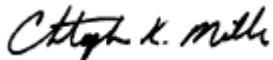


REQUEST FOR COUNCIL ACTION

Date: 06/18/12
Item No.: 13 . a

Department Approval



City Manager Approval



Item Description: Consider Setting a Public Hearing to Amend City Code Chapter 302 to Establish an On-Sale Brewer Taproom License Category

BACKGROUND

The City has received a request from Pour Decisions Brewery who is making final preparations to begin their small-production brewing operation at 1744 Terrace Drive. In April 2011 the City Council created a new category of off-sale liquor licenses to accommodate the unique retailing venue of breweries/brew pubs in the City. When this new category was created the City was following the Minnesota Statutes that were in place at the time.

Subsequent to creating this new off-sale category, the Minnesota Legislature established a new law that also allowed municipalities to create a special on-sale category for breweries/brew pubs called a taproom license which would allow them to sell their products for consumption on the premises. The authority to establish this license category can be found in MN State Statute 340A.301, sub. 6b. A copy of the applicable Statute is included in *Attachment C*.

However, under current City Code, the City restricts on-sale intoxicating liquor licenses to hotels and restaurants. Therefore, in order to obtain an on-sale license under the current code, Pour Decisions Brewery would need to have at least 50% of their gross sales derived from food. This is in contrast to the business model Pour Decisions is seeking. They simply want to have the ability for patrons to consume their product as a way of complimenting the sale of growlers for off-site consumption.

The City Council is asked to consider whether there is support to create a special category of on-sale brewery taproom license; a category that would exempt them from the food requirement. It should be noted that the concept behind having a food requirement in conjunction with an on-sale liquor license is to avoid the types of establishments that are considered and/or marketed as, a 'bar' or 'nightclub'. The distinction being made is that Roseville does NOT have bars, but rather we have restaurants that serve alcohol to complement the meal. Granting Pour Decision's request would arguably blur this distinction.

If the Council is generally agreeable to creating this new on-sale liquor license category, then it would be appropriate to establish a public hearing to amend the City Code.

30 **POLICY OBJECTIVE**

31 As noted above, the authority to establish an on-sale brewer taproom license can be found in MN State
32 Statute 340A.301, subd. 6b. If established, this category will for the first time, allow for the consumption of
33 alcohol on the premises without an accompanying food sales requirement.

34
35 The Council may also want to discuss other considerations such as hours of operation when deciding
36 whether to create this new on-sale license category. This would ensure that the on-sale component would
37 merely compliment Pour Decision's primary focus of selling growlers for consumption off the premises.
38 The Council could place other restrictions as well such as no bands or other musical performances to avoid
39 any potential 'night club' atmosphere.

40 **FINANCIAL IMPACTS**

41 Not applicable.

42 **STAFF RECOMMENDATION**

43 No Staff recommendation is being submitted.

44 **REQUESTED COUNCIL ACTION**

45 Consider adopting a Motion to Set a Public Hearing for July 16, 2012, to consider amending City Code
46 Chapter 302 to establish an on-sale brewer taproom liquor license category.

47
Prepared by: Chris Miller, Finance Director
Attachments: A: Proposed Ordinance to be considered at the Public Hearing
B: City Code Chapter 302
C: State Statute 340A.301, Subd. 6b.
D: State Statute 340A.504, Subd. 4.
E: Memo From Mayor Roe to City Manager Bill Malinen
F: Map of Off-Sale Liquor Stores In and Near Roseville
G: Zoning Map
H: State Statue 340A.413 Restrictions on Number of Intoxicating Licenses

48

City of Roseville
ORDINANCE NO.

Attachment A

AN ORDINANCE AMENDING
TITLE 3, SECTION 302,
Liquor Control

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1: Title 3, Section 302 of the Roseville City Code is amended to read as follows:

302.02: LICENSE REQUIRED:

In addition to the other requirements of state law or this chapter, the following regulations are applicable to off-sale intoxicating liquor licenses:

B. Types of Licenses:

1. Intoxicating liquor licenses shall be of ~~six~~ seven kinds: On-sale, On-Sale Wine, On-Sale Brewer Taproom, Club, Special Sunday, Off-sale, and Off-sale Brewery.

Subdivision F would be amended to read as:

- F. On-sale Brewer Tap Room License: On-sale brewer tap room liquor licenses shall permit the licensee to sell intoxicating malt liquor that has been produced for consumption on the premises in accordance with MN Statutes 340A.301, subdivision 6(b). The license shall be exempt from any accompanying sale of food requirements contained in other on-sale license categories.

All other subdivisions of 302.02 beginning with subdivision G (formerly subdivision F) are re-indexed accordingly.

302.09: HOURS OF SALE:

The hours for the sale of intoxicating or non-intoxicating liquor for consumption on the premises shall be those allowed under Minnesota Statute §340A.504. On-sale brewer taprooms shall be limited to those permitted under Minnesota Statute §340A.504, subd. 4.

86 SECTION 2: Effective date. This ordinance shall take effect upon its passage and publication.
87
88 Passed by the City Council of the City of Roseville this 16th day of July, 2012.
89
90

91
92 (SEAL)
93
94

95
96 CITY OF ROSEVILLE
97

98
99 BY: _____
100 Daniel J. Roe, Mayor
101

102 ATTEST:
103

104 _____
105 William J. Malinen, City Manager

CHAPTER 302

LIQUOR CONTROL

SECTION:

- 302.01: Adoption of State Law
- * 302.02: License Required
- 302.03: Application
- 302.04: License Fees
- 302.05: Ineligibility
- 302.06: Delinquent Taxes and Charges
- 302.07: Granting of License
- 302.08: Conditions of License
- * 302.09: Hours of Sale
- 302.10: Evacuation of On-sale Establishments
- 302.11: Sale Outside of Structure on Licensed Premises
- 302.12: On-sale of Intoxicating Malt Liquor
- 302.13: Off-sale License Regulations
- 302.14: Prohibited Conduct
- 302.15: Civil Penalty

302.01: ADOPTION OF STATE LAW:

Except where inconsistent with this Chapter, the provisions of Minnesota Statutes, chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds and licenses, hours of sales and all other matters pertaining to the retail sale, distribution and consumption of non-intoxicating malt liquor, wine and intoxicating liquor are adopted and made a part of this Chapter as if set out in full. (Ord. 972, 5-13-85)

*** 302.02: 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 sale in the City any non-intoxicating malt liquor or intoxicating liquor without a license to do so as provided in this Chapter.
- B. Types of Licenses:
 - 1. Intoxicating liquor licenses shall be of six kinds: On-sale, On-sale Wine, Club, Special Sunday, Off-sale and Off-sale Brewery. (Ord.1406, 4-25-2011)
 - 2. Non-intoxicating malt liquor licenses shall be of two kinds: On-sale and Off-sale.
- C. Expiration: All intoxicating liquor and non-intoxicating malt liquor licenses shall expire on

December 31 of each year.

- D. On-sale Intoxicating Liquor Licenses: On-sale intoxicating liquor licenses shall be issued only to hotels and restaurants and shall permit On-sale of intoxicating liquor only, for consumption on the licensed premises only, in conjunction with the sale of food. For the purposes of this Chapter, the following definitions are adopted:

HOTEL: A hotel is any establishment having a resident proprietor or manager where, in consideration of payment, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than 50 guest rooms with bedding and other usual, suitable and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests, which employs an adequate staff to provide suitable and usual service and which maintains, under the same management and control as the rest of the establishment and has, as an integral part of the establishment, a dining room of at least one thousand 1,800 square feet.

