

CHAPTER 55

LIQUOR

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LIQUOR

55.01 DEFINITIONS. For the purpose of this Chapter and applications for licenses the terms shall have the following meanings:

Bona Fide: A club is bona fide if it was organized in good faith for one or more of the purposes stated in Minnesota Statutes, Section 340A.101, and the applicant for a license intends it be operated without dishonesty, fraud or deceit, and the main purpose of which is not nor shall be the sale and serving of 3.2 percent malt liquor or intoxicating liquor.

Charitable Organization or a Nonprofit Organization: A charitable organization or a nonprofit organization is a corporation as that term is defined by Minnesota Statutes, Chapter 317.A, as amended.

Downtown Entertainment district: The area bounded by Huff Street on the west, Broadway on the south, Franklin Street on the east, and the Mississippi River on the north.

Intoxicating Liquor: As defined by Minnesota Statutes.

Kegs: Containers with a capacity of not less than 7 gallons, designed for and capable of holding intoxicating liquor or 3.2 percent malt liquor to be dispensed from a removable tapper.

License: Those licenses specifically listed in 55.02.

Licensed Premises: The licensed premises is the area described in the approved license application. The licensed premises may include both indoor space and outdoor space. In the case of a restaurant or club licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Outdoor Space: An outdoor space designated on the license application shall meet the following requirements:

- (1) The area shall be located entirely on private property and shall not encroach onto the public sidewalk or public road right-of-way.
- (2) No amplified music or live entertainment shall be permitted in an outdoor space after 10:00 p.m.
- (3) No recreational fires shall be permitted in an outdoor space.
- (4) The outdoor space shall be lighted to provide for the safety of the users of the outdoor space. The lighting shall be so arranged as to reflect the light away from adjoining premises in any R district.
- (5) The outdoor space must be clearly designated.
- (6) The outdoor space shall comply with building codes relating to handicap accessibility.
- (7) Required off-street parking spaces may not be reduced by the establishment of an outdoor service area."

Minor: A person who is under the age of 21 years.

3.2 Percent Malt Liquor: A malt beverage containing more than one-half of 1% of alcohol by volume, but not more than 3.2 percent of alcohol by weight.

Person: A person is an individual, partnership or corporation.

55.02 LICENSE REQUIRED. (a) License. No person shall vend at retail 3.2 percent malt liquor or intoxicating liquor or wine without a license to do so from the City Council.

(b) License Classifications:

(1) Off-sale intoxicating liquor: Off-sale licenses for the sale of intoxicating liquor shall permit the licensee to sell intoxicating liquor in original packages for consumption off the premises only. Such licenses may be issued in accordance with the provisions of this Chapter.

(2) Off-sale 3.2 percent malt liquor: Off-sale 3.2 percent malt liquor licenses shall permit the licensee to sell 3.2 percent malt liquor in original packages for consumption off the premises only.

(3) Brewpub off-sale malt liquor license: A brewer licensed by the State of Minnesota who also has been issued an on-sale intoxicating liquor license or a 3.2 percent malt liquor license by the City for a restaurant operated in the place of manufacture.

(4) Club On-sale intoxicating liquor: Club licenses for the sale of intoxicating beverages to be consumed on the licensed premises may be issued to any clubs meeting the requirements of Minnesota Statute 340A.404, subdivision 1.

(5) On-sale Intoxicating Liquor-Restaurant, Hotel or Entertainment Facility; An applicant is eligible for an On-sale Intoxicating Liquor License-Restaurant, Hotel or Entertainment Facility, if the applicant can certify that the gross sales ratio of food sales to alcoholic beverage sales is at least 60 percent food to 40 percent alcoholic beverages or that the gross sales ratio of amusement sales to alcoholic beverage sales is at least 60 percent amusement to 40 percent alcoholic beverages. For purposes of this section, amusement shall mean bowling, concerts, sporting events, and curling, together with related sales of food and non-alcoholic beverages.

