

WHEREAS, the City of Rushford has provided for the issuance of intoxicating liquor within the City and for many years has operated an On & Off Municipal Liquor Store; and

WHEREAS, the Municipal Liquor Store was closed by the Rushford City Council in May of 2011 due to financial losses; and

WHEREAS, a petition was filed by registered voters to have the question placed on the ballot asking if the Municipal Liquor Store should remain in operation; and

WHEREAS, the results of the November 2011 election were in favor of discontinuing the Municipal Liquor Store Operations; and

WHEREAS, the Rushford City Council wishes to cease Municipal Liquor Store operations and offer off-sale licensing to private individuals in accordance with Minnesota Statutes; and

THEREFORE, the following Ordinance will serve to provide updated regulations for the issuance of all forms of liquor licenses within the City and repeal inconsistent liquor ordinances.

CHAPTER 112: LIQUOR REGULATIONS

- 112.01 Adoption of state law by reference
- 112.02 City may be more restrictive than state law
- 112.03 Definitions
- 112.04 Nudity on the premises of licensed establishments prohibited
- 112.05 Consumption in public places
- 112.06 Required Licenses
- 112.07 Number of licenses which may be issued
- 112.08 Term and expiration of licenses
- 112.09 Kinds of liquor licenses
- 112.10 License fees; pro rata
- 112.11 Council discretion to grant or deny a license
- 112.12 Application for license
- 112.13 Description of premises
- 112.14 Applications for renewal
- 112.15 Transfer of license
- 112.16 Investigation
- 112.17 Hearing and issuance
- 112.18 Restrictions on issuance
- 112.19 Conditions of license
- 112.20 Hours and days of sale
- 112.21 Minors on premises
- 112.22 Restrictions on purchase and consumption
- 112.23 Suspension and revocation
- 112.24 Penalties
- 112.25 Severability
- 112.26 Adoption

Attachments Include Keg Registration Ordinance & Alcohol Compliance Ordinance

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES AND PROVIDING PENALTIES FOR VIOLATIONS

THE CITY OF RUSHFORD ORDAINS:

GENERAL PROVISIONS

112.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

112.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

The Council is authorized by the provisions of M.S. 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

112.03 DEFINITIONS.

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

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

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. 157.16, as it may be amended from time to time, and meet the definition of either a small establishment, medium establishment or large establishment as defined in M.S. 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of small establishment, medium establishment or large establishment.

112.04 NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

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

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

112.05 CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

The City Council wishes to permit the sale and/or consumption of alcoholic beverages on city property for the public's convenience and to promote certain worthwhile activities. Permits for the sale and/or consumption of alcoholic beverage on city property may be issued under the following conditions:

(A) Upon signed, written request of the individual or organization who will assume responsibility for the sale and/or consumption of the alcoholic beverage, with a statement holding the City of Rushford harmless for the actions of the sponsoring party or parties, and including the date, time and location of the desired permit.

(B) In the case of a permit for sale of alcoholic beverages, the party or parties requesting the permit must include with their application a certificate of insurance in the amount of \$100,000.00 with endorsement of the City of Rushford as an additional insured and includes the required fee as set from time to time by the City Council.

(C) In the case of a consumption only permit, the party or parties requesting the permit must include with their application proof of general liability insurance in the amount of \$100,000.00. Consumption only permits do not require a fee.

(D) Nothing binds the Rushford City Council to issue a permit for the sale and/or consumption of alcoholic beverages to any person or organization and such permits are issued solely at the Council's discretion.

LICENSING

112.06 REQUIRED LICENSES.

No person shall directly or indirectly, upon any pretense or by any device, manufacture, import, sell, exchange, barter, dispose of or keep for sale any intoxicating liquor without first having obtained a license therefore as provided in this chapter.

112.07 NUMBER OF LICENSES WHICH MAY BE ISSUED.

State law establishes the number of liquor licenses that a city may issue. However, the Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. The Council is not required to issue the full number of licenses that it has available.

112.08 TERM AND EXPIRATION OF LICENSES.

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

112.09 KINDS OF LIQUOR LICENSES.

As the City of Rushford does not have a municipal liquor store, it is authorized to issue the following licenses and permits:

(A) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2 percent malt liquor off-sale license.

