1202

INTOXICATING LIQUOR ORDINANCE

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR AND PROVIDING A PENALTY FOR VIOLATION.

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

1202.01 Provisions of State Law Adopted.

The provisions of Minnesota Statutes, Chapter 340A, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are hereby adopted and made a part of this Ordinance as if fully set out herein.

1202.02 License Required.

A. No person, except wholesalers or manufacturers to the extent authorized under State License, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance. Licenses shall be of two kinds: "On-Sale" and "Off-Sale."

B. "On-Sale" licenses shall be issued only to hotels, restaurants and exclusive liquor stores and shall permit "On-Sales" of liquor only.

C. "Off-Sale" licenses shall be issued only to exclusive liquor stores and shall permit "Off-Sales" of liquor only.

1202.03 Application for License.

A. Applications for license shall be required upon initial application, upon renewed application and upon any change of ownership of business control of a licensed premises. Every application for a license to sell liquor shall be verified and filed with the City Clerk. It shall state the name of the applicant, his age, representations as to his character, with such references as may be required, his citizenship, whether the application is for "On-Sales" or "Off-Sales," the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, each application for a license shall be in the

form prescribed by the Commissioner of Public Safety. No person shall make a false statement in an application.

B. Each application for a license shall be accompanied by a liability insurance policy or, in lieu thereof, cash or United States Government bonds of equivalent market value. Such liability insurance policy or other security shall be in the sum established by the City Council. Failure to provide such liability insurance policy, or other security, shall be grounds for immediate revocation of the license.

C. The security offered under 1202.03B shall be approved by the City Council and in the case of applicants for off-sale licenses by the Commissioner of Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. The operation of such off-sale or on-sale liquor business without having on file at all times with the municipality an effective bond, insurance policy or other security as required in 1202.03B shall be grounds for immediate revocation of the license.

1202.04 License Fees.

A. Each application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the required fee for the license. All fees shall be paid into the General Fund of the municipality. Upon rejection of any application for a license, the Clerk shall refund the amount paid.

B. All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

C. The annual fee for an "On-Sale" license shall be as established by Council resolution from time to time. The annual fee for an "Off-Sale" license shall be as established by Council resolution from time to time.

D. No refund of any fee shall be permitted except as authorized under Minnesota Statutes, Section 340A.408 subd. 5.

E. Investigation Fees: At the time of the original application for a license, the applicant shall pay in full an investigation fee. For a single natural person, the investigation fee shall be as established by Council resolution from time to time. For a partnership, the investigation fee shall be established by Council resolution from time to time. For a corporation or other association, the investigation fee shall be established by Council resolution from time to

time. No investigation fee shall be refunded. At any time that an additional investigation is required because of a change in the ownership or control, or because of an enlargement, alteration or extension of premises previously licensed, the licensee shall pay an additional investigation fee in the amount established by Council resolution from time to time.

1202.05 Granting of Licenses.

A. The City Council shall investigate all facts set out in the application. The Council shall instruct the City Administrator to cause to be published in the official newspaper, ten (10) days in advance, a notice of hearing to be held by the City Council, setting forth the day, time, and place when the hearing will be held, the name of the applicant, the premises where the business is located and such other information as the City Council may direct. At the hearing, the opportunity shall be given to any person to be heard, for or against the granting of the license. A license, other than renewal, shall not be approved or refused before the next regular meeting of the City Council following such hearing. No license shall become effective until said application has been approved by the Commissioner of Public Safety.

B. Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application.

1202.06 Persons Ineligible for License.

No license shall be issued for any place, or for any business, ineligible for such a license under State law.

1202.07 Places Ineligible for License.

A. No license shall be issued for any place, or for any business, ineligible for such a license under State law.

B. 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.

1202.08 Renewal Applications.

Applications for the renewal of an existing license shall be made by November 15 of each year and shall be made in such abbreviated form as the City Council may approve. Proposed enlargement, alteration, or extension of premises previously licensed shall be reported to the City Administrator at or before the time application is made. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for his failure to file for a renewal within the time provided, the City Council may, if the other provisions of this ordinance are complied with, grant the application.

Section 5. Amendment. That Chapter 340A of Minnesota Statutes, also known as Chapter 49 Laws of Minnesota 1989 (Liquor Act), is hereby included in any reference to the Minnesota statutes, as well as Chapter 340.

1202.09 Conditions of License.

A. Every license shall be granted, subject to the conditions in the following sections and all other provisions of this Ordinance, and of any other applicable ordinance of the City or State law.

B. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order of it.

C. No sale of liquor shall be made to anyone on credit.

D. Any Peace Officer, Health Officer, or any properly designated officer or employee of the City, shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant.

1202.10 Restrictions on Purchase and Consumption.

A. No person not entitled to purchase intoxicating liquor under State law shall misrepresent his age for the purpose of obtaining intoxicating liquor.

B. No person, except those engaged in law enforcement activities, shall induce a person not entitled to purchase intoxicating liquor under state law to purchase or procure liquor.

C. No person shall mix or prepare liquor for consumption in any public place or place of business not licensed to sell liquor "On-Sale," and no person shall consume liquor in any such place.

D. No liquor shall be sold or consumed on a public highway or in an automobile.

E. Closing Hours.

1. No sale of intoxicating liquor for consumption on the licensed premises may be made:

a. between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

b. after 1:00 a.m. on Sundays except as provided by Subdivision 2;

c. between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except as provided by Subdivision 2.

2. Intoxicating liquor Sunday sales on-sale. A restaurant, club, bowling center or hotel with a seating capacity for at least thirty (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 1:00 a.m. on Mondays, provided that the licensee is in conformance with the Freedom to Breathe Act of 2007.

3. Intoxicating liquor "Off-Sale." No sale of intoxicating liquor may be made by an off-sale licensee:

a. On Sundays;

b. before 8:00 a.m. on Monday through Saturday;

c. after 10:00 p.m. on Monday through Saturday at an establishment located in the City;

d. on Thanksgiving Day;

e. on Christmas Day, December 25; or

f. after 8:00 p.m. on Christmas Eve, December 24.

4. No licensee under this Ordinance for sale of intoxicating liquor for purposes of consumption on premises shall permit any person to consume intoxicating liquor on the licensee's premises within the time when the sale thereof is prohibited as specified in Section 1202.10 E, except for a period of fifteen (15) minutes after the closing hours set forth above. During the time such consumption is prohibited, such licensee shall not permit any non-consumed intoxicating liquor or any glasses, bottles, or other containers, tables or booths where the customers are ordinarily served in his place of business. It shall be unlawful for any person or customer other than the licensee or his employees to remain on the premises after fifteen (15) minutes of the closing hours set for above.

1202.11 Revocation.

The Council may suspend or revoke any liquor license for violation of any provision or condition of this Ordinance or any State law regulating the sale of intoxicating liquor and shall revoke such license if the licensee willfully violates any provision of

Minnesota Statutes, Section 340A. Except in the case of a suspension pending a hearing on revocation, or suspension by the Council, shall be preceded by written notice to the grantee and a public hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without any advance notice, suspend any license pending a hearing on revocation for a period of not exceeding thirty (30) days.

1202.12 Penalty.

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Seven Hundred Dollars ($700.00) or imprisonment in the County Jail for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

Amended: Paragraph Subd. B. of Section 1202.10. Passed and adopted October 20, 1998.
Amended: Paragraph Subd. E.2. of Section 1202.10. Passed and adopted October 9, 2007.