Such dining room shall have appropriate facilities for seating not less than one 100 guests at one time. Where the guest seating capacity is between 100 and 174, at least 50% of the gross sales of the restaurant portion of the establishment must be attributable to the service of meals. Where the seating capacity is 175 or more, at least 25% of the gross sales of the restaurant portion of the establishment must be attributable to the service of meals.

RESTAURANT: A restaurant is any establishment, other than a hotel, having appropriate facilities to serve meals, for seating not less than 100 guests at one time and where, in consideration of payment, meals are regularly served at tables to the general public and which employs an adequate staff for the usual and suitable service to its guests.

Where the seating capacity of the establishment is between 100 and 174, at least 50% of the gross sales of the establishment must be attributable to the service of meals. Where the seating capacity is 175 or more, at least 25% of the gross sales of the establishment must be attributable to the service of meals.

- E. On-sale Wine Licenses: 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 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 25 guests at a time, regularly serve meals at tables to the public for a charge and employ an adequate staff. (Ord. 972, 5-13-85)
- F. Club License: 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. (1995 Code)
- G. Special License for Sunday Sales: A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant or club which has an On-sale license. A special Sunday license is not needed for Sunday sales of wine license.
- H. Off-sale Intoxicating Liquor Licenses: 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.
- I. On-sale Non-intoxicating Malt Liquor Licenses: On-sale licenses shall permit the licensee to sell non-intoxicating malt liquor for consumption on the premises only.

- J. Off-sale Non-intoxicating Malt Liquor Licenses: Off-sale licenses shall permit the licensee to sell non-intoxicating malt liquor in original packages for consumption off the premises only. (Ord. 972, 5-13-1985)
- K. Off-Sale Brewery Malt Liquor License: Off-sale brewery malt liquor licenses for the sale of intoxicating liquor shall permit the licensee to sell intoxicating liquor that has been produced and packaged on the licensed premises in accordance with MN Statutes 340A.301, subdivision 7(b). (Ord.1406, 4-25-2011)
- L. Temporary On-sale Licenses: Temporary On-sale licenses may be issued to a club or charitable, religious or nonprofit organization in existence for at least three years in connection with social events within the City, for up to three days in accordance with Minnesota Statutes section 340A.404, subdivision 10. (1995 Code)
- M. Temporary On-sale License In Central Park: Upon payment of the fee and submission of a completed application form, the City Manager is authorized to approve a temporary On-sale license for the sale and distribution of non-intoxicating malt liquor to a club, charitable, religious or other nonprofit organization in existence at least three years, for such sale and distribution in Central Park only for a time not to exceed three consecutive days, provided the following conditions are met:
 - 1. Insurance: Proof of liquor liability insurance in an amount equal to and in the form required by subsection 302.03C of this Chapter is filed with the application.
 - 2. Security Plan: A security plan, approved by the Chief of Police, is filed along with the application.
 - 3. Hours of Sale: In addition to the limitation on hours found elsewhere in this Code, the hours of sale shall be only during the time that Central Park is open to the public. Sales and distribution shall be located only in a shelter building or a temporary shelter, such as a tent, approved by the City Manager.In the event the City Manager denies the application, for any reason, the applicant may appeal the decision of the City Manager to the City Council. (Ord. 1102, 9-23-1991)
- N. Intoxicating Liquors at The Roseville Skating Center: Intoxicating liquor may be sold within controlled areas at the Roseville Skating Center only under the following conditions:
 - 1. The intoxicating liquor may only be sold by the holder of a retail on-sale intoxicating liquor license issued by the City or by an adjacent municipality.
 - 2. The licensee must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the Roseville Skating Center for such event, and may dispense intoxicating liquor only to persons attending the event.
 - 3. The licensee must deliver to the City a certificate of insurance providing liquor liability coverage satisfactory to the City, naming the City of Roseville, to the full extent of statutory coverage, as an additional named insured.
 - 4. All other rules and regulations established by the City relating to the sale or dispensing of intoxicating liquor at the Roseville Skating Center are complied with.(Ord. 972, 5-13-1985) (Ord.1398, 10-18-2010)

302.03: APPLICATION:

- A. Requirements: The requirements set forth in this Section shall apply to applications for those licenses named in Section 302.02 of this Chapter.
- B. Form:
 - 1. Information Required: Every application for a license under this Chapter shall state the

name of applicant, applicant's age, presentations as to applicant's character, with such references as the City Council may require, applicant's citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long applicant has been in that business at that place and such other information as the City Council may require from time to time.

2. Verification: In addition to containing such information, the application shall be in the form prescribed by the State Liquor Control Director and shall be verified and filed with the City Manager. No person shall make a false statement in an application.

3. Subsequent Data: From time to time, at the request of the City Manager, a licensee will provide data to the City concerning that portion of its revenue attributable to the sale of food and the sale of liquor and/or wine. (Ord. 972, 5-13-1985)

C. Liability Insurance:

1. Policy Limits: Prior to the issuance or renewal of a license under this Chapter, the applicant shall file with the City Manager a certificate of insurance in a form to be provided by the City covering liquor liability, loss of means of support and pecuniary loss in the amount of (\$500,000.00 of coverage because of bodily injury to any one person in any one occurrence; \$1,000,000.00 because of bodily injury to two or more persons in any one occurrence; \$100,000.00 because of injury to or destruction of property of others in any one occurrence; \$200,000.00 for loss of means of support or pecuniary loss to any one person in any one occurrence; and \$500,000.00 for loss of means of support or pecuniary loss for two or more persons in any one occurrence.

2. Annual Aggregate Limits: Annual aggregate limits as provided by Minnesota Statutes section 340A.409 shall not be less than \$1,000,000.00.

In the event such policy provides for (\$1,000,000.00 annual aggregate limits, said policy shall further require that in the event that the policy limits are reduced in any given year because of the \$1,000,000.00 annual aggregate policy limit, the insurance carrier shall provide the City with written notice of said reduction in policy limits within 30 days of said reduction becoming effective. (Ord. 1175, 10-28-1996)

3. Further Requirements: After the reduction becomes effective, the City Council may require the licensee to take further action with regard to liability insurance in order to protect citizens of the City during the period of the reduced aggregate policy limit.