The business records of the licensee applying for or granted a license under this license classification, including federal and state tax returns, shall be available for inspection by duly authorized representative of the City at all reasonable times.

(6) On-sale Intoxicating Liquor-Exclusive Liquor Store (Bar/Pub/Tavern): An applicant is eligible for an On-sale Intoxicating Liquor License-Exclusive Liquor Store if the establishment is used exclusively for the sale of intoxicating liquor to be consumed on the licensed premises; provided, however, that the establishment may sell ice, tobacco, 3.2% malt liquor, beverages for mixing with intoxicating liquor, and soft drinks, and may offer recorded or live entertainment and make available coin-operated amusement devices, as well as food for on-premise consumption where the gross sales of food is less than the 60 percent requirement as set forth in (5) above.

(7) Sunday On-sale intoxicating liquor license: A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant or club which has an On-sale license. A special Sunday license is not needed for Sunday sales of wine.

(8) On-sale wine license: On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes 340A.404, subdivision 5, and shall permit only the sale of wine not exceeding fourteen percent (14%) alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. To qualify for a license under this subsection, a restaurant must have appropriate facilities for seating at least twenty five (25) guests at a time, regularly serve meals at tables to the public for a charge, and employ an adequate staff.

(9) On-sale 3.2 percent malt liquor: On-sale licenses shall permit the licensee to sell 3.2 percent malt liquor for consumption on the premises only.

(10) Temporary On-Sale 3.2 percent malt liquor: Temporary On-sale licenses may be issued to a club or charitable, religious or nonprofit organization in connection with social events within the City.

55.03 APPLICATION FOR LICENSE. (a) A person desiring a liquor license shall file a verified written application with the City Clerk by the deadline set by the City Clerk, or not less than 20 days prior to the time it is anticipated action will be taken by the City Council.

- (b) The application shall contain information required by state law or ordinances of the City and such information as is necessary to aid in the determination of whether or not the applicant is qualified to hold a license. The application may contain such other or different information as the City Manager may from time to time believe would aid the City Council in making a decision as to whether or not a license should be granted. The City Manager may authorize a licensee seeking a renewal of a license to re-file his original application together with any changes which have occurred since the date of the original application.
- (c) Background Investigations. The purpose and intent of this subsection is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks. The Winona Police Department is authorized, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the liquor licenses within the city.

In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the Chief of Police or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Manager and City Clerk, or other city staff involved the license approval process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- A. The grounds and reasons for the denial.
- B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
- C. The earliest date the applicant may reapply for the license.
- D. That all competent evidence of rehabilitation will be considered upon reapplication.

55.04 CONSIDERATION OF APPLICATION FOR LICENSE BY COUNCIL. (a) Before issuing or transferring a license the City Council shall consider, among other things, the application, the recommendation of the City Manager and City Attorney, the character and reputation of the person making the application, the nature of the business being or to be conducted, the physical set up and type of the premises, the propriety of the location of the business, compliance with city ordinance and state law including but not limited to parking, zoning, sanitation, food service facilities, provisions for security

against theft or misuse of products, subdivision regulations, building, fire, electrical and plumbing codes, and the like, as well as the files of the City respecting the person or the premises.

(b) Ownership of Premises. A licensee shall either own or hold a lease on the premises where the business will be conducted.

(c) Payment of Real Estate Taxes, Assessments and Other Charges. All real estate taxes due and payable in the calendar year preceding the term of the license and assessments payable therewith, and applicable to the licensed premises, as well as all pending assessments for unpaid municipal charges, and all other unpaid municipal charges, shall be paid in full prior to issuance of any license pursuant to this chapter, with the exception of the license for off-sale 3.2 percent malt liquor.

(d) Downtown Entertainment district. The number of On-sale intoxicating liquor, Exclusive Liquor Store licenses issued by the Council may be restricted, with the number of licenses to be issued set by Council Resolution.

55.05 LICENSE FEES; BOND. (a) Annual Fee. The annual license fee and the classes of licenses for liquor licenses shall be as set forth in Section 51.01.

