Revised 10-8-2019

ORDINANCE NO. 23

INTOXICATING LIQUOR

SALE, CONSUMPTION AND DISPLAY OF LIQUOR, MALT LIQUOR, WINE AND BEER.

THE CITY COUNCIL OF THE CITY OF ROYALTON HEREBY ORDAINS:

Section 1. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, as amended, with regard to applications for license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds of licensees, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of Intoxicating Liquor, 3.2 Percent Malt Liquor and Wine are adopted and made a part of this Ordinance, as if set out in full. To the extent that any provisions of this Ordinance conflicts with the provisions of Chapter 340A, the more restrictive provisions shall apply.

Section 2. Definitions.

1. "Alcoholic Beverage" shall mean any beverage containing more than one-half of one percent alcohol by volume.

2. "Bona Fide Club" or "Club" shall mean any organization for social or business purposes or for intellectual, improvement, or athletic purpose where the serving of such Alcoholic Beverages is incidental and not the major purpose of the club. Any such club must be incorporated under the laws of the State of Minnesota, with a paid membership of at least thirty (30) members, must have owned or rented a building or space in a building for more than one (1) year, and be directed by a board, committee or similar body chosen by the membership. The sale shall be to members and their guests.

3. "Brewer" shall mean a person who manufactures malt liquor for sale.

4. "Brew Pub" shall mean a brewer who also holds one or more retail on-sale licenses and who complies with the state of Minnesota manufactures limits of 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 a licensed premises. (S.F. 1238 — 2015; MSA 340A.101 subd. 3a.).

5. "Brewer Taproom" shall mean a facility on or adjacent to premises owned by a brewer licensed under Minnesota Statutes §340A.301, Subd. 6(c), (i) or (j) and which produces less than the state of Minnesota limits of malt liquor annually, and where the on- sale and consumption of malt liquor produced by the brewer is permitted pursuant to Minnesota Statutes §340A.26. (S.F. 1238 — 2015; MSA 340A.26).

6. "Exclusive Liquor Store" shall mean and include any establishment used exclusively for the sale of Intoxicating Liquors at retail, either on or off-sale or both.

7. "Growler" shall mean a sixty-four (64) ounce container used in the package and sale of malt liquor.

8. "Infused beverage" shall mean an alcoholic beverage flavored through infusion with added ingredients.

9. "Illegal Sale" shall mean such sale conducted in violation or evasion of law.

10. "License" shall mean any license granted under this Ordinance.

11. "Liquor" and "Intoxicating Liquor" shall mean and include ethyl alcohol and include distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

12. "Malt Liquor" is any beer, ale, or other beverage made from malt by fermentation and containing not less than one half of one percent alcohol by volume.

13. "3.2 Percent Malt Liquor" shall mean any potable malt beverage with an alcoholic content of more than 1.5 percent by volume and not more than 3.2 percent by weight.

14. "Micro distillery" shall mean a distillery operated within the state producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

15. "Mixed Drinks or Cocktails at On-Sale Premises." "Mixed drink" includes drinks commonly referred to as cocktails, and "infused beverages" are alcoholic beverages flavored through infusion with added ingredients.

16. 'Non-Intoxicating Liquor" shall mean ethyl alcohol and include distilled, fermented, spirituous, vinous and malt beverages containing equal to or less than 3.2 percent of alcohol by weight.

17. "On-Sale" shall mean the sale of Alcoholic Beverages for consumption on the premises only.

18. "Off-Sale" shall mean the sale of Alcoholic Beverages in original packages in retail stores for consumption off or away from the premises where sold.

19. "Package" or "Original Package" shall mean and include any container or receptacle holding liquor, in which container or receptacle is corked or sealed.

20. "Person" shall include persons, corporations, partnerships, and other unincorporated associations.

21. "Restaurant" shall mean an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and where, in consideration of payment therefore, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests.

22. "Sale" and "Sell" shall mean and include all barters, and all manners or means of furnishing Alcoholic Beverages as above described.

23. "Theater" shall mean a building containing an auditorium in which live dramatic, musical, dance, or literary performances are regularly presented to holders of tickets for those performances.

24. "Wholesaler" shall mean a person who sells alcoholic beverages to persons to whom sale is permitted under Minnesota Statute §340A.310, from a stock maintained in a warehouse in the state.