4. Applicability: The requirements of this Section shall be applicable to new licenses issued after the effective date of this subsection and for renewals applied for after the effective date of this subsection. (Ord. 1046, 9-12-1988)

D. Approval of Insurance: Liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City, at all times, a certificate of insurance as required in subsection C of this Section is a cause for revocation of the license. All insurance policies shall state that the City will be given ten days' notice, in writing, of cancellation. (Ord. 972, 5-13-1985)

E. Insurance Not Required: Subsection C of this Section does not apply to licensees who by affidavit establish that they are not engaged in selling any intoxicating or non-intoxicating malt liquor in Central Park and that:

1. They are On-sale 3.2 percent malt liquor licensees with sales of less than \$10,000.00 of 3.2 percent malt liquor for the preceding year;

2. They are Off-sale 3.2 percent malt liquor licensees with sales of less than \$20,000.00 of

- 3.2 percent malt liquor for the preceding year;
- 3. They are holders of On-sale wine licenses with sales of less than \$10,000.00 for wine for the preceding year; or
- 4. They are holders of temporary wine licenses issued under law. (Ord. 1175, 10-28- 1996)

302.04: LICENSE FEES:

- A. Annually: Annual license fee shall be as established by the City Fee Schedule in Section 314.05. (Ord. 1379A, 11-17-2008)
- B. Fee:
 - 1. Payment: \$500.00 of the On-sale intoxicating liquor and wine licenses and the entire license fee for all other licenses shall be paid at the time of application. The remaining balance, if any, shall be paid prior to the time of issuance of the license.
 - 2. Refund: All fees shall be paid into the General Fund of the City. Upon rejection of any application for a license or upon the withdrawal of the application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant except where the rejection is for willful misstatement on the license application.
 - 3. Proration: The fee for On-sale intoxicating liquor and On-sale wine licenses granted after the commencement of the license year shall be prorated on a monthly basis. The fee for On-sale non-intoxicating malt liquor licenses granted after the commencement of the license year shall be prorated on a quarterly basis.
 - 4. Investigation: At the time of each original application for a license, except special club, On-sale non-intoxicating malt liquor and Off-sale non-intoxicating malt liquor licenses, the applicant shall pay, in full, an investigation fee. The investigation fee shall be \$300.00. No investigation fee shall be refunded. (Ord. 972, 5-13-1985; amd. 1995 Code)

302.05: INELIGIBILITY:

No license shall be granted to any person made ineligible for such a license by state law⁵. (Ord. 972, 5-13-1985)

302.06: 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. (Ord. 972, 5-13-1985)

302.07: GRANTING OF LICENSE:

- 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 license. After the investigation and hearing, the City Council shall, in its discretion, grant or refuse the application. At least ten days published notice of the hearing shall be given, setting forth the name of the applicant and the address of the premises to be licensed.
- B. 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

⁵ M.S.A. §340A.402.

person or place without City Council approval. Before a transfer is approved, the transferee shall comply with the requirements for a new application. Any transfer of the controlling interest of a licensee is deemed a transfer of the license. Transfer of a license without prior City Council approval is a ground for revocation of the license. (Ord. 972, 5-13-1985) (Ord. 1390, 3-29-2010)

302.08: CONDITIONS OF LICENSE:

Every license is subject to the conditions in the following subsections and all other provisions of this chapter and any other applicable ordinance, state law or regulation:

- A. Licensee's Responsibility: Every licensee is responsible for the conduct of licensee's place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises, authorized to sell intoxicating liquor there, is deemed the act of the licensee as well and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- B. Inspections: Every licensee shall allow any peace officer, health officer or properly designated officer or employee of the city to enter, inspect and search the premises of the licensee during business hours without a warrant.
- C. Manager and Server Training: With the exception of temporary on-sale licenses issued pursuant to Section 302.02, subparts k and l, all licensees and their managers, and all employees or agents employed by the licensee that sell or serve alcohol, shall complete, to the City's satisfaction, a city approved or provided liquor licensee training program. Both the City's approval of the training and the required training shall be completed:
 - 1. Prior to licensure or renewal for licensees and managers, or
 - 2. Prior to serving or selling for any employee or agent, and
 - 3. Every year thereafter unless probationary extension is granted for hardship reasons.All licensees shall maintain documentation evidencing that this provision has been met, and produce such documentation as part of each application for licensure or renewal and upon reasonable request made by a peace officer, health officer or properly designated officer or employee of the city pursuant to the inspections provision noted above. An applicant's or licensee's failure to comply with this provision in its entirety is sufficient grounds for denial or non-renewal of a requested license. (Ord. 1243, 11-27-2000) (Ord. 1390, 3-29-2010)

*** 302.09: HOURS OF SALE:**

The hours for the sale of intoxicating or non-intoxicating liquor for consumption on the premises shall be those allowed under Minnesota Statute §340A.504. (Ord. 1290, 8-11-2003)

302.10: EVACUATION OF ON-SALE ESTABLISHMENTS:

- A. Thirty Minute Restriction: All patrons of an on-sale establishment selling intoxicating liquor or non-intoxicating malt liquor must vacate the premises within 30 minutes of the termination of sales by Minnesota Statute §340A.504. Any patron who remains on the licensed premises or any licensee or licensee's employee who allows a patron to remain on the licensed premises beyond the 30 minute limit is in violation of this subsection. (Ord. 1056, 3-16-1989) (Ord. 1290, 8-11-2003)
- B. Extension of Restriction for Sale of Food: If an on-sale establishment remains open for the

sale of food beyond the 30 minute evacuation limit, all intoxicating liquor and non-intoxicating malt liquor must be secured within the 30 minute limit in such a manner as to prevent consumption. Any patron who consumes intoxicating liquor or non-intoxicating malt liquor on the licensed premises or any licensee or employee of licensee who allows such consumption or allows intoxicating liquor or non-intoxicating malt liquor to remain unsecured on the licensed premises beyond the 30 minute limit is in violation of this subsection. (Ord. 1056, 3-16-1989)

302.11: SALE OUTSIDE OF STRUCTURE ON LICENSED PREMISES:

The sale of wine and intoxicating liquors, pursuant to any of the licenses issued in accordance with this chapter, shall be limited to sale and consumption inside of a structure on the licensed premises, unless the licensee applies for and receives permission from the City Council for sale and consumption outside of a structure on the licensed premises by an endorsement to the license. Issuance of an outside sale and consumption endorsement shall be accomplished as follows:

- A. Application: The licensee shall make written application using forms provided by the city and there shall be a nonrefundable application fee of twenty five dollars (\$25.00) at the time of making application.
- B. Notice: The owners of all property adjacent to the licensed premises will be given written notice of the fact that such an application has been made and of the date and time of the City Council meeting at which the application will be considered by the City Council.
- C. Endorsement: The City Council may, in its discretion, issue such an endorsement or refrain from issuing such an endorsement and may impose conditions to the endorsement such as, but not limited to, screening, time of day limitations and noise limitations. (Ord. 972, 5-13-1985)

302.12: ON-SALE OF INTOXICATING MALT LIQUOR:

The holder of an on-sale wine license who is also licensed to sell non-intoxicating malt liquor and whose gross receipts are at least 60% attributable to the sale of food may sell intoxicating malt liquor at on-sale without an additional license. (Ord. 1021, 9-28-1987)

302.13: OFF-SALE LICENSE REGULATIONS:

In addition to the other requirements of state law or this chapter, the following regulations are applicable to off-sale intoxicating liquor licenses:

- A. Number of Off-Sale Liquor Licenses:
 - 1. The number of Off-sale Liquor Licenses which may be issued is 10.
 - 2. The number of Off-sale Brewery Malt Liquor Licenses is not limited.(Ord. 1406, 4-25-2011)
- B. Use of License: If a license is not used within one year, the license shall automatically terminate.
- C. Size of Premises: A licensed premises shall have at least 1,600 square feet of sales floor space including sales coolers and excluding walk-in storage coolers.
- D. Considerations: In addition to the other requirements of this chapter and applicable state law in determining whether or not to issue an off-sale license for a particular premises, the City

Council shall consider all relevant factors relating to the health, safety and welfare of the citizens of the city such as, but not limited to, effect on market value of neighboring properties, proximity to churches and schools and effect on traffic and parking.