(b) The liquor license fee shall be prorated. Use of a license for one day shall constitute use for one month.

(c) Licenses expire on June 30 of each year.

(d) In the case of a new application or an application for a transfer of an existing license, a person applying for a license shall pay to the City at the time he files his application a processing fee as set forth in Section 51.01. No processing fee shall be required for an off-sale 3.2 percent malt liquor license. No processing fee shall be required of a licensee seeking renewal of his license.

(e) License fees shall be paid into the general fund.

(f) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. §340A.408 if at the time of initial application or renewal:

(1) the licensee agrees to have a private vendor approved by the City train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) the licensee agrees to post a policy requiring identification checks for all persons appearing to be 30 years old or less; and

(3) a written cash award and incentive program is established by the licensee to award employees who catch underage drinkers and a written penalty program is established to punish employees in the event of a failed compliance check.

55.06 SUSPENSION OR REVOCATION OF INTOXICATING LIQUOR LICENSE AND/OR 3.2 PERCENT MALT LIQUOR LICENSE AND/OR WINE LICENSE. (a) The suspension or revocation of any intoxicating liquor license or 3.2 percent malt liquor license or wine license shall be governed by this Chapter. Insofar as this Chapter is inconsistent with or differs from suspension or revocation procedures contained in Chapter 51 of the Winona City Code, or the terms therein, then and in that event, this Chapter shall apply and shall supersede those terms or conditions outlined in Chapter 51.

(b) Every intoxicating liquor license and 3.2 percent malt liquor license and wine license granted by the City shall be subject to suspension or revocation for cause.

(c) Cause for suspension or revocation of intoxicating liquor licenses and 3.2 percent malt liquor licenses and wine licenses is defined as:

1. A violation of the terms or conditions of a license or of the law by virtue of which the license was issued, or
2. A violation of the provisions of this chapter or of any other local law or ordinance pertaining to or in any way connected with the regulation or sale of intoxicating liquor or 3.2 percent malt liquor or wine, or
3. A situation or event which would lead a reasonable person to believe that continuance of the activity which produced the situation or event might adversely affect the morals, health, safety, or welfare of one or more members of the public, or
4. Fraud practiced upon the City, or
5. Conviction of a crime related to the activity for which the license was issued.

(d) An intoxicating liquor license or 3.2 percent malt liquor license or wine license may be suspended or revoked only by the City Council. Those provisions contained in Chapter 51 providing for suspension by the City Manager shall not apply to liquor licenses.

(e) No intoxicating liquor license or 3.2 percent malt liquor license or wine license shall be suspended or revoked by the City Council unless an opportunity for a public hearing is given to the licensee and, if requested by the licensee, a public hearing is held.

(f) A public hearing shall be held as soon as is practicable and it shall receive priority over all other business except other public hearings previously scheduled to be heard.

(g) A request for suspension or revocation of a license may be made by the City Manager or City Attorney and, when so requested, the City Council shall, as soon as is practicable thereafter, cause a notice to be given to the licensee.

(h) The notice shall be prepared by the City Clerk. It shall advise the licensee that the City Council has been requested to consider suspension or revocation of a license held by the licensee. It shall state the alleged cause, that the licensee is entitled to a public hearing before the Council if he notifies the Clerk, in writing of his desire that such a hearing be held and that such notification to the Clerk is received by the Clerk within five business days after service on the licensee of the original notice. The notice shall further state that the licensee will be informed of the date, time and place, that a procedure for the conduct of a public hearing has been set by the City Council, which procedure is available for inspection at the office of the Clerk and that if no request for a public hearing is made by the licensee, the City Council will proceed to consider and act upon the request to suspend or revoke the license as soon as is practicable after the expiration of the 5-day period.

(i) Service of the notice shall be in the manner for service of process in the District Court, except, that service may be made by a police officer or other employee of the City and, in the case of a non-resident licensee, by registered mail.

