions of Minnesota Statutes 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 and non-intoxicating malt liquor are adopted and made a part of this Code as if it were set out in full.

**7-810.2 Exceptions**

The dispensing of liquor or non-intoxicating malt liquor at any organized social gathering where no direct fee or charge is made to guests shall not be considered to be engaging in “on- sale” liquor or beer sales, and shall not require licensing. Further, the use of the Ham Lake Senior Center and adjoining grounds within 500 feet thereof, for such gatherings, shall not be

subject to the licensing requirements of this code and shall be excepted from Article 7-839 of this code, where beer or liquor is served, provided that no direct or indirect charge or fee is made to guests. The use of organizational funds which are generated in part from membership dues shall not be considered a “charge” or “fee” to guests where such funds are used to purchase beer or liquor supplies for dispensation at a social event.

**7-810.3 Liability Insurance.**

1) At the time of application, renewal or transfer of any On-Sale Intoxicating Liquor license, or any Beer License or Wine License not exempt by reason of qualification under Minnesota Statutes Chapter 340A.409, subd. 4, the applicant shall furnish to the City the proof of financial responsibility required by Minnesota Statutes Chapter 340A.409, in the manner therein provided, in limits of not less than \$300,000.00 per occurrence.

2) The issuing liability insurance agent shall certify on the Certificate of Insurance words to the effect as follows:

In the event of a policy cancellation, the insurer will send notice to the City of Ham Lake in the manner provided by Minnesota Statutes Chapter 340A.409, Subd. 1(e).

3) If a liability insurance policy is cancelled, for any reason, the license affected thereby shall be deemed automatically suspended, and the licensee shall suspend all sales of intoxicating liquor, beer or wine until a replacement policy has been issued, proof thereof provided to the City, and a written notice of reinstatement of the license has been issued by the City Administrator or Clerk.

4) A licensee who has their liability insurance cancelled shall notify the City Administrator or Clerk, in writing, immediately upon notice of cancellation. Failure to so notify the City, or the continuation of sales of intoxicating liquors, beer or wine during any period of cancellation, shall be grounds for additional sanctions by the City, including, without limitation, the revocation of the license.

5) The City may reject any Certificate of Liability Insurance issued by any agent or insurer who has in the past failed to notify the City of any cancellation of a liability insurer in the manner provided above. This provision shall apply only to events occurring after the effective date of this code amendment. The duty to notify the City of any cancellation shall be absolute as to the agent or insurer, and shall not be excused if the cancellation is originated by a party providing financing for premiums.

**7-810.4 License Fees.**

There shall be an annual fee for an “on-sale” liquor license, a special club license, a special license for Sunday sales, a Brew Pub “on-sale” license, a Brewer Taproom “on-sale” license, and an “on- sale” beer license.

**7-810.5 Payment.**

Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the City Treasurer shall refund the amount paid.

**7-810.6 Term Pro Rata Fee.**

Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June. Further, in the event that the holder of any license which has been issued for one year desires to terminate the license, on a voluntary basis, said license holder shall be entitled to a pro rata refund with any portion of any month during which the license was utilized being counted as one month.

**7-810.7 Granting Licenses, Investigation and Issuance.**

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 the investigation and hearing, the Council shall, in its discretion, grant or refuse the application.

**7-810.8 Person and Premises Licensed; Transfer.**

Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without 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 Council approval is a ground for revocation of the license.

**7-810.9 Persons Ineligible for License**

No license shall be granted to any person made ineligible for such a license by state law.

**7-810.10 Places Ineligible for License**

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

**7-810.11 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.

**7-810.12 Distance from School or Church**

Excepting off-sale of beer, no license shall be granted for any place that is not a reasonable distance from any school or church. In evaluating what constitutes a reasonable distance, the City Council shall take into account

such factors as the effect of intervening land uses, topography or structures between the proposed location of the licensee and a school or church; anticipated traffic patterns and volumes, additional functions to be provided by this proposed licensee and the need for such functions in the community; and such other factors as the Council deems appropriate. The reasonable spacing requirement shall not apply where the beer or liquor license was in existence prior to the time of construction of the school or church building.

**7-810.13 Certain Acts and Conduct Prohibited**

The following acts or conducts on licensed premises are deemed contrary to public welfare and morals and therefore no “on-sale” license shall be held at any premises where such conduct or acts are permitted.

- A.** To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises which such person is unclothed or in such attire, costume or clothing to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- B.** To employ or use the services of any hostess while such hostess is unclothed or in such attire, costume or clothing as described in the above paragraph.
- C.** To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- D.** To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.
- E.** To permit any person to perform acts or acts of which simulate:
  - 1.** Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - 2.** The touching, caressing or fondling on the breast, buttocks, anus or genitals.
  - 3.** The displaying of the pubic hair, anus, vulva, genitals or the nipples or areola of the female breast.
- F.** To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
- G.** To permit any person to remain in or upon the licensed premises who exposes to public view the pubic hair, anus, vulva, or genitals except where said pubic hair, anus, vulva, or genitals are covered with transparent clothing, in the form of pants or panties, and in addition where the breast and the pubic hair, anus, vulva and genitals are covered with transparent clothing.