- E. Delivery of Alcoholic Beverages; Identification Required: A person authorized to serve, sell, or deliver alcoholic beverages must determine through legitimate proof of identification that all deliveries of wine, beer, and alcoholic beverages are accepted only by eligible persons who are 21 years of age or older.
- F. Delivery Records: Upon any delivery of alcoholic beverages off the licensed premises, the seller, purchaser, and delivery recipient (if other than the purchaser) must sign an itemized purchase invoice. The invoice shall detail the time, date, and place of delivery. The licensee must retain the delivery records for a period of one year. The records shall be open to inspection by any police officer or other designated officer or employee of the city at any time. (Ord. 1243, 11-27-2000)

302.14: PROHIBITED CONDUCT:

- A. Policy: Certain acts or conduct on premises licensed pursuant to this chapter or licensed pursuant to Minnesota statutes, chapter 340A, are deemed contrary to public welfare and are prohibited and no license issued pursuant to this chapter or licensed pursuant to Minnesota statutes, chapter 340A, may be held or maintained where such acts or conduct is permitted. (Ord. 808, 11-21-1977)
- B. Prohibited Conduct: The prohibited acts or conduct referred to in subsection A of this section are:
 - 1. The employing or use of any person in the sale or service of beverages in or upon the licensed premises where such person is unclothed or in such attire, costume or clothing as 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.
 - 2. The employing or use of the services of any host or hostess while such host or hostess is unclothed or in such attire, costume or clothing as described in subsection B1 of this section.
 - 3. The encouraging or permitting of any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
 - 4. The permitting of 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.
 - 5. The permitting of any person to perform acts of or acts which simulate:
 - a. With or upon another person, sexual intercourse, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. Masturbation or bestiality.
 - c. With or upon another person the touching, caressing or fondling of the buttocks, anus, genitals or female breast.
 - d. The displaying of the pubic hair, anus, vulva, genitals or female breasts below the top of the areola.
 - 6. The permitting of any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in subsections B5a through B5d of this section.
 - 7. The permitting of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.
 - 8. The permitting or showing of film, still pictures, electronic reproductions or other reproductions depicting:

- a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
 - c. Scenes wherein a person displays the vulva, or the anus or the genitals.
 - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the activities described in subsections B1 through B7 of this section.
- C. Revocation of License: Any license issued pursuant to this chapter, licensed pursuant to Minnesota statutes, chapter 340A, shall be revoked if any of the acts of conduct described in this section occur on the licensed premises. (Ord. 808, 11-21-1977; amd. 1995 Code)

302.15: CIVIL PENALTY:

- A. Penalty For Noncompliance: In addition to any criminal penalties which may be imposed by a court of law, the City Council may suspend a license for up to 60 days, may revoke a license and/or may impose a civil fine on a licensee not to exceed \$2,000.00 for each violation on a finding that the license holder or its employee has failed to comply with a statute, rule or ordinance relating to alcoholic beverages, non-intoxicating malt liquor or wine.
- B. Minimum Penalty: The purpose of this section is to establish a standard by which the City Council determines the civil fine, the length of license suspensions and the propriety of revocations, and shall apply to all premises licensed under this chapter. These penalties are presumed to be appropriate for every case; however, the council may deviate in an individual case where the council finds that there exist certain extenuating or aggravating circumstances, making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent the sale of alcohol to minors or, in the converse, when a licensee has a history of repeated violations of state or local liquor laws. When deviating from these standards, the council will provide written findings that support the penalty selected. When a violation occurs, the staff shall provide information to the City Council to either assess the presumptive penalty or depart upward or downward based on extenuating or aggravating circumstances. The staff shall notify the licensee of the information being considered and acted upon by the City Council.

(1) Except as otherwise provided in this Chapter, the following violations will subject the licensee to the following administrative penalties:

OFF SALE - Type of Violation	1st Violation	2nd Violation	3rd Violation	4th Violation
Sale of alcoholic beverage to a person under the age of 21	\$1,000 and 0 day suspension	\$2,000 and 3 day suspension	\$2,000 and 7 day suspension	Revocation
Sale of alcoholic beverage to an obviously intoxicated person	\$1,000 and 1 day suspension	\$2,000 and 3 day suspension	\$2,000 and 7 day suspension	Revocation

Refusal to allow City inspectors or police admission to premises	\$1,000 and 3 day suspension	\$2,000 and 7 day suspension	Revocation	N/A
After hours sale, possession by a patron or consumption of alcoholic beverages	\$1,000 and 3 day suspension	\$2,000 and 7 day suspension	Revocation	N/A
Illegal gambling on premises	\$1,000 and 3 day suspension	\$2,000 and 7 day suspension	Revocation	N/A
Sale of alcoholic beverages while license is under suspension	30 day suspension	Revocation	N/A	N/A
Commission of a felony related to licensed activity	Revocation	N/A	N/A	N/A

(Ord. 1408, 5-16-2011)

ON SALE & 3.2 - Type of Violation	1st Violation	2nd Violation	3rd Violation	4th Violation
Sale of alcoholic beverage to a person under the age of 21	\$1,000 and 1 day suspension	\$2,000 and 5 day suspension	\$2,000 and 15 day suspension	Revocation
Sale of alcoholic beverage to an obviously intoxicated person	\$1,000 and 1 day suspension	\$2,000 and 5 day suspension	\$2,000 and 15 day suspension	Revocation
Failure of an on-sale licensee to take reasonable steps to prevent a person from leaving the premises with an alcoholic beverage (on-sale allowing off-sale)	\$1,000 and 1 day suspension	\$2,000 and 5 day suspension	\$2,000 and 15 day suspension	Revocation
Refusal to allow City inspectors or police admission to premises	\$1,000 and 7 day suspension	\$2,000 and 14 day suspension	Revocation	N/A
After hours sale, possession by a patron or consumption of alcoholic beverages	\$1,000 and 7 day suspension	\$2,000 and 14 day suspension	Revocation	N/A
Illegal gambling on premises	\$1,000 and 7 day suspension	\$2,000 and 14 day suspension	Revocation	N/A
Sale of alcoholic beverages while license is under suspension	60 day suspension	Revocation	N/A	N/A
Sale of intoxicating liquor with only 3.2 percent malt liquor license	Revocation	N/A	N/A	N/A
Commission of a felony related to licensed activity	Revocation	N/A	N/A	N/A

(Ord. 1408, 5-16-2011)

(2) Any prior violation that occurred more than 36 calendar months immediately preceding the most current violation will not be considered in determining successive violations.

(3) In addition to the administrative penalties identified above, the city may in appropriate circumstances choose to not renew a license at the end of its current term for non-compliance with any provision of this Chapter or for any other reason allowed by law.

(Ord. 1390, 3-29-2010) (Ord. 1422, 11-28-2011)

- C. Hearing and Notice: If, after considering the staff's information, the City Council proposes to suspend, revoke or not renew a license, the licensee shall be provided written notice of the City Council's proposed action and shall be given the opportunity to request a hearing on the proposed penalty by providing the City a written notice requesting a hearing within ten days of the mailing of the notice of the City Council's proposed action. The notice of the proposed action of the City Council shall state the reasons for such suspension, revocation, or non-renewal and the action the City Council proposes to take, shall inform the licensee of the right to request a hearing prior to the action being final, and shall inform the licensee of the date the City Council's proposed action will be considered a final decision if a hearing is not requested. Any hearing, if requested, will be conducted in accordance with Minnesota statutes section 340A.415 and sections 14.57 to 14.69 of the Administrative Procedures Act ("APA"). If a hearing is requested, the licensee shall be provided a hearing notice at least ten days prior to the hearing, which shall state the date, time and place of the hearing and the issues involved in the hearing. An independent hearing officer shall be selected by the City Council to conduct the hearing and shall make a report and recommendation to the City Council pursuant to the provisions of the APA. The City Council shall consider the independent hearing examiner's recommendation and issue its final decision on the suspension or revocation. (Ord. 1243, 11-27-2000; Ord. 1280, 3-31-03) (Ord. 1336, 5-08-2006) (Ord. 1422, 11-28-2011)

340A.301 MANUFACTURERS AND WHOLESALERS LICENSES.