(j) A public hearing shall be held at a regular, recessed or special meeting. The presiding officer shall make a statement as to the reason for the hearing. He shall make every reasonable effort to ensure a fair and full presentation of the facts and arguments by the licensee and the City and counsel for each. He shall permit the licensee or his counsel an opportunity for an opening and closing statement. He shall swear a witness, if requested to do so. He may provide a reasonable time after the hearing and before deliberation by the Council for the presentation of written briefs, or evidence. He may adjourn the public hearing to a future date, time and place. He may receive and place on file any written testimony or evidence presented. He may permit cross-examination of a witness. In the event of suspension or revocation of a license, he shall have a written statement of findings of fact made and served on the licensee. The statement shall set forth the decision and a statement of the reasons therefor.

(k) When the public hearing is closed, the presiding officer shall advise the Council that any decision to suspend or revoke must be made for cause and that he is obliged to inform the licensee of the cause. He shall also advise the Council that he will not entertain a motion for suspension or revocation unless the motion states the cause.

(l) A decision shall be made by the City Council within a reasonable time and not more than 20 days after the day the public hearing is closed.

(m) In the event the City Council determines that the licensee has violated a provision of this Chapter, or a state statute or regulation relating to alcoholic beverages constituting cause for suspension or revocation, it shall, following a hearing, either suspend for up to 60 days or revoke the license or permit, or impose a civil fine not to exceed \$2,000 for each violation.

55.07 GENERAL REGULATIONS. The following provisions apply to each person licensed pursuant to the provisions of this Chapter to sell intoxicating liquor or 3.2 percent malt liquor:

(a) A licensee shall be responsible for the conduct of every person on the premises and shall at all times maintain order thereon.

(b) A licensee shall himself comply with all laws, rules and regulations of the City, State and Federal government in the operation on the premises, and he shall ensure compliance therewith by each of his employees and agents.

(c) A licensee shall post a license issued to him in a conspicuous place on the premises.

(d) A licensee shall make every sale of every product in full view of the public.

(e) 3.2 Percent malt liquor and intoxicating liquor shall at all times be stored and kept on the premises under the control of the licensee.

(f) A license shall not be transferable to another person unless authorized by the City Council.

(g) A license shall not be transferable to premises other than the premises for which the license was issued unless authorized by the City Council.

(h) A licensee shall not conduct business unless he is in lawful possession of the premises.

(i) A licensee shall not expand the licensed premises unless the licensee files an amended application and description of the licensed premises which is approved by the City Council in advance.

(j) The City Clerk shall, without City Council action, issue a duplicate for any license issued pursuant to this chapter, upon the filing of an affidavit of the licensee stating that the original license was lost or destroyed, and upon payment of a duplicate license fee of \$25.00. Each duplicate license shall be clearly marked as a duplicate.

(k) No licensee licensed to sell intoxicating liquor or 3.2% malt liquor shall operate from premises which contain a drive-up facility as part of the licensed premises or as a part of a facility operated by the license holder other than a drive-up facility used exclusively for the sale or dispensing of food.

(l) It shall be unlawful for any person to sell any intoxicating liquor or 3.2% malt liquor to a person while such person is within a motor vehicle.

(m) A licensee shall permit any employee of the City authorized by the City Manager to enter upon and visually inspect the premises and any adjoining room, apartment or building, or part thereof, or coolers or containers or other place of storage, at any reasonable time, and from time to time. By accepting a license, the licensee agrees to inspections.

(n) A licensee holding a club license shall not himself nor shall he permit another to allow a person to enter the club and consume 3.2 percent malt liquor or intoxicating liquor unless such person is a member of the club or a guest of a member.