- H. To permit the showing the film, still pictures, electronic reproduction, or other visual reproductions depicting:
  - 1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
  - 2. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
  - 3. Scenes wherein a person displays the vulva, or the anus or the genitals.
  - 4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
- I. To permit any employee, or person under contract to perform on the premises, to dance on any table, bar or other elevated platform, except on a duly designated stage designed exclusively for the entertainment of patrons of the premises, said stage to be located at least three feet from any patron.

#### **7-810.14 Definitions**

- A. **“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 (3.2) three and two-tenths percent by weight.
- B. **“Intoxicating liquor”** means any distilled, fermented, malt, or vinous beverage containing more than (3.2) three and two-tenths percent of alcohol by weight.
- C. **“Original package”** means the bottle or sealed container in which the liquor is placed by the manufacturer.
- D. **“Bona fide club”** means a club organized for social or business purposes for intellectual improvement or for the promotion of sports, where the serving of beer is incidental to and not the major purpose of the club.
- E. **“Restaurant”** means a place of which the major business is preparing and serving lunches or meals to the public to be consumed on the premises.
- F. **“Beer Store”** means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.
- G. **“Wine”** shall be defined in Minnesota Statutes Chapter 297G.01 (subd. 20).
- H. **“Brew Pub”** means a brewer who also holds a municipal on- or off-sale license in conjunction with a restaurant and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one or more licensed premises as permitted in Minnesota Statutes 340A.24.
- I. **“Brewer”** means a person who manufactures malt liquor for sale and holds a Brewers License issued by the State of Minnesota.

- J. **“Brewer Taproom”** means a facility on or adjacent to the licensed brewery which allows for the on- or off-sale of malt liquor produced by the brewer.
- K. **“Growler”** means 64-ounce containers or 750 milliliter bottles of malt liquor, manufactured and sold by a brewery licensed under Minnesota Statutes 340A.301, for consumption off premises.

**7-810.15 ALCOHOL ON LICENSED PREMISES**

**A. DEFINITIONS**

- 1. **Alcoholic Beverages** - All alcoholic beverages and non-intoxicating malt liquors as those terms are defined by Minnesota Statutes Chapter 340A, and any amendments thereto.
- 2. **Licensee** - The entity (and any authorized agent thereof) which is named as the licensee of any license issued by the City of Ham Lake to sell alcoholic beverages for consumption on the premises licensed. The licensee need not be the owner of the real property upon which the licensed establishment is located.
- 3. **Premises** - The premises identified in the application for license of any licensee as the locations at which alcoholic beverages may be sold for consumption on the premises.
- 4. **Notice** - A sign or printed handout sheet which contains the following warning. In the case of a sign, the warning must be legibly printed in lettering at least one inch in height, in the case of a printed handout, the warning must be typewritten in at least 12 point type. The warning may contain additional language which describes sanctions to be imposed by the licensee, such as expulsion from the premises.

**WARNING**

**IT IS A VIOLATION OF HAM LAKE CITY CODE ARTICLE 7 TO POSSESS OR CONSUME ALCOHOLIC BEVERAGES UPON THESE PREMISES WHICH ARE NOT PURCHASED DIRECTLY FROM (NAME OF LICENSEE). THE MAXIMUM PENALTY FOR VIOLATION OF THIS ORDINANCE IS 90 DAYS IN JAIL, A \$700 FINE, OR BOTH.**

**B. PROHIBITED CONDUCT**

It shall be unlawful for any person who has received NOTICE from the licensee to possess or to consume any alcoholic beverages on the PREMISES which were not purchased directly from the LICENSEE. NOTICE shall be deemed to have been given if any one of the following conditions are met:

- 1. **Signs** - The licensee has posted a sign or signs in locations reasonable capable of being seen by the patron, such as at the location where usage fees are paid, parking lots, check-in locations, or other conspicuous locations on the PREMISES.



2. **Usage Materials** - The licensee has printed the Warning on scorecards, score sheets, or other printed material customarily and normally used by patrons in connection with usage of the PREMISES.
3. **Handout Sheets** - The licensee has given to the patron a handout sheet containing the Warning as a part of printed materials in connection with any organized event on the PREMISES, or has handed the patron a handout sheet containing the WARNING after discovery the patron's consumption or possession of alcoholic beverages not purchased from the LICENSEE.

### **C. OPPORTUNITY TO COMPLY**

It shall be an element of the offense of violation of this Code that any person claiming not to have received NOTICE of the prohibition contained herein, and found by the LICENSEE to be consuming or possessing alcoholic beverages not purchased from the LICENSEE, shall be given the opportunity to comply with the Licensee's policy by immediately surrendering to the LICENSEE all alcoholic beverages then in possession or control of the person. This element shall not be required, however, if the offending party has been given the Warning on previous occasions or visits to the premises. Alcoholic beverages surrendered to the LICENSEE which are in closed containers shall be returned to the person upon the person's departure from the PREMISES, or, if in the judgment of the LICENSEES the person is intoxicated, at a reasonable later date.