Subdivision 1. **Licenses required.** No person may directly or indirectly manufacture or sell at wholesale intoxicating liquor, or 3.2 percent malt liquor without obtaining an appropriate license from the commissioner, except where otherwise provided in this chapter. A manufacturer's license includes the right to import. A licensed brewer may sell the brewer's products at wholesale only if the brewer has been issued a wholesaler's license. The commissioner shall issue a wholesaler's license to a brewer only if (1) the commissioner determines that the brewer was selling the brewer's own products at wholesale in Minnesota on January 1, 1991, or (2) the brewer has acquired a wholesaler's business or assets under subdivision 7a, paragraph (c) or (d). A licensed wholesaler of intoxicating malt liquor may sell 3.2 percent malt liquor at wholesale without an additional license.

Subd. 2. **Persons eligible.** Licenses under this section may be issued only to a person who:

(1) is of good moral character and repute;

(2) is 21 years of age or older;

(3) has not had a license issued under this chapter revoked within five years of the date of license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested; and

(4) has not been convicted within five years of the date of license application of a felony, or of a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages. The Alcohol and Gambling Enforcement Division may require that fingerprints be taken and may forward the fingerprints to the Federal Bureau of Investigation for purposes of a criminal history check.

Subd. 3. **Application.** An application for a license under this section must be made to the commissioner on a form the commissioner prescribes and must be accompanied by the fee specified in subdivision 6. If an application is denied, \$100 of the amount of any fee exceeding that amount shall be retained by the commissioner to cover costs of investigation.

Subd. 4. **Bond.** The commissioner may not issue a license under this section to a person who has not filed a bond with corporate surety, or cash, or United States government bonds payable to the state. The proof of financial responsibility must be approved by the commissioner before the license is issued. The bond must be conditioned on the licensee obeying all laws governing the business and paying when due all taxes, fees, penalties and other charges, and must provide that it is forfeited to the state on a violation of law. This subdivision does not apply to a Minnesota farm winery, licensed under section 340A.315, that is in existence as of January 1, 2010. Bonds must be in the following amounts:

Manufacturers and wholesalers of intoxicating liquor except as provided in this subdivision	\$ 10,000
Manufacturers and wholesalers of wine up to 25 percent alcohol by weight	\$ 5,000
Manufacturers and wholesalers of beer of more than 3.2 percent alcohol by weight	\$ 1,000

Manufacturers and wholesalers of fewer than 20,000 proof gallons	\$ 2,000
Manufacturers and wholesalers of 20,000 to 40,000 proof gallons	\$ 3,000

Subd. 5. **Period of license.** Licenses issued under this section are valid for one year except that to coordinate expiration dates initial licenses may be issued for a shorter period.

Subd. 6. **Fees.** The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$ 30,000
Duplicates	\$ 3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$ 500
(c) Brewers who manufacture more than 3,500 barrels of malt liquor in a year	\$ 4,000
(d) Brewers who also hold one or more retail on-sale licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in subdivision 7. A brewer licensed under this clause must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter	\$ 500
(e) Wholesalers (except as provided in clauses (f), (g), and (h))	\$ 15,000
Duplicates	\$ 3,000
(f) Wholesalers of wines of not more than 25 percent alcohol by volume	\$ 3,750
(g) Wholesalers of intoxicating malt liquor	\$ 1,000
Duplicates	\$ 25
(h) Wholesalers of 3.2 percent malt liquor	\$ 10
(i) Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year	\$ 150
(j) Brewers who manufacture 2,000 to 3,500 barrels of malt liquor in a year	\$ 500

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

Subd. 6a. **Permits and fees.** Any person engaged in the purchase, sale, or use for any purpose other than personal consumption of intoxicating alcoholic beverages or ethyl alcohol shall obtain the appropriate regulatory permit and identification card from the commissioner as provided in this subdivision. The fee for each permit, other than one issued to a state or federal agency, is \$35 and must be submitted together with the appropriate application form provided by the commissioner. Identification cards and permits must be issued for a period coinciding with that of the appropriate state or municipal license and are not transferable. In instances where there is no annual license period, cards and permits expire one year after the date of issuance. The authority to engage in the purchase, sale, or use granted by the card or permit may be revoked by the commissioner upon evidence of a violation by the holder of such a card or permit of any of the provisions of chapter 340A or any rule of the commissioner made pursuant to law.

Subd. 6b. **Brewer taproom license.** (a) A municipality may issue the holder of a brewer's license under subdivision 6, clause (c), (i), or (j), a brewer taproom license. A brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. Nothing in this subdivision precludes the holder of a brewer taproom license from also holding a license to operate a restaurant at the brewery. Section 340A.409 shall apply to a license issued under this subdivision. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subdivision unless the provision is explicitly inconsistent with this subdivision.

(b) A brewer may only have one taproom license under this subdivision, and may not have an ownership interest in a brewery licensed under subdivision 6, clause (d).

(c) A municipality may not issue a brewer taproom license to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(d) The municipality shall impose a licensing fee on a brewer holding a brewer taproom license under this subdivision, subject to limitations applicable to license fees under section 340A.408, subdivision 2, paragraph (a).

(e) A municipality shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

Subd. 6c. **Microdistillery fee.** The commissioner shall establish a fee for licensing microdistilleries that adequately covers the cost of issuing the license and other inspection requirements. The fees shall be deposited in an account in the special revenue fund and are appropriated to the commissioner for the purposes of this subdivision.

Subd. 7. **Interest in other business.** (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, importer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, importer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in the manufacturer, brewer, importer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has

owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

(b) A brewer licensed under subdivision 6, clause (d), may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by a municipality for a restaurant operated in the place of manufacture. Notwithstanding section 340A.405, a brewer who holds an on-sale license issued pursuant to this paragraph or a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year may, with the approval of the commissioner, be issued a license by a municipality for off-sale of malt liquor produced and packaged on the licensed premises. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. The malt liquor shall be packaged in 64-ounce containers commonly known as "growlers" or in 750 milliliter bottles. The containers or bottles shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100. A brewer's total retail sales at on- or off-sale under this paragraph may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels. A brewer licensed under subdivision 6, clause (d), may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler, or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer licensed under subdivision 6, clause (d), may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

- (i) manufacture licensed under subdivision 6, clause (d);
- (ii) manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or
- (iii) manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under subdivision 6, clause (d), on January 1, 1995.

(c) Except as provided in subdivision 7a, no brewer as defined in subdivision 7a or importer may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

Subd. 7a. **Permitted interests in wholesale business.** (a) A brewer may financially assist a wholesaler of malt liquor through participation in a limited partnership in which the brewer is the limited partner and the wholesaler is the general partner. A limited partnership authorized in this paragraph may not exist for more than ten years from the date of its creation, and may not, directly or indirectly, be recreated, renewed, or extended beyond that date.