(o) No person licensed to sell intoxicating liquor or wine on-sale shall permit any person to consume intoxicating liquor or wine on the licensed premises between 1:30 a.m. and 8:00 a.m. on the days of Monday through Saturday, or between 1:30 a.m. and noon on Sunday, except that facilities meeting the requirements of Section 55.02(b)(5) and also possessing a Sunday on-sale intoxicating liquor license may allow consumption after 10:00 a.m. on Sundays. No such licensee shall permit any consumer or person whomsoever, except employees of the licensee, to be on the licensed premises during the hours when consumption of intoxicating liquor or wine is prohibited. Notwithstanding the foregoing, a restaurant licensed to sell intoxicating liquor may open at 6:30 a.m. for the purpose of serving food.

(p) No person licensed to sell 3.2 percent malt liquor shall permit any person to consume 3.2 percent malt liquor on the licensed premises except within the hours when the sale of such liquor is permitted. No person on such premises shall consume such liquor except within the hours when the sale of such liquor is permitted.

55.08 CONSUMPTION FROM OPEN CONTAINER. No person shall consume a drink of 3.2 percent malt liquor or intoxicating liquor, purchased from an on-sale licensee and contained in an open container, off the premises on which it was purchased or received.

55.09 POSSESSION OR CONSUMPTION UPON PUBLIC WAYS. No person shall consume either intoxicating liquor or 3.2 percent malt beverages or be in possession of any glass or open container containing either intoxicating liquors or 3.2 percent malt beverages while in or upon any public street, alley, sidewalk, parking lot or other public way. This section shall not apply to consumption in any one or more of the areas described, provided, that permission is given by the City Council by a resolution in accordance with the following conditions:

- a. Permission shall be given only to a nonprofit organization under the laws of the State, and only to an organization which is undertaking the promotion and management of a community-wide celebration to last more than 24 hours.
- b. Consumption shall be permitted only within an enclosure which is safe and suitable for service to the public.
- c. The organization to which permission is granted shall conduct all sales and receive all the net proceeds of sales.
- d. Consumption of intoxicating liquor shall not be permitted.
- e. The area to be used shall be an area the use of which shall not adversely affect the public safety or welfare.

55.10 SALES TO MINORS AND OTHER PROHIBITED SALES. No liquor or wine shall be sold or furnished for any purpose whatsoever to any minor or to any person to whom such sale is prohibited by any law of this State or Chapter.

55.11 PROHIBITED ACTS RELATIVE TO MINORS. It shall be unlawful for: (a) A minor to enter any premises licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing, or having served or delivered to him, any alcoholic beverage containing more than one-half of 1% of alcohol by volume.

(b) A minor to consume any intoxicating or 3.2 percent malt liquor or to purchase or have another purchase for him any intoxicating or 3.2 percent malt liquor.

(c) Any person to misrepresent or misstate his age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, or any employee of any municipal liquor store, to sell, serve or deliver any alcoholic beverage to a minor.

(d) A minor to have in his possession any intoxicating or 3.2 percent malt liquor, with intent to consume the same at a place other than the household of his parent or guardian. Possession of such intoxicating or 3.2 percent malt liquor at a place other than the household of his parent or guardian shall

be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

(e) No person shall enter or attempt to enter a licensed establishment without having on their person a valid, unaltered, driver's license or picture identification card issued by the State or the United States Government identifying such person and their date of birth or, in the case of a foreign national, a valid passport. Any law enforcement officer enforcing this section shall use his/her discretion in determining whether such driver's license, picture identification or passport need be produced.

(f) Every on-sale licensee shall post, at every entrance to the licensed premises used by the public, a sign supplied by the City which shall state:

It is a misdemeanor for any person to enter or attempt to enter this establishment without having on their person a valid, unaltered, driver's license or picture identification card issued by a State or the United States Government identifying such person and their date of birth or, in the case of a foreign national, a valid passport. W.C.C. Section 55.11. This establishment may refuse to accept any identification card in its sole judgement.

(g) Every off-sale licensee shall post, at every entrance to the licensed premises used by the public, a sign supplied by the City which shall state:

It is a misdemeanor for any person to purchase or attempt to purchase alcoholic beverages without having on their person a valid, unaltered, driver's license or picture identification card issued by a State or the United States Government identifying such person and their date of birth or, in the case of a foreign national, a valid passport. W.C.C. Section 55.11. This establishment may refuse to accept any identification card in its sole judgement.