(C) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses are limited in number to six (6), even if a larger number of licenses are authorized by law. An off-sale intoxicating liquor license may be issued to an exclusive liquor store, or to a drugstore as per MN Statute 340A.405. The fee for an off-sale intoxicating liquor license established by the Council shall be the maximum which may be permitted by M.S. 340A.408, Subd. 3, as it may be amended from time to time

Off-sale licensees shall sell alcoholic beverages by the container or package for off premise consumption only. They shall not permit the opening of the containers and consumption of contents on the licenses premises. An off-sale licensee shall not sell intoxicating liquor to any person for the purpose of resale. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

All off-sale licensees shall abide by the terms and conditions of the City of Rushford Keg Registration Ordinance, attached hereto.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veteran's organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council shall not exceed the amounts provided for in M.S. 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. 340A.404, Subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in 112.03, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food between the hours of 10:00 a.m. and 12:00 Midnight on Sundays, if the licensee complies with all requirements of the Minnesota Clean Air Act. If the licensee does not comply with the Minnesota Clean Air Act, the Licensee is authorized to sell intoxicating liquor for consumption on the premises together with the sale of food between the hours of 12:00 noon and 12:00 Midnight on Sunday.

The maximum fee for this license, which shall be established by the Council, shall not exceed \$200, or the maximum amount provided by M.S. 340A.504, Subd. 3c, as it may be amended from time to time.

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

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 10 days worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in 112.03; and to licensed bed and breakfast facilities which meet the criteria in M.S. 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of 112.23 shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit shall not exceed \$300, or the maximum amount permitted by M.S. 340A.14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by 112.23.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. 340A.301, Subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (O) below, the brew pubs total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

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

(P) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

112.10 LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prepaid and prorated on a quarterly basis, but nonrefundable.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee will not be returned to the applicant.

(E) No refunds shall be paid on the unexpired portion of any license terminated pursuant to this chapter, whether termination is by reason of sale or transfer of business or otherwise.

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee (Law now allows for a \$100.00 reduction) by the amount specified in M.S. 340A.408 if at the time of initial application or renewal they:

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

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

(4) Failure to abide by the provisions of this division may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to 112.36 of this chapter.

G. On-Sale liquor license fees shall be designated as "for-profit" or "non-profit" depending on the status, under Minnesota and Federal law, of the business or organization making application. It shall be the burden of the applicant to show non-profit status.

112.11 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

112.12 APPLICATION FOR LICENSE.

(A) Form. Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) Financial responsibility. Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. 340A.409, as it may be amended from time to time, with regard to liability under M.S. 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

112.13 DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

112.14 APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the City. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

112.15 TRANSFER OF LICENSE.

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock or assets of a corporate licensee is deemed to be a transfer of the license, and any such transfer without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license and all of the provisions of this code applying to applications for a license shall apply.

112.16 INVESTIGATION.

(A) Preliminary background and financial investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(B) Comprehensive background and financial investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

112.17 HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

112.18 RESTRICTIONS ON ISSUANCE.

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

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

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

(D) No license shall be issued for any place or any business ineligible for a license under state law as per MN Statutes 340A.402 as may be amended from time to time.

(E) No license shall be issued to any person under the age of 21. No license shall be granted to a person who is not a citizen of the United States of America or has documented permanent legal immigration status. No license shall be issued to a person who is not a resident of the state. If the applicant is a corporation, the majority of the shareholders shall be residents of the state.

(F) No license shall be granted within 500 feet of any school. The distance is to be measured from the closest side of the school to the closest side of the structure on the premises within which liquor is to be sold.

112.19 CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, or upon the first available training session, whichever is later, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. The Rushford Police Department will provide a basic set of guidelines for licensee use. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant. The **City of Rushford Alcohol Compliance Ordinance** details the compliance check process and penalties for violations of same.

(D) Compliance with financial responsibility, bond and insurance requirements of state law and of this Ordinance is a continuing condition of any license.

112.20 HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premise more than 30 minutes after the time when a sale can legally occur.