(b) A brewer may financially assist a malt liquor wholesaler and collateralize the financing by taking a security interest in the inventory and assets, other than the corporate stock, of the

wholesaler. A financial agreement authorized by this paragraph may not be in effect for more than ten years from the date of its creation and may not be directly or indirectly extended or renewed.

(c) A brewer who, after creation of a financial agreement authorized by paragraph (b), or after creation of a limited partnership authorized in paragraph (a), acquires legal or equitable title to the wholesaler's business which was the subject of the agreement or limited partnership, or to the business assets, must divest the business or its assets within two years of the date of acquiring them. A malt liquor wholesaler whose business or assets are acquired by a brewer as described in this paragraph may not enter into another such financial agreement, or participate in another such limited partnership, for 20 years from the date of the acquisition of the business or assets.

(d) A brewer may have an interest in the business, assets, or corporate stock of a malt liquor wholesaler as a result of (1) a judgment against the wholesaler arising out of a default by the wholesaler or (2) acquisition of title to the business, assets, or corporate stock as a result of a written request of the wholesaler. A brewer may maintain ownership of or an interest in the business, assets, or corporate stock under this paragraph for not more than two years and only for the purpose of facilitating an orderly transfer of the business to an owner not affiliated with the brewer.

(e) A brewer may continue to maintain an ownership interest in a malt liquor wholesaler if it owned the interest on January 1, 1991.

(f) A brewer that was legally selling the brewer's own products at wholesale in Minnesota on January 1, 1991, may continue to sell those products at wholesale in the area where it was selling those products on that date.

(g) A brewer that manufactures malt liquor in Minnesota may, if the brewer does not manufacture in Minnesota in any year more than 25,000 barrels of malt liquor or its metric equivalent, own or have an interest in a malt liquor wholesaler that sells only the brewer's products.

(h) When the commissioner issues a license to a malt liquor wholesaler described in paragraph (a) or (b), the commissioner may issue the license only to the entity which is actually operating the wholesale business and may not issue the license to a brewer that is a limited partner under paragraph (a) or providing financial assistance under paragraph (b) unless the brewer has acquired a wholesaler's business or assets under paragraph (c) or (d).

(i) For purposes of this subdivision and subdivision 7, clause (c), "brewer" means:

- (1) a holder of a license to manufacture malt liquor;
- (2) an officer, director, agent, or employee of such a license holder; and
- (3) an affiliate of such a license holder, regardless of whether the affiliation is corporate or by management, direction, or control.

Subd. 8. Sales without license. A licensed brewer may without an additional license sell malt liquor to employees or retired former employees, in amounts of not more than 768 fluid ounces in a week for off-premise consumption only. A collector of commemorative bottles, those terms are as defined in section 297G.01, subdivisions 4 and 5, may sell them to another collector without a license. It is also lawful for a collector of beer cans to sell unopened cans of a brand which has not been sold commercially for at least two years to another collector without obtaining a license. The amount sold to any one collector in any one month shall not exceed 768 fluid ounces. A licensed manufacturer of wine containing not more than 25 percent alcohol by

volume nor less than 51 percent wine made from Minnesota-grown agricultural products may sell at on-sale or off-sale wine made on the licensed premises without a further license.

Subd. 9. **Unlicensed manufacture.** Nothing in this chapter requires a license for the natural fermentation of fruit juices or brewing of beer in the home for family use.

Subd. 10. [Repealed, 1995 c 198 s 17]

History: 1985 c 305 art 5 s 1; 1985 c 308 s 1; 1Sp1985 c 16 art 2 s 3 subd 1; 1986 c 330 s 4; 1987 c 152 art 1 s 1; 1987 c 249 s 1,2; 1990 c 554 s 4-6; 1991 c 249 s 1,31; 1992 c 513 art 3 s 53; 1993 c 350 s 7; 1994 c 611 s 7-9; 1995 c 198 s 4,5; 1996 c 418 s 1; 1997 c 179 art 2 s 2; 2002 c 321 s 5; 2003 c 126 s 2,3; 1Sp2003 c 2 art 4 s 23; 2005 c 25 s 1,2; 2005 c 131 s 1,2; 2005 c 136 art 8 s 12; 2006 c 210 s 3; 2007 c 89 s 3; 2009 c 120 s 2; 2011 c 55 s 3-5

340A.504 HOURS AND DAYS OF SALE.

Subdivision 1. **3.2 percent malt liquor.** No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday.

Subd. 2. **Intoxicating liquor; on-sale.** No sale of intoxicating liquor for consumption on the licensed premises may be made:

- (1) between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (2) after 2:00 a.m. on Sundays, except as provided by subdivision 3.

Subd. 2a. **Certain dispensing exempt.** Where a hotel possessing an on-sale intoxicating liquor license places containers of intoxicating liquor in cabinets in hotel rooms for the use of guests staying in those hotel rooms, and a charge is made for withdrawals from those cabinets, the dispensing of intoxicating liquor from those cabinets does not constitute a sale for purposes of subdivision 2.

Subd. 3. **Intoxicating liquor; Sunday sales; on-sale.** (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an 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 2:00 a.m. on Mondays.

(b) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.

(c) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (d). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(d) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(e) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$75, plus \$30 for each duplicate.

Subd. 4. **Intoxicating liquor; off-sale.** No sale of intoxicating liquor may be made by an off-sale licensee:

- (1) on Sundays;
- (2) before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
- (3) on Thanksgiving Day;
- (4) on Christmas Day, December 25; or
- (5) after 8:00 p.m. on Christmas Eve, December 24.

Subd. 5. **Bottle clubs.** No establishment licensed under section 340A.414, may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Subd. 6. **Municipalities may limit hours.** A municipality may further limit the hours of on and off sales of alcoholic beverages, provided that further restricted on-sale hours for intoxicating liquor must apply equally to on-sale hours of 3.2 percent malt liquor. A city may not permit the sale of alcoholic beverages during hours when the sale is prohibited by this section.

Subd. 7. **Sales after 1:00 a.m.; permit fee.** (a) No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner. Application for the permit must be on a form the commissioner prescribes. Permits are effective for one year from date of issuance. For retailers of intoxicating liquor, the fee for the permit is based on the licensee's gross receipts from on-sales of alcoholic beverages in the 12 months prior to the month in which the permit is issued, and is at the following rates:

- (1) up to \$100,000 in gross receipts, \$300;
- (2) over \$100,000 but not over \$500,000 in gross receipts, \$750; and
- (3) over \$500,000 in gross receipts, \$1,000.

For a licensed retailer of intoxicating liquor who did not sell intoxicating liquor at on-sale for a full 12 months prior to the month in which the permit is issued, the fee is \$200. For a retailer of 3.2 percent malt liquor, the fee is \$200.

(b) The commissioner shall deposit all permit fees received under this subdivision in the alcohol enforcement account in the special revenue fund.

(c) Notwithstanding any law to the contrary, the commissioner of revenue may furnish to the commissioner the information necessary to administer and enforce this subdivision.