55.12 CONSUMPTION IN PARKS. (a) No person shall possess or consume either intoxicating or 3.2 percent malt liquor in the following places, unless a permit allowing such possession or consumption has been granted by the City Council or a license to sell alcoholic beverages has been granted by the City Council: In Lake Park Lodge or within 100 feet of Lake Park Lodge, in Levee Park, in Tillman Park, in First Ward Park (Windom Square), in Second Ward Park (Central Park), in Third Ward Park (Sinclair Park), in Fourth Ward Park (Sobieski Square), in Glenview Park, in Wincrest Park, in the East End Recreation Center and Park, on Thurley Playground, in Belmont Whitten Park, in Knopp Valley Park, in Garvin Heights Park and parking lot, at the Aquatic Center, and in the West End Recreation Center and the immediate surrounding area of the Center bounded on the west, north and east sides by a fence and on the south side by the sidewalk adjacent to Fifth Street.

(b) No person shall possess or consume either intoxicating or 3.2 percent malt beverages in Lake Park or on Latsch Island after the hours of 10:00 p.m. and before 8:00 a.m. For the purposes of this section Lake Park is described as that area of land (1) lying southerly of the south line of Lake Street, northerly of the centerline of U.S. Highway 61 and 14, westerly of the centerline of Huff Street and easterly of the easterly boundary lines of the privately owned lands lying westerly of the westerly end of Lake Winona; and (2) lying northerly of the centerline of U.S. Highway 61 and 14, westerly of Mankato Avenue (excluding privately owned lands), southerly of Sarnia Street between Mankato Avenue and Franklin Street and lying northerly of the centerline of U.S. Highway 61 and 14 and southerly of the southerly boundary lines of privately owned land south of Sarnia Street between Franklin and Huff Streets. For the purposes of this section, Latsch Island shall be defined as all of Latsch Island with the exception of the Winona Municipal Marina and the further exception of the area lying within 50 feet of any boathouse. On Latsch Island only, a person may possess either intoxicating liquor or 3.2 percent malt beverages for the sole purpose of transporting such beverages between the vehicle parking lot and the boat launching areas.

55.13 NUDE APPEARANCE. No person shall appear in the nude in a bar, lounge or any place wherein intoxicating liquor and/or 3.2 percent malt beverages are sold. This section shall not be construed to prohibit the exposure as may result from use of a public restroom. The word "nude" for the purposes of this section means the showing of the post-pubertal human male and female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of post-pubertal female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

55.14 TEMPORARY 3.2 PERCENT MALT LIQUOR LICENSES. (a) Person who may be Licensed. A temporary on-sale license for the sale of 3.2 percent malt liquor may be granted by the City Council only to a bona fide club, charitable organization or nonprofit organization as those terms are defined herein.

(b) General Provisions. The following provisions apply to each person licensed pursuant to the provisions of this Chapter:

1. The provisions of Sections 55.02 through 55.09.
2. A licensee shall comply with each condition or statement expressed on a license.
3. A licensee shall comply with any reasonable regulation imposed on him by the City Council or a city official before or after license is issued.
4. A licensee shall limit the number of people on the premises to the number stated in his license.
5. A licensee shall immediately stop sales when ordered to do so by a city official.
6. A licensee shall begin and stop sales within the time stated on his license. When a license is issued for the use of public property, the time when sales shall be stopped shall be 11:00 p.m., unless otherwise specified by the Council at the time of the issuance of the license.
7. A license shall be issued only for sales on a college campus or for a place designated by Council resolution.

(c) License Fee. The license fee shall be as set forth in Section 51.01. The license fee shall not be refundable.

(d) Term of License. The license shall be issued for 1 day or more, but not exceeding 7 days. A license for more than 1 day shall be issued for consecutive days.