## **7-820 Requirements Exclusive to Off-Sale and On-Sale Beer Licenses**

### **7-821 License Required**

- A. 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 two kinds: (1) Retail "on-sale"; (2) Retail "off-sale".
- B. "On-Sale" licenses shall be granted only to bona fide clubs, beer 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.
- C. "Off-Sale" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

### **7-822 Application for License**

Every application for a license to sell beer shall be made on a form supplied by the City and shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with such references as may be required, the applicant's citizenship, whether the application is for "on-sale", or "off-sale", the business in connection with which the proposed licensee will operate and its' location, whether applicant is owner and operator of the business, how long the applicant has been in that business at

that place, and such other information as the Council may require from time to time. It shall be unlawful to make any false statement in an application. Applications shall be filed with the City Clerk.

**7-823 Conditions of the License**

- A. Every license shall be granted subject to the conditions in the following sub-articles and all other provisions of this Code and of any other applicable code of the City or state law.
- B. All licensed premises shall have the license posted in a conspicuous place at all times.
- C. No beer shall be sold or served to any intoxicated person or to any minor.
- D. No minor shall be permitted to be on the licensed premises unless accompanied by his parent or legal guardian.
- E. No minor shall be employed on the premises of a beer store or be permitted to sell or serve beer in any “on-sale” establishment.
- F. No gambling or any gambling device shall be permitted on any licensed premises unless a lawful gambling license has been obtained.
- G. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S.A. 340.02. No retail licensee and manufacturer or wholesaler of beer shall be party to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail license.
- H. No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer’s special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.
- I. No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquors on the licensed premises or serve any liquids for the purposes of mixing with intoxicating liquor, unless the licensee complies with the State set up law and obtains a valid permit.

**7-824** *Repealed*

**7-825 Bars, Partitions, Boxes or Screens**

All windows in the front of any place licensed for “on-sale” of beer 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 forty-eight inches from the floor shall not be considered obstructions.

**7-826 Clubs**

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

**7-827 Revocation**

The violation of any provision or condition of this Code by a beer licensee or his agent shall be grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this Code may be revoked or suspended by the Council after written notice to the licensee and a public hearing. The notice shall give at least eight 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 the revocation or suspension.

**7-828 Special Licenses**

Notwithstanding anything herein to the contrary, upon proper written application, the City Council may issue special licenses to any non-profit organizations existing for social or business progress or for intellectual improvement, or to one responsible member thereof, acting in behalf of such organization, for the "on-sale" only of non- intoxicating malt liquors, for special events or occasions, property to be designated, such organization to furnish evidence to the Council of public liability insurance of a minimum of \$100,000 per person, \$300,000 per occurrence, and \$50,000 property damage coverage to cover the premises of such operation, such insurance to be in a form acceptable to the Council, and in addition to the liability insurance required by Article 7- 810.3 of this Code. An annual license fee for such special license shall be charged, for one specific place of sale and not transferable to another place or organization, and such license shall contain any conditions or restrictions deemed necessary by the Council, including the specific date or dates which sales may be held.

All other provisions of this Code which do not conflict with the foregoing in this section shall apply to such sales.

**7-829 Beer/Wine Licenses**

Pursuant to the provisions of Minnesota Statutes Chapter 340A.404, Subd. 5, restaurants having facilities for seating at least 25 guests at one time, and which derive at least 60% of their gross revenue from the sale of food, are eligible to receive an on-sale license to sell wine having an alcohol content of up to 14% alcohol by volume, for consumption with the sale of food. If the wine licensee also holds a 3.2 percent malt liquor on-sale license, the wine licensee may also sell intoxicating malt liquors without an additional license. Licenses for such facilities shall be issued in the same manner as for other on-sale licensees. Wherever, in Articles 7-810 through 7-827 of this code,

there is a reference to the word “beer”, the requirements of each such portion of this code shall also be applicable to Beer/Wine licenses under this section, as if fully set forth herein.

### **7-830 Requirements Exclusive to On-Sale Intoxicating Liquor**

#### **7-831 License Required, General Requirement**

No Person except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in this Code.

- A. On Sale Licenses.** Except for Brew pub and Brewer taproom licenses outlined below, “On Sale” licenses shall be issued only to hotels, clubs and restaurants in conformance with the provisions of Minnesota Statutes Chapter 340A, which statute shall also govern the number of On Sale licenses that can be issued.
- B. Special Club Licenses.** Special club licenses shall be issued in accordance with Minnesota Statutes Chapter 340A.404 and 340A.101, subdivision 7.
- C. Special Licenses for Sunday Sales.** A special license authorizing the “On-Sale” of intoxicating liquor on Sundays may be issued to any entity holding an On-Sale license issued under Article 7-831 (A) of this Code in accord with the provisions of Minnesota Statutes Chapter 340A.504, Subd. 3.
- D. Brew pub, “On-Sale” Licenses.** A brew pub, with the approval of the Commissioner of the Minnesota Department of Public Safety, that meets the criteria established in Minnesota Statute 340A.24 as it may be amended from time to time, may be licensed for the “on-sale” of intoxicating malt liquor or 3.2 malt liquor produced on the licensed premises, subject to the following special conditions:
  - 1. Sales under this license at “on-sale” may not exceed 3,500 barrels per year.
  - 2. A licensee may hold both an “on-sale” brew pub license and an “off-sale” brew pub license. If a brew pub licensed under this Article also possesses an “off-sale” license under Article 7-720(C), the brew pub’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.
- E. Brewer Taproom, “On-Sale” Licenses.** A brewer, with the approval of the Commissioner of the Minnesota Department of Public Safety, who holds a brewer’s license under Minnesota Statute 340A.301, subd. 6(c), (i), or (j) as it may be amended from time to time, may be licensed for the “on-sale” of intoxicating malt liquor or 3.2 malt liquor produced on the licensed premises, subject to the following special conditions:

1. Malt liquor sold under the brewer taproom license may only be consumed on the premises of or adjacent to one brewery location owned by the brewer.
2. A brewer may have only one taproom license and may not have an ownership interest in a brew pub licensed under Minnesota Statute 340A.301, subd. 6(d).
3. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually.
4. 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.

### **7-832 Application for License**

Every application for a license to sell liquor shall state the name of the applicant, age, representations as to character, with such references as the Council may require, citizenship, the type of license applied for, the business in connection with which the proposed licensee will operate and its location, whether the applicant is owner and operator of the business, how long the applicant 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 Liquor Control Commissioner and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

### **7-833 Conditions of License, In General**

Every license is subject to the conditions in the following sub-articles and all other provisions of this Code and of any other applicable code, state law or regulation.

### **7-834 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 an employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Code and the law equally with the employee.

### **7-835 Inspections**

Every licensee and every holder of a permit under Minnesota Statutes, Section 340.49 shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

### **7-836 Hours of Operation**

#### ***7-836.1 Repealed***

**7-836.2** *Hours of operation may be as permitted by state law, as amended from time to time, specifically including a 2:00 am closing time for on-sale liquor sales if proper permits are first obtained.*

**7-837 Federal Stamps**

No licensee shall possess a federal wholesale liquor dealer's special tax stamp or federal gambling stamp.

**7-838 Restriction on Consumption**

No person shall offer, mix or prepare liquor for sale to any person in any location other than one licensed or permitted under a provision of this Article 7 of the Ham Lake City Code. No person shall purchase or consume liquor purchased from a person or entity not in possession of a valid permit or license issued under Article 7 of the Ham Lake City Code.

**7-839 Consumption in Public Places**

No person shall consume liquor or store non-intoxicating malt liquor on or in any public building, park or land except as provided in Article 7-810.2.

**7-840 Suspension and Revocation**

The Council may revoke any liquor license for violation of any statute or code relating to the sale of liquor or may suspend the license for a period not exceeding 60 days if revocation is not mandatory. The licensee shall be granted a hearing upon at least 10 days notice before revocation or suspension is ordered except where mandatory revocation is provided by law. No license for the sale of intoxicating liquor or non-intoxicating malt liquor, whether on sale or off sale, shall be issued or renewed unless, as a part of the liquor license application procedure, the applicant shall furnish to the City of Ham Lake evidence that all real estate taxes and installments of any special assessments due therewith upon the parcel on which is situated the activity which is licensed, shall be current and paid in full as of the date for which the license is to commence. This provision shall apply regardless of whether or not the applicant is an owner or a tenant of the real estate in question.

**7-850 Compliance with Minnesota Clean Indoor Air Act**

If requested by the holder of a Beer, Wine or on-sale liquor license, the premises covered by the license may include outdoor enclosed areas reserved for smokers ("Smoking Enclosures") provided that the areas are in compliance with the terms of this ordinance and the terms of Minnesota Statutes Chapter 144 and amendments thereto. The extension of the license to such premises permits servers to enter the Smoking Enclosures to serve authorized beverages to customers, subject to the rights of the employees under Minnesota Statutes Chapter 144.417, Subd. 2 (d). The following conditions shall apply to the construction and maintenance of Smoking Enclosures.

**7-851 Definitions**

(a) **"Ceiling"** is the inside lining of a roof that is affixed to joists or rafters. If a roof has no such inside lining, the bottom components of the roof shall

be considered a ceiling except in areas of cantilever, bridge or other areas having an unobstructed space between the underside of the roof and ground or floor level.

**(b) “Indoor Area”** shall have the definition given in Minnesota Statutes Chapter 144.413, subd. 1a.

**(c) “Main Licensed Area”** means the perimeter of the Indoor portion of the premises that were originally licensed by the City and used by the licensee as a serving area, hallways, restrooms, kitchens, closets, storage rooms, as determined in the sole discretion of the City’s building official.

**(d) “Roof”** means the top covering of a structure, and includes shingles, tiles, joists, rafters and material underlying the shingles and tiles and to which shingles or tiles are affixed.

**(e) “Smoking”** shall have the definition given in Minnesota Statutes Chapter 144.413, subd. 4.

**(f) “Smoking Enclosure”** means an area outside of the Main Licensed Area that is to be used by persons who are engaged in smoking, but which is not Indoors, but which may be connected by roofing material or structural components to the Main Licensed Area.