History: 1985 c 139 s 1; 1985 c 305 art 7 s 4; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 5 s 4; 1987 c 152 art 1 s 1; 1988 c 420 s 1; 1989 c 49 s 3-5; 1990 c 554 s 14; 1991 c 249 s 21,22,31; 1992 c 513 art 3 s 60; 1994 c 611 s 26; 1997 c 129 art 1 s 8; 2002 c 318 s 2; 2003 c 126 s 10-12; 1Sp2003 c 19 art 2 s 59,79; 2005 c 131 s 8-10; 2005 c 136 art 8 s 18,19; 2006 c 210 s 13

MEMORANDUM

June 13, 2012

To: City Manager Malinen, City Council Members
From: Dan Roe
Subject: Off-Sale Liquor License Quantity

As we on the council have been aware, there is interest in the marketplace to open businesses in Roseville that have as part of their model the sale of off-sale liquor in some form (often wine), such as Trader Joe's or Cost Plus World Market.

The issue raised by potential developers has been the limit of 10 off-sale licenses in Roseville, all of which are currently held by existing establishments, and apparently none of which seem to be in a position to be made available, either due to continued interest in maintaining the license by the current holder or due to the price to obtain the license being too high for a prospective user to justify.

I am well aware that in the past the city council has not been interested in increasing the number of off-sale liquor licenses in Roseville.

However, given the keen interest by some prospective businesses, and given the continued slow economy, as well as Councilmember Johnson's interest in reconsidering the issue, I wanted to broach the subject again with the council from perhaps a bit of a different angle.

It seems that one reason for limiting the number of licenses is to limit the perceived impacts on neighborhoods of having liquor stores nearby.

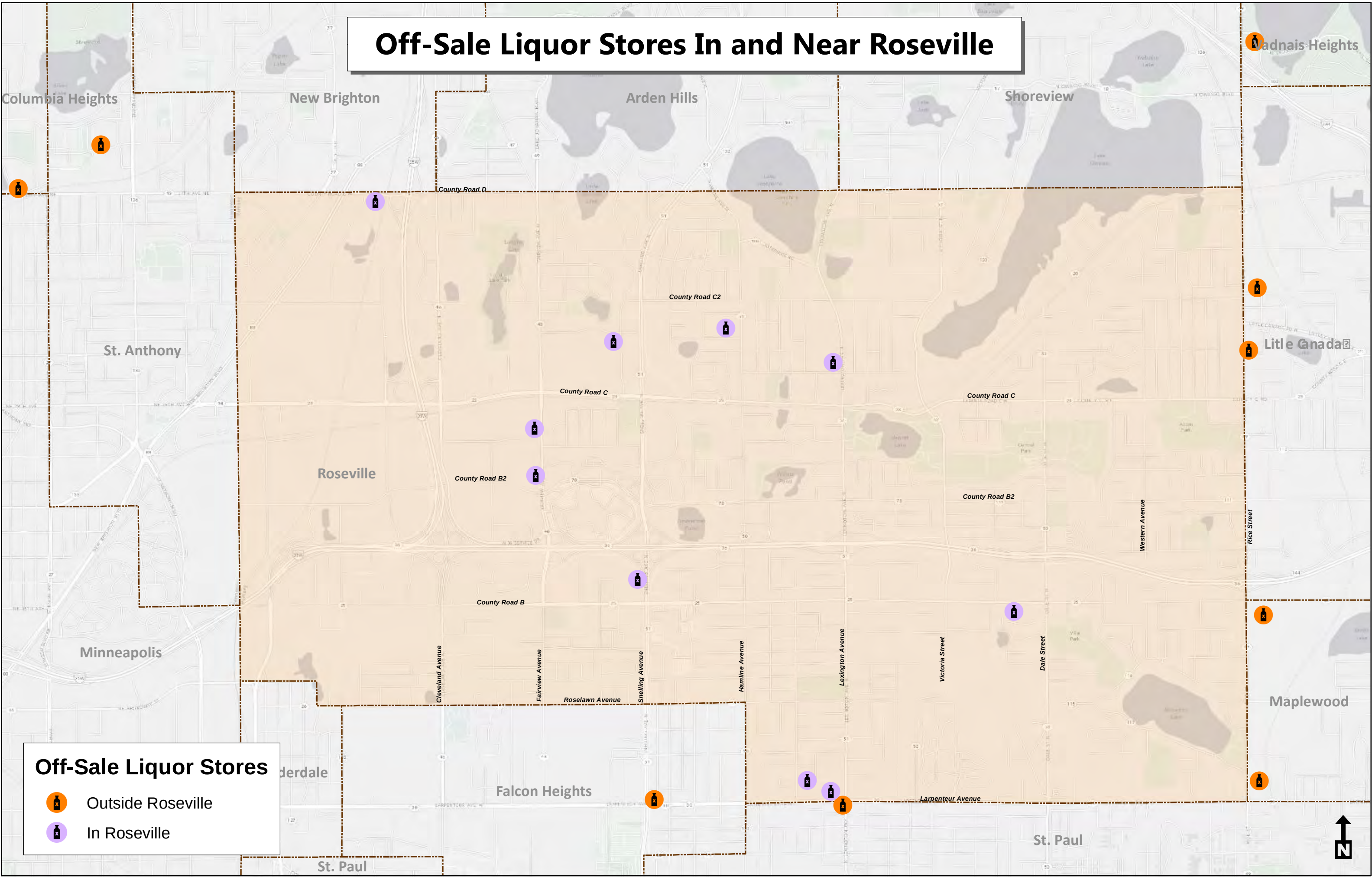
If that is the case, it seems reasonable to conclude that liquor stores located in a primarily commercial area, such as the Regional Business area around Rosedale, would have much fewer impacts on neighborhoods, since the surrounding businesses in the RB zoned area would essentially provide a "buffer" between the liquor store and the nearest neighborhood.

Therefore, it may be worth considering allowing some small number of additional off-sale liquor licenses, provided that they are located only in the RB zoned area. I would suggest that, if we do that, we still limit the number of licenses in non-RB zoned areas to the current 9. (One of our current 10 license holders is already located in the RB zoned area.) In other words, we could raise the limit to, perhaps 12 or 13 or 14, but require that no more than 9 of those may be for stores in non-RB zoned areas.

In addition, if we are willing to increase the number of licenses in that manner, we may want to consider provisions to prevent "clustering" of liquor stores anywhere in the city, which may be a public safety and neighborhood quality concern, perhaps by setting a minimum spacing requirement of, say, 1/4 mile in non-RB zoned areas, and perhaps a closer spacing in RB zoned areas.

I suggest another discussion on this matter as we consider the "tap room" license proposal.

Off-Sale Liquor Stores In and Near Roseville



Zoning Map

The Official Zoning Map adopted by the City Council on December 13, 2010 in Ordinance 1402 is the final authority with regard to the zoning status of any property. It is on file in the Community Development Department at City Hall.

The zoning designations shown on this map must be interpreted by the Community Development Department. See Water Management Overlay District Map for additional boundaries.