(C) Hours of operation: Every licensee shall cause the premises to be vacated of all persons except the owner or manager within one hour after the licensed premises closes. All intoxicating liquor shall be stored out of public view after the closing hours and shall not be sold, given away or consumed on the licensed premises until the succeeding day. No licensee shall provide intoxicating liquor or 3.2 malt liquor to any employee while such employee is working on the premises. All customers or persons not employed by a licensee shall vacate the premises within one-half hour after the established closing time.

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

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

112.21 MINORS ON PREMISES.

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

(B) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

112.22 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

112.23 SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of 112.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall affect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

112.24 PENALTIES.

(A) Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

(B) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

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

(2) For the second violation within any three-year period, \$1,000.

(3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term violation as used in this section includes any and all violations of the provisions of this chapter, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

112.25 SEVERABILITY AND SAVINGS CLAUSE.

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or portion of this ordinance.

112.26 ADOPTION.

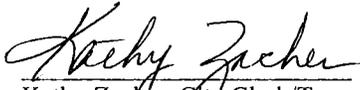
This ordinance shall be in full force and effect from and after its passage and publication, as provided by law.

Adopted by the Rushford City Council this 26th day of March, 2012.



Mayor, Chris Hallum

Attest:



Kathy Zacher, City Clerk/Treas.

Publish attached summary 3/29/12 Tri-County Record

The following is a summary of a recently adopted Chapter 112 Liquor Ordinance intended to inform the public of the intent and purpose of the ordinance. The complete Liquor Ordinance is available for public review during regular office hours at the Rushford City Hall or Rushford Public Library, 101 N. Mill Street, Rushford, MN

WHEREAS, the City of Rushford has provided for the issuance of intoxicating liquor within the City and for many years has operated an On & Off Municipal Liquor Store; and

WHEREAS, the Municipal Liquor Store was closed by the Rushford City Council in May of 2011 due to financial losses; and

WHEREAS, a petition was filed by registered voters to have the question placed on the ballot asking if the Municipal Liquor Store should remain in operation; and

WHEREAS, the results of the November 2011 election were in favor of discontinuing the Municipal Liquor Store Operations; and

WHEREAS, the Rushford City Council wishes to cease Municipal Liquor Store operations and offer off-sale licensing to private individuals in accordance with Minnesota Statutes; and

THEREFORE, the following Ordinance will serve to provide updated regulations for the issuance of all forms of liquor licenses within the City and repeal inconsistent liquor ordinances.

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES AND PROVIDING PENALTIES FOR VIOLATIONS

THE CITY OF RUSHFORD ORDAINS:

CHAPTER 112: LIQUOR REGULATIONS

112.01 ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

112.02 City may be more restrictive than state law

112.03 Definitions – defines “liquor” and “restaurant”

112.04 Nudity on the premises of licensed establishments prohibited

112.05 Consumption in public places – provides for process to permit the sale and consumption

112.06 Required Licenses

112.07 Number of licenses which may be issued

- 112.08 Term and expiration of licenses
- 112.09 Kinds of liquor licenses – includes all forms of 3.2 malt liquor on and off sale; off-sale liquor, on-sale liquor, Sunday on-sale liquor, on-sale wine, temporary on-sale, one-day permits, consumption and display permits, brew pub on-sale, brew pub off-sale
- 112.10 License fees; pro rata
- 112.11 Council discretion to grant or deny a license
- 112.12 Application for license – forms and insurance required
- 112.13 Description of premises – compact and contiguous premises
- 112.14 Applications for renewal
- 112.15 Transfer of license
- 112.16 Investigation – background and financial investigation
- 112.17 Hearing and issuance
- 112.18 Restrictions on issuance
- 112.19 Conditions of license – training required, conduct required
- 112.20 Hours and days of sale
- 112.21 Minors on premises
- 112.22 Restrictions on purchase and consumption
- 112.23 Suspension and revocation
- 112.24 Penalties
- 112.25 Severability & Savings Clause
- 112.26 Adoption

Attachments Include Keg Registration Ordinance & Alcohol Compliance Ordinance

Adopted by the Rushford City Council this 26th day of March, 2012.

/s/Mayor Chris Hallum

Attest:

/s/Kathy Zacher, City Clerk/Treas.