#### **7-852 Building Materials**

Smoking enclosures shall be constructed either of wood frame construction or constructed of the same type of structural building materials as are in place for the main licensed area. Outside walls and roofs shall bear the same outside appearance, both as to texture and color, as the wall materials and roofs of the Main Licensed Area. No tents, awnings or other fabric-type enclosures shall be permitted to be used as a Smoking Enclosure. Mesh screen meeting the standards set forth in Minnesota Statutes Chapter 144.413, subd. 1a may be used to meet the Indoor Area definition as found therein, and may be used on outside walls of the Smoking Enclosure.

#### **7-853 Size and Height**

The area of the perimeter of the Smoking Enclosure may not exceed ten percent of the area of the Main Licensed Area. Height of the structure encompassing the Smoking Enclosure shall not exceed the height of the building housing the Main Licensed Area.

#### **7-854 Doorway Proximity**

No Smoking Enclosure shall be situated so as to require that patrons entering or leaving the Main Licensed Area must pass through the Smoking Enclosure. This provision is satisfied if there is at least one alternative entrance/exit for the Main Licensed Area meeting applicable building codes.

#### **7-855 Compliance with Fire and Building Codes**

All Smoking Enclosures shall be constructed and maintained in compliance with all local and state fire and building codes. Notwithstanding fire codes, no heaters shall be permitted to be used in connection with any Smoking Enclosure if:

- (a) the heater generates heat through the use of an open flame capable of being touched or disturbed by patrons; or
- (b) the heating system uses a ventilation system shared with a ventilation system used in the Main Licensed Area.

#### **7-856 Seating and Parking**

Smoking Enclosures may not be placed on areas being used as a portion of the parking lot for the Main Licensed Area unless the number of existing parking lot stalls exceeds the amount required for the establishment. Furniture may be placed in Smoking Enclosures provided that proper aisles and occupancy limits are maintained at all times.

#### **7-857 Separation and Roof Connections**

**(a) Unconnected Enclosures** If the roof of a Smoking Enclosure is not physically connected to the structure that houses the Main Licensed Area, there shall be at least twelve inches of clearance between the structure that houses the Main Licensed Area and the Smoking Enclosure, including any eaves, soffits or fascia. In addition, unless there is an open passageway at least 48 inches in width allowing egress from the Smoking Enclosure to an area uncovered by any structure, the Smoking Enclosure shall contain an exit door meeting applicable building codes.

**(b) Connected Enclosures** If the roof of a Smoking Enclosure is physically connected to the structure that houses the Main Licensed Area, there shall be at least 48 inches of separation between the structure that houses the Main Licensed Area and any portion of any wall comprising the Smoking Enclosure. The area under the roof that lies within this separation area shall be deemed a covered walkway, and shall not be considered a part of the Smoking Enclosure, nor shall it be considered an Indoor Area unless it meets the definition of a ceiling.

**(c) Window Separation** Notwithstanding the foregoing, no portion of any Smoking Enclosure may be located closer than 15 feet from any window located in the structure housing the Main Licensed Area, unless the window is incapable of being opened.

#### **7-858 Permit and Site Plan Approval**

All Smoking Enclosures shall require the prior issuance of a building permit from the City's building official. Prior to issuance, the applicant shall submit a site plan in accord with the City's site plan review policies, for review by the Planning Commission and approval by the City Council. Approval of a site plan for a Smoking Enclosure shall be deemed to also be approval of the usage of the Smoking Enclosure as a part of the licensed premises upon which beverages may be served.



## **7-900 Motor Vehicle Sales Lots**

### **7-901 License Required**

A license shall be required for any person operating a motor vehicle sales lot. Application for such license shall be made in writing to the City Clerk on such form as the Clerk may from time to time designate and shall include such information as may be required by the Clerk including the following:

- A. The correct legal description of the premises.
- B. The name and address of the applicant and owner of the land.
- C. The number of motor vehicles intended to be displayed thereon.
- D. Such other information as may be required by the City Council.

### **7-902 Prohibited Conduct**

It shall be unlawful within the City of Ham Lake for any person to conduct the business of a motor vehicle sales lot unless he meets the requirements of this Ordinance and other applicable provisions of the City Code except that the owner or lessee of any premises may offer to show one motor vehicle for sale on those premises as long as the business of a motor vehicle sales lot is not engaged in on those premises.

### **7-903 Definitions**

Whenever used in this ordinance unless a different meaning appears from the context, the following definitions shall be applied.

- A. **Motor Vehicle Sales Lot**  
Premises outside a building whereon one or more motor vehicles are offered for sale.
- B. **Motor Vehicle**  
The word motor vehicle shall include passenger cars, snowmobiles, trucks, motor scooters, motor cycles, trailers, and all other equipment customarily moved on and touching the streets and highways.