(e) Regulations for Public Place of Sale. The City Council may grant a license which will permit the use of public property owned by it. An applicant for a license who wishes to use public property shall agree in his application to the following:

1. At the time the license is issued to pay a repair and cleanup charge of \$250.00 refundable only if the premises used are in good repair and are cleaned to the satisfaction of the City Manager or his designated representative.
2. Clean up the premises within 12 hours after use.
3. State the name of the distributor from whom purchases shall be made of 3.2 percent malt beverages.

(f) Processing Fee. A person applying to the City for a license shall pay to the City a processing fee as set forth in Section 51.01. The processing fee shall not be refunded nor credited against the license fee.

In the period between September 1 through August 31, if a license has once been issued under this chapter to a qualified organization, the processing fee for licenses subsequently issued to the organization shall be as set forth in Section 51.01.

(g) Regulations for Private Place of Sale. The City Council may grant a license which will permit the use of property other than property owned by it. No such license shall be granted unless and until a written consent from the owner of the premises to be used is on file with the City Clerk and is approved by the City Council.

(h) Time for Application. A person desiring a license shall file a verified application not less than 20 days prior to the time it is anticipated action will be taken by the City Council.

(i) Insurance. A license shall not be issued for the use of public property owned by the City until there is filed with the City Clerk a liability and property damage insurance policy protecting the licensee and City and with a combined limit of not less than \$300,000.00.

55.15 WINE LICENSES. (a) Required; Exception. No person shall sell wine on-sale without a license to do so from the City Council and after obtaining approval of the Commissioner of Public Safety. A wine license shall only be issued to a restaurant having facilities for seating at least 25 guests at one time. A wine license is restricted to the sale of wine of up to 14 percent alcohol by volume for consumption with the sale of food. A person holding an on-sale liquor license need not purchase a wine license.

(b) Revocation; Reissuance. Whenever a license has been issued authorizing the sale of wine, pursuant to this Chapter, at a certain location or upon certain premises and such license is revoked, no new license shall be issued at the same location or upon the same premises for a period of 90 days.

(c) General Provisions. The following provisions shall apply to each person licensed pursuant to the provisions of this Chapter:

1. The provisions of sections 55.04 through 55.10.

(d) Sale of Intoxicating Malt Liquor. A person licensed to sell wine on-sale and who is also licensed to sell 3.2 percent malt liquor at on-sale and whose gross receipts are at least 60 percent attributable to the sale of food shall be authorized to sell intoxicating malt liquors at on-sale without an additional license.

55.16 HOURS AND DAYS OF SALE. (a) 3.2 Percent Malt Liquor. No sale on 3.2 percent malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

(b) Intoxicating Malt Liquor. No sale of intoxicating liquor for consumption on the licensed premises may be made:

- (1) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (2) After 1:00 a.m. on Sundays, except as provided in paragraph (3);
- (3) A restaurant, club or hotel with a seating capacity for at least 30 persons and which holds a Sunday on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act.

55.17 POSSESSION OF KEGS IN RESIDENTIALLY ZONED AREAS OF CITY.

(a) Limitation. No more than one (1) keg may be possessed within, or on the premises on which is located, any dwelling unit, lodging house, fraternity house, or sorority house located in a residentially zoned area within the City. No dwelling owner or lessee shall possess or allow any other person to possess a keg contrary to this section.

(b) Identification Label or Tag. All kegs shall have affixed thereon, by the licensed off-sale retailer, an identification label or tag. The identification information contained on the label or tag shall include the licensed off-sale retailer's name, address and telephone number; a unique keg number assigned by the retailer; and a prominently visible warning that intentional removal or defacement of the label or tag is a criminal offense. The identification label or tag shall be removed only by the licensed off-sale retailer upon return of the keg to the off-sale retailer. Possession of a keg without the identification label or tag affixed thereto in a residentially zoned area of the City is prohibited. The presence of a keg without the identification label or tag affixed thereon shall be prima facie evidence that the owner/tenant of the premises on which the keg is found has violated this code section.