Section 3. License Required. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly manufacture, import, sell, exchange, barter, dispose of or keep for sale any Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine not exceeding twenty-four percent (24%) alcohol by volume without first obtaining a license as provided in this Ordinance.

1. On-Sale Licenses — Intoxicating Liquor. The City shall issue On-Sale Licenses to permit the consumption of Alcoholic Beverages on the premises only. Said On-Sale Licenses shall be granted to Bona Fide Clubs, theaters, restaurants and Exclusive Liquor Stores.

2. Off-Sale Licenses. The City shall issue Off-Sale Licenses to permit the sale of Intoxicating Liquor, 3.2 Percent Malt Liquor and/or Wine at retail or wholesale in the original package for consumption off the premises only.

3. On-Sale License — 3.2 Percent Malt Liquor. The City shall issue On-Sale Licenses for 3.2 Percent Malt Liquor on the premises only. Said On-Sale Licenses shall be granted only to drug stores, cafes, Bona Fide Clubs, restaurants, hotels, bowling centers, theaters and golf courses and shall permit the sale of 3.2 Percent Malt Liquor for consumption on the premises only.

4. Temporary On-Sale License.

A. A Temporary On-Sale License may be granted to a Bona Fide Club or charitable, religious or non-profit organization for an event lasting not more than four (4) consecutive days subject to the terms and conditions set by the City Council. The license may authorize the sale of 3.2 Percent Malt Liquor, Wine or Intoxicating Liquor, and may authorize sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for Intoxicating Liquor catering services with the holder of a full-year On-Sale Intoxicating Liquor License issued by any municipality. Licenses for the sale of Intoxicating Liquor under this Subdivision are not valid unless first approved by the Commissioner of Public Safety.

B. The City may issue to a brewer who complies with the state of Minnesota manufactures limit of malt liquor in a year or a microdistillery a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer begin or microdistillery. The terms and conditions specified for temporary licenses under paragraph A. shall apply to a license issued under this paragraph, except that the requirements of section 340A.409 (liability insurance) shall apply to the license.

5. On-Sale Wine Licenses. A person holding a current valid On-Sale Intoxicating Liquor License from the City, may directly or indirectly deal in, sell, or keep for sale in the City any Wine not exceeding twenty-four percent (24%) alcohol by volume, for consumption on the licensed premises only. An On-Sale Wine License may be issued only to a theater or a restaurant having facilities for seating not fewer than twenty-five (25) guests at one time.

6. License Exemptions.

A. A holder of an On-Sale Wine License who is also licensed to sell 3.2 Percent Malt Liquor may also sell intoxicating malt liquor (strong beer) at On-Sale without an additional license.

B. Any person licensed to sell Intoxicating Liquor at On-Sale shall not be required to obtain an additional On-Sale License for the sale of 3.2 Percent Malt Liquor or Wine.

C. Any person licensed to sell Intoxicating Liquor at Off-Sale shall not be required to obtain an Off-Sale License for the sale of 3.2 Percent Malt Beverages.

7. Growlers.

A. Growlers shall bear a twist-type closure, cork, stopper, or plug. At the time of sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening 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 brew pub or 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.

B. A brew pub or brewer may, but is not required to, refill any growler with malt liquor for off-sale at the request of the customer. A brew pub or brewer refilling a growler must do so at its licensed premises and the growler must be filled at the tap at the time of sale. A growler refilled under this paragraph must be sealed and labeled in the manner described in paragraph A, above.

8. Small Brewer Off-Sale.

A. License. A brewer licensed under Minnesota Statute § 340A.301, subdivision 6, clause (c), (i), or (j), may be issued a license by the City for off-sale of malt liquor at its licensed premises that has been produced and packaged by the brewer. A brewer may only have one license under this section. The amount of malt liquor sold at off-sale may not exceed the state of Minnesota limits of barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the City, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this subdivision must comply with section 340A.285 and in accordance with state law the license must be approved by the commissioner of public safety.

B. Prohibition. The City will not issue a license under this section 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 20,000 barrels of its own brands of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

C. Fee. The City shall impose a licensing fee on a brewer holding a license subject to limitations applicable to license fees under City of Royalton Schedule of Fee Charges.