**7-904 Fee.** An annual license fee shall be charged.

### **7-905 Additional Requirements**

The following requirements shall be followed:

- A. There shall be sufficient space provided so that the total space will accommodate each motor vehicle parked, stored, or displayed as determined by the City Council.
- B. The parking, storing, and display area shall be paved, according to the recommendations of the City Engineer.
- C. Lighting shall be such as not to disturb the users of adjoining land.
- D. Any signs constructed shall conform to the requirements of the City Code.
- E. All motor vehicles be currently capable of obtaining applicable licenses, and all motor vehicles shall be completely assembled motor vehicles as customarily delivered from the factory.

- F. No junk cars, parts stockpiling or storage of dismantled cars shall be permitted.
- G. Such other requirements as the City Council may impose.

### **7-906 Insurance**

No license shall be issued hereunder unless there is in full force and effect a liability insurance policy issued by an insurance company authorized to do business in the State of Minnesota covering all vehicles to be driven by prospective customers and others members of the public with limits of one hundred thousand (\$100,000) dollars for bodily injury to any one person. Three hundred thousand (\$300,000) dollars for each accident and fifty thousand (\$50,000) dollars property damage.

### **7-1000 Licensing of Non-Regulated Aircraft**

#### **7-1000.1 Definition of Non-Regulated Aircraft**

Non-regulated aircraft shall refer to any propelled device which is used for manned flight through private or public airspace, where the aircraft and pilot are not subject to licensing, inspection or other direct jurisdiction of the Federal Aviation Administration (FAA), the Minnesota Department of Transportation (MnDOT), or the Twin Cities Area Metropolitan Airports Commission (MAC), or which do not require the labeling of an identification number prominently displayed on such aircraft and issued by or utilized by FAA, MnDOT, or MAC. This definition shall include those devices commonly known as ultra light aircraft.

#### **7-1000.2 Number Display**

Each NRA which is parked, stored, kept, takes off, or lands within the corporate limits of the City of Ham Lake shall bear an identification number as assigned by the Air Safety Foundation of the Aircraft Owners and Pilots Association (AOPA) or a number assigned by the Federal Aviation Administration (FAA).

#### **7-1000.3 Activities and Number Display**

No person shall fly an NRA within 1000 feet of any inhabited dwelling, or over any platted subdivision or dense concentration of inhabited buildings. No person shall take off or land an NRA within 200 feet of any inhabited dwelling without written permission of the owner. Emergency landings shall also be excepted from this provision. All NRAs shall display the numbers required by Section 7-1000.2, on the underside of a wing in block letters not less than 12 inches in height.

#### **7-1000.4 Registrant Responsibility**

In the case of any violation of this ordinance, both the operator and the individual registered as the owner of the NRA shall be responsible for the criminal liability imposed by this Code. The owner, by permitting storage of the NRA, gives consent to all subsequent operators of the NRA to any activities conducted by the operator, and agrees to be responsible for all acts of any subsequent operator. In the case of failure to display numbers, the

operator and all persons found to be in physical possession of the NRA shall share criminal liability for violations.

**7-1000.5 Severability**

In any portion of this Ordinance be found to be in contravention of any State or Federal constitutional, statutory or regulatory provision by any court or tribunal or competent jurisdiction, such a finding shall affect only the portion so found, and the remainder of this Ordinance shall be in full force and effect.

**7-1000.6 Violation**

Any violation of this Ordinance shall be a misdemeanor, punishable by the penalties for misdemeanors as provided by Minnesota Statutes.

**7-1100 Transient Merchant, Peddler, Canvasser, and Solicitor**

**7-1110 Definitions.**

- 1) A “**canvasser**” or “solicitor” is any person traveling from place to place and/or house to house who takes orders for the future delivery of merchandise or for services to be performed in the future, whether or not such person exposes a sample or collects advance payments on such sales; provided, however, that such definition shall also include any person who occupies any temporary structure, vehicle or other place for the primary purpose of exhibiting samples or taking orders for future delivery.
- 2) A “**peddler**” is any person traveling from place to place and/or house to house who carries his merchandise with him, offering and exposing the same for sale, and making deliveries to purchasers, or any person who, without traveling from place to place, shall sell or offer merchandise for sale from a vehicle or conveyance.
- 3) A “**transient merchant**” is any person whose business in the City is temporary or seasonal and consists of selling and delivering merchandise within the City, and who in furtherance of such purpose uses or occupies any structure, vehicle, or other place for the exhibition and sale of such merchandise, either privately or at public auction; provided, however, that a transient merchant shall not be construed to mean any person who while occupying such temporary location, exhibits only samples for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this ordinance merely by reason of temporarily associating with or conducting such transient business in connection with a local businessman.

**7-1120 License Required.**

A license shall be required for any canvasser, peddler, transient merchant, or solicitor to operate in the City. The license period will be for six (6) months.

**7-1130 Exclusions.**

No person shall be required to obtain a license in the following instances:

- 1) Occupations licensed and/or bonded pursuant to State Law.

- 2) A solicitor or canvasser doing business by appointment.
- 3) A solicitor or canvasser taking orders for the future door-to-door delivery of newspapers.
- 4) Salespersons selling goods to retail or wholesale stores or to professional or industrial establishments.
- 5) The conduct of "garage sales" or "rummage sales".
- 6) No license shall be required for vendors as a preliminary step to the establishment of a regular route service for the sale and delivery of such commodities or the providing of such services to regular customers.
- 7) School children selling items for fundraisers.
- 8) Persons selling any product grown, produced, cultivated, or raised on any farm or garden occupied or tended by that person.