(c) Application for Permit. Any person desiring to obtain a permit to possess more than one (1) keg shall fill out an application at the City Clerk's office setting forth the applicant's full name, address, telephone number, the address within the City where the applicant will be possessing the kegs, and the reason or reasons why more than one keg should be permitted. In addition, the applicant shall be required to provide proof of identity and age in the form of a valid Minnesota driver's license or identification card, or valid driver's license from another jurisdiction. Falsifying any information requested on the permit application shall constitute a violation of this ordinance. The application shall be presented to the City Council for approval.

(d) Exceptions. Any person or premises licensed under any other provision of state law or local ordinance may possess more than one (1) keg and is specifically exempted from the provisions of this section.

(e) Penalties. Any violation of this section shall be punishable as a misdemeanor.

55.18 KEG REGISTRATION. In addition to the requirements set forth in state statute pertaining to keg registration, the off-sale retailer shall also comply with the following requirements:

- (a) the type of identification card, and the state of origin of the card, used by the purchaser shall be recorded by the off-sale retailer;
- (b) the local address of the purchaser shall be recorded by the off-sale retailer;
- (c) the address or location of where the beer will be consumed shall be recorded by the off-sale retailer;
- (d) the off-sale retailer shall provide the purchaser with a written copy of the City's ordinance pertaining to the possession of kegs in residentially zoned areas of the City; and
- (e) the record containing the information set forth above must be retained for not less than 90 days after the date of sale.

55.19 SOCIAL HOST

A. Purpose and Findings. The Winona City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Winona City Council finds that:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdoses or alcohol related traffic collisions.

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present, and condone the activity, and in some circumstances provide the alcohol.

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

(6) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

B. Definitions. For purposes of this section, the following terms have the following meanings:

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

Alcoholic Beverage: means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

Event or Gathering: means any group of two or more persons who have assembled or gathered together for a social occasion or other activity.

Host: means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

Parent: means any person having legal custody of a juvenile and shall include the following: natural parent, adoptive parent, stepparent, legal guardian, or a person to whom legal custody has been given by order of the court.

Person: means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

Residence or Premises: means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

Underage Person: is any individual under 21 years of age.

C. Prohibited Acts.

(1) It is unlawful for any person to host or allow any event or gathering at any residence, premises, or on any other private or public property, where alcohol or alcoholic beverages are present, when the person knows or reasonably should know that an underage person will or does (a) consume any alcohol or alcoholic beverage or (b) possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person.

(2) A person is criminally responsible for violating C.(1) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(3) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

D. Exceptions.

(1) This section shall not apply to conduct solely between an underage person and his or her parents while present in the parents' household.

(2) This section shall not apply to legally protected religious observances.

(3) This section shall not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503, subd. 1(a)(1).

(4) This section shall not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

E. Enforcement. This section can be enforced by any licensed police officer.

F. Severability. If any subsection, sentence, clause, phrase, word, or other portion of this section is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this section, which remaining portions shall continue in full force and effect.

G. Penalty. A violation of section C.(1) is a misdemeanor

Ord. No. 3828 2/16/2010

ORDINANCE NUMBER	DATE ADOPTED
2644	01/04/82
2662	02/22/83
2684	09/06/83
2792	02/03/86
2842	11/17/86
2844	11/17/86
2847	12/01/86
2889	09/08/87
2991	09/05/89
3008	02/20/90
3034	09/04/90
3063	05/20/91
3073	07/15/91
3096	10/21/91
3099	10/21/91
3247	04/03/95
3350	07/28/97
3376	08/17/98
3392	11/02/98
3476	11/06/00
3540	07/15/02
3600	02/02/04
3581	8/4/03
3616	8/16/04
3717	12/6/06
3758	12/17/07
3772	8/4/08

Ord. No. 3772
8/4/08
Ord. No. 3772
8/4/08.
Ord. No. 3795
6/15/09
Ord. No. 3717
11/06/06.
Ord. No. 3758
12/17/07