Residential

- LDR-1 - Low Density (One-Family) Residential-1
- LDR-2 - Low Density Residential-2
- MDR - Medium Density Residential
- HDR-1 - High Density Residential-1
- HDR-2 - High Density Residential-2

Commercial

- NB - Neighborhood Business
- CB - Community Business
- RB - Regional Business

Mixed Use

- CMU - Community Mixed Use

Employment

- I - Industrial
- O/BP - Office/Business Park

Public / Institutional

- INST - Institutional
- PR - Park and Recreation

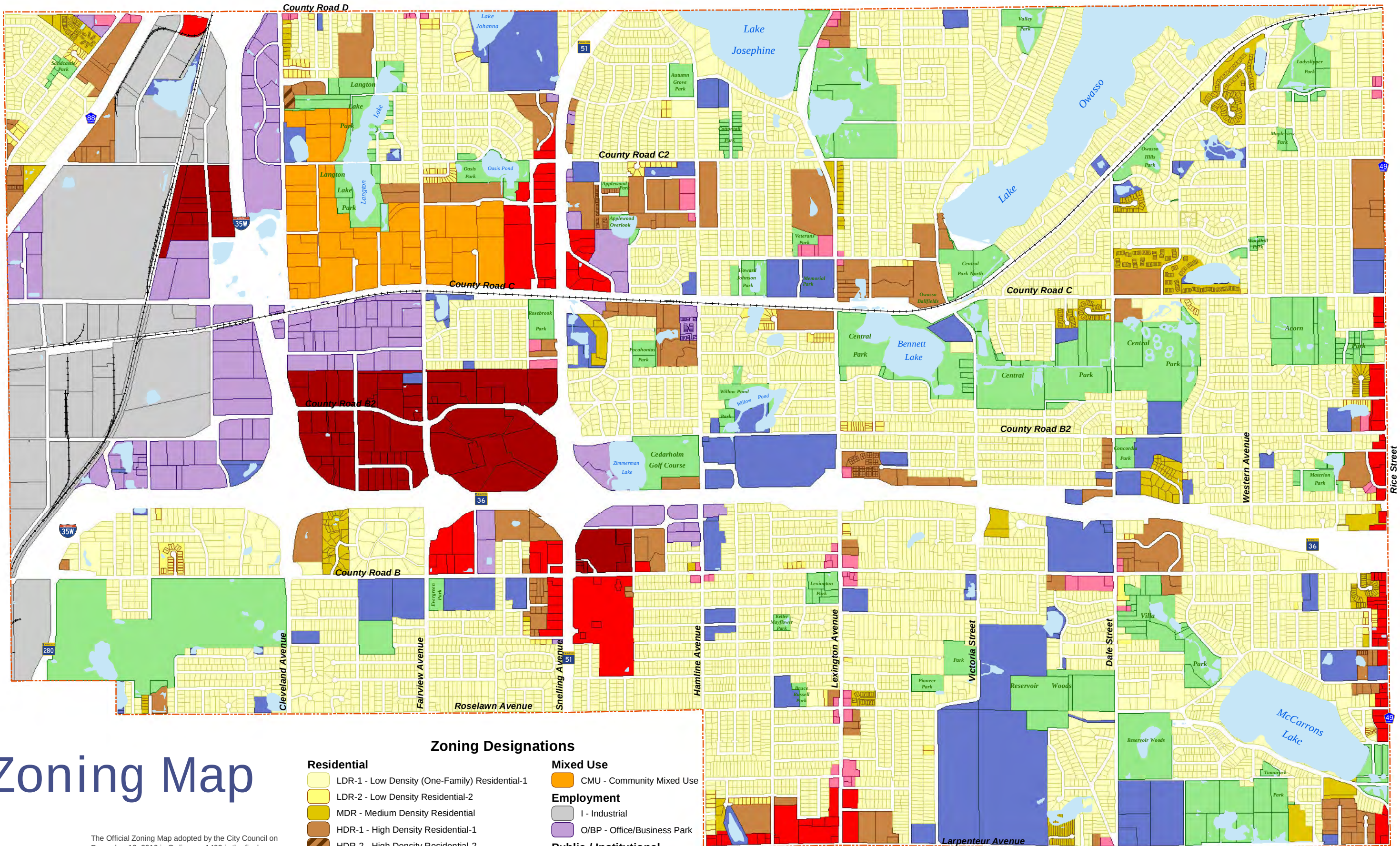
Data Sources

- * Ramsey County GIS Base Map (1/3/2012)
- * City of Roseville Community Development

Disclaimer
This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.

0 500 1,000 1,500
Feet

mapdoc: official_zoning_map.mxd
map: official_zoning_map.pdf



340A.413 RESTRICTIONS ON NUMBER OF INTOXICATING LIQUOR LICENSES THAT MAY BE ISSUED.

Subdivision 1. **On-sale licenses.** No on-sale intoxicating liquor license may be issued in any city except as provided in this section in excess of the following limits:

- (1) in cities of the first class, one license for every 1,500 population, up to 200 licenses;
- (2) in cities of the second class, not more than 18 licenses plus one for every 2,500 population over 45,000;
- (3) in cities of the third class, not more than 12 licenses;
- (4) in cities of the fourth class, including cities whose acts of incorporation were repealed by Laws 1973, chapter 123, article V, section 5, not more than seven licenses;
- (5) in statutory cities of 5,000 to 10,000 population, not more than six licenses;
- (6) in statutory cities of 2,500 to 5,000 population, not more than five licenses;
- (7) in statutory cities of 500 to 2,500 population, not more than four licenses; and
- (8) in statutory cities under 500 population, not more than three licenses.

Subd. 2. **Additional on-sale licenses permitted for cities in St. Louis County.** For cities in St. Louis County no on-sale liquor license may be issued in excess of the following limits, without the approval of the commissioner:

- (1) in cities of the third class, not more than 15 licenses;
- (2) in cities of the fourth class, not more than nine licenses; and
- (3) in statutory cities of 2,500 to 5,000 population, not more than six licenses.

Subd. 3. **Referendum for additional on-sale licenses.** (a) The governing body of a city may issue on-sale intoxicating liquor licenses over the number permitted under subdivision 1 when authorized by the voters of the city at a general or special election.

(b) The governing body may direct that either of the following questions be placed on the ballot:

(1) "Shall the city council be allowed to issue 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number permitted by law?

Yes

No"

(2) "Shall the city council be allowed to issue (a number to be determined by the governing body) 'on-sale' licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?

Yes

No"

(c) If a majority of voters voting on the question in clause (1) vote yes, the governing body may issue an unlimited number of on-sale licenses. If a majority of voters voting on the question

in clause (2) vote yes, the governing body may issue additional on-sale licenses in the number stated in the question.

Subd. 4. **Exclusions from license limits.** On-sale intoxicating liquor licenses may be issued to the following entities by a city, in addition to the number authorized by this section:

- (1) clubs, or congressionally chartered veterans organizations;
- (2) restaurants;
- (3) establishments that are issued licenses to sell wine under section 340A.404, subdivision 5;
- (4) theaters that are issued licenses under section 340A.404;
- (5) hotels; and
- (6) bowling centers.

Subd. 5. **Off-sale licenses.** No off-sale intoxicating liquor license may be issued in any city, except as provided in this section, in excess of the following limits:

- (1) in cities of the first class, not more than one off-sale license for each 5,000 population; and
- (2) in all other cities the limit shall be determined by the governing body of the city.

Subd. 6. **Area that has been annexed or consolidated.** A license validly issued within the number prescribed in this section is not rendered invalid or illegal by reason of the consolidation or annexation of territory to a city and may continue to remain in effect and be renewed, except that the limitations as to ownership under section 340A.412, subdivision 2.

History: 1985 c 305 art 6 s 13; 1987 c 152 art 1 s 1; 1990 c 554 s 13; 1991 c 249 s 16; 1996 c 418 s 9; 2003 c 126 s 9