#### **7-1140 Religious & Charitable Organizations**

Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organizations upon the streets, in office or business buildings, by house to house canvass or in public places for a charitable, religious, patriotic, philanthropic or otherwise non-profit purpose shall be exempt from Section 7-1150 of this ordinance, provided a sworn application in writing on a form furnished by the City is filed which shall include the following information; Notwithstanding the foregoing, persons representing organizations exempt from the provisions of Article 7-1150 hereof are required to comply with the provisions of Article 7-1160 hereof.

- 1) Name and purpose of the cause for which the license is sought.
- 2) Names and addresses of the officers and/or directors of the organization.
- 3) The period during which the solicitation is to be carried on.
- 4) Whether or not any commission, fee, wages or emoluments are to be expended in connection with such solicitation.

Upon the foregoing being satisfied, such organization, association or corporation shall furnish all its members, agents, or representatives conducting the solicitation credentials in writing stating the name of the organization, name of the agent, and the purpose of the solicitation. Such credentials shall be kept on the person of the members, agents or representatives during the actual solicitation and be presented to anyone requesting to see same.

An organization shall qualify for exemption if and only if:

- a. it has been incorporated as a non-profit corporation under the laws of any state, or
- b. it has been granted tax exempt status by the Internal Revenue Service.

Proof of qualification under one of the above two criteria shall be provided with the application for exemption.

**7-1150 Application.**

In addition to such information as the City Clerk may require, the application shall also include:

- 1) Name and description of the applicant.
- 2) Permanent home address and full local address of the applicant.
- 3) A brief written description of the nature of the business, other goods to be sold, and the applicant's method of operation.
- 4) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- 5) The length of time which the applicant intends to do business in the City, with the approximate dates.
- 6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
- 7) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of filing of the application, which picture shall be two (2") inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- 8) A statement as to whether or not the applicant or the person managing the business has been convicted of any crime, misdemeanor or violation of any municipal ordinance, involving activities licensed under this ordinance, the nature of the offense and the punishment or penalty assessed therefore.
- 9) If a vehicle is to be used, a description of the same together with license number or other means of identification.
- 10) A statement of the nature, character, and quality of the goods, wares, or merchandise to be sold or offered for sale by applicant, the invoice value and quality of such goods, wares, and merchandise, whether the same are proposed to be sold from stock in possession or by sample, at auction, by direct sale, or by taking orders for future delivery.
- 11) A brief statement of the nature, character, and content of the advertising done or proposed to be done in order to attract customers (samples may be requested).
- 12) Credentials from the person, for which the applicant proposes to do business, authorizing the applicant to act as such representative.
- 13) Transient merchants shall include the addresses of all places where the business is to be located along with written consent of the owners or occupants.
- 14) A detailed description of the warranty as to fitness for the intended purpose of the goods to be sold, as such warranty is intended by the Uniform Commercial Code, together with a detailed description

of the means by which persons seeking to enforce such warranty may do so, including name, addresses and agents for service of process of all businesses in the chain of products liability.

**7-1160 Prohibited Practices**

No person under this ordinance shall:

- 1) Sell or solicit before the hour of 9:00 A.M. or after 9:00 P.M., unless a previous appointment has been made.
- 2) Enter or conduct business upon any premises where a sign or plaque is conspicuously posted stating in effect that no peddlers or solicitors are allowed. Such signs shall have letters a minimum of one-half (1/2") inch high.
- 3) Occupy for the purpose of advertising and/or conducting business any area within a sight triangle, at any road intersection.
- 4) Occupy as a transient merchant, solicitor or peddler, any public right-of-way or other public property for the purpose of advertising and/or conducting business unless approved by the City Council in conjunction with a special event scheduled in a city park.
- 5) Occupy as a transient merchant any property not located in commercial or industrial zoning which location shall comply with all requirements of Article 9 including but not limited to parking and setback requirements.
- 6) To come upon any parcel of land zoned for any residential purpose for the purpose of conducting canvassing or solicitor activity, if the resident of the parcel has elected to have their name and address placed upon the public List of Prohibited Contacts as defined in Article 7-1180 hereof.

**7-1170 License Fees**

The license fee shall be in accordance with the City fee schedule adopted by the City Council.

**7-1180 List of Prohibited Contacts**

Any person in any area of the City zoned for residential purposes may request of the City Administrator that their name and address be placed upon a list, to be known as the List of Prohibited Contacts. This list shall be maintained by the City Administrator, and a copy thereof shall be furnished to any solicitor or canvasser at the time of application for a permit or exempt status. The applicant, and all persons who will be conducting canvassing or soliciting activities shall be required to sign a receipt acknowledging having been informed of the List of Prohibited Contacts, which receipt shall be in the following form:

Acknowledgment of Prohibited Contacts:

The undersigned acknowledges having been informed that the undersigned is prohibited by municipal ordinance and by State

trespassing laws from coming upon any of the properties listed on the hereto attached List of Prohibited Contacts, and the undersigned has received a copy of the list.

### **7-1200 Lawful Gambling**

#### **7-1210 Regulations Supplemental to Statutory Control**

The regulations found in this Article 7-1200 shall be supplemental to any regulations found in Minnesota Statutes

Chapter 349, and any State Agency regulations adopted pursuant to said statute. Any and all portions of said statute and regulations not inconsistent with this Article are adopted by reference.

#### **7-1220 Places Eligible for License**

Lawful Gambling licenses shall be permitted only in bars or “sit-down” restaurants. A bar is any facility which maintains an on-sale liquor or non-intoxicating malt liquor license. A “sit-down” restaurant is a restaurant that regularly employs wait-persons as food servers at tableside, as opposed to a “fast-food” restaurant having the majority of orders placed at a service counter and drive-up window. The reason for this distinction is to prohibit Lawful Gambling devices from locations which have a large number of customers under 18 years of age, often unaccompanied by adults.

#### **7-1230 Conditions**

The conduct of Lawful Gambling under license issued by the Board shall be subject to the following conditions in the City of Ham Lake:

- a. A copy of any lease agreement between a non-profit organization and a gambling location owner or operator shall be filed with the City Administrator together with the Gambling license application;
- b. The City Council may refuse to issue a Lawful Gambling license for a location in which gambling violations have previously occurred, and the Council may refuse to issue a Lawful Gambling license to a non-profit organization which has previously violated terms of this Ordinance and/or Minnesota Statutes, Chapter 349;
- c. The maximum number of separate gambling locations that any one license organization shall be permitted to operate within the City is 3.

#### **7-1240 Investigation**

Every organization which files an application for issuance or renewal of a Lawful Gambling License shall deliver the application to the City Administrator. The City Administrator shall investigate each application and report any findings and recommendations to the City Council.

#### **7-1250 Filings of Records; inspection; Access to Records.**

- a. Every organization licensed to conduct Lawful Gambling in the City of Ham Lake shall file with the City Administrator copies of all records and reports required to be filed with the Board pursuant to

Minnesota Statutes, Chapter 349 and the rules and regulations promulgated thereunder. The records and reports shall be filed in the office of the City Administrator on or before the day they are required to be filed with the Board;

- b. Every gambling event in the City of Ham Lake conducted by an organization under Minnesota Statutes, Chapter 349 shall be open to inspection by law enforcement officers;
- c. The City Administrator or agents at the direction of the City Administrator, may inspect at any reasonable time, without notice or search warrant, all records of licensed organization, including gambling account and other bank records required by the Board to be maintained and preserved.

#### **7-1260 Fee**

The City will charge all new applications the maximum investigation fee permitted by Minnesota Statutes, Chapter 349 in order to cover costs incurred investigating the application. Any unused portion of this fee will be refunded to the applicant. This fee does not apply to applications for renewal of licenses.

#### **7-1270 Organizations Eligible for License**

Lawful gambling licenses shall be permitted only for organizations whose primary spending of profits earned from lawful gambling activities are directed to activities or donated to organizations existing within a Trade Area encompassing the Anoka County, Minnesota communities of Ham Lake, Oak Grove, East Bethel, Linwood Township, Columbus Township, Lino Lakes, Blaine, Coon Rapids and Andover.

#### **7-1280 Charitable Gaming**

##### **A. Contribution Required.**

Pursuant to the authority granted by Minnesota Statutes Chapter 349.213, all organizations licensed or registered by the Minnesota Gambling Control Board shall be required to contribute ten per cent of their net profits derived from lawful gambling conducted at premises within the City's corporate limits to a fund administered and regulated by the City without cost to such fund, for disbursement by the City for (i) charitable contributions as defined in Minnesota Statutes Chapter 349.12, subdivision 7(a), or (ii) disbursements for police, fire and other emergency or public safety-related services, equipment and training.

##### **B. Annual Report**

By March 15 of each year, the City Administrator shall file with the Gaming Control Board the report required by Minnesota Statutes Chapter 349.213, Subd. 1 (a) on forms to be prescribed the Gaming Control Board.

##### **C. Computations**



In computing net profit, the organization shall use generally accepted accounting principles, and any organization that is specifically allowed by statute or State Regulations to expend lawful gambling proceeds for certain operating expenses of the host establishment in which the organization conducts its lawful gambling operation may deduct such expenses actually paid in computing its net profit.

**D. Due Date**

Organizations have the option of payment of the amounts required under this article on a monthly or annual basis. If payment is made monthly, payment is due by the 20<sup>th</sup> of the following month, accompanied by a copy of the monthly report that is filed at that time with the Minnesota Gambling Control Board. If the organization chooses to pay annually, payment is due within sixty days after the close of the fiscal year for the organization. Organizations paying annually must still provide the City with a copy of each monthly report that is filed with the Minnesota Gambling Control Board.

**E. Repealer**

Any and all previous ordinances, resolutions or other policies previously adopted by the City regarding contributions by organizations involved in lawful gambling in the City are superseded and replaced by this ordinance, or, in the case of prior ordinances, are repealed.

Updated through Ordinance 16-08