9. Brew Pubs.

A. On-Sale License. A brew pub may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by the City for a restaurant operated in the place of manufacture.

B. Off-Sale License. A brew pub that holds an on-sale license may be issued a license by the City 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 City and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time. Packaging of malt liquor for off-sale must comply with Minnesota Statute § 340A.285 .

C. Total Retail Sales. A brew pub's total retail sales at on- or off-sale under this section shall not exceed 3,500 barrels per year, provided that off-sales may not total more than the state of Minnesota law limits in barrels per year.

D. Interest in Other License and Prohibition. A brew pub in the City must comply with the interest in other license provisions, and the prohibition provisions, provided by Minnesota law and codified in Chapter 340A.

E. Total Retail Sales. A brew pub's total retail sales at on- or off-sale under this section shall not exceed the state of Minnesota limits in barrels per year.

F. Interest in Other License and Prohibition. A brew pub in the City must comply with the interest in other license provisions, and the prohibition provisions, provided by Minnesota law and codified in Chapter 340A.

10. Brewer Taprooms.

A. Brewer Taproom License. The City may issue the holder of a brewer's license under Minnesota Statute § 340A.301, 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 ordinance precludes the holder of a brewer taproom license from also holding a license to operate a restaurant at the brewery. Minnesota Statute § 340A.409 (liability insurance) shall apply to a license issued under this ordinance. A brewer may only have one taproom license under this ordinance and may not have an ownership interest in a brew pub.

B. Prohibition. The City shall 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.

C. Fee. The City shall impose a licensing fee on a brewer holding a brewer taproom license under this subdivision, subject to limitations applicable to license fees under Minnesota Statute § 340A.408, subdivision 2, paragraph (a) and in accordance with the City of Royalton Fee schedule.

D. City to Inform Commissioner. Pursuant to Minnesota Statute § 340A.26 subd. 4, the City 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 City shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

E. Sunday On-Sale. A brewer taproom may be open and may conduct on-sale business on Sundays, provided that the brewer taproom complies with the City of Royalton's Hours of Operation.

11. Microdistilleries.

A. Activities. A microdistillery may operate in the City if it has met all State licensing requirements and it may provide on its premises samples of distilled spirits manufactured on its premises, in an amount not to exceed 15 milliliters per variety per person. No more than 45 milliliters may be sampled under this paragraph by any person on any day. A microdistillery can sell cocktails to the public if it has a cocktail room license issued by the City.

B. Cocktail Room License. The City may issue the holder of a microdistillery license a microdistillery cocktail room license, which authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. Nothing in this ordinance precludes the holder of a microdistillery cocktail room license from also holding a license to operate a restaurant at the distillery. Section 340A.409 shall apply to a license issued under this subdivision. A distiller may only have one cocktail room license under this ordinance and may not have an ownership interest in a distillery licensed under section 340A.301, subdivision 6, paragraph (a). No single entity may hold both a cocktail room and taproom license, and a cocktail room and taproom may not be co-located.

C. Licensing Fee. The City shall impose a licensing fee on a distiller holding a microdistillery cocktail room license under this subdivision, subject to limitations applicable to license fees under section 340A.408, subdivision 2, paragraph (a). Additionally, pursuant to Minnesota Statute 340A.22 subdivision 3, the microdistiller must pay all licensing fees required by the Minnesota commissioner of public safety.

D. City to Inform Commissioner. Pursuant to Minnesota Statute § 340A.26 subd. 4, the City 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 City shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

E. Off-Sale License. A microdistillery may be issued a license by the City for off- sale of distilled spirits. The license allows for the sale of one 375 milliliter bottle per customer per day of product manufactured on-site, subject to the requirements that: (1) off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the City; and (2) no brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

GENERAL REGULATIONS

Section 4. Application for License. Every applicant for the following licenses must verify and file the application with the City Clerk: On-Sale or Off-Sale Liquor, 3.2 Percent Malt Liquor, Wine, Brew Pub Off-Sale, Brew Pub On-Sale, Small Brewer Off-Sale, Microdistillery Off-Sale, Brewer Taproom, or Cocktail Room. The application shall state the applicant's name, the applicant's date of birth, representation as to the applicant's character with any references as may be required, the applicant's citizenship, whether the sale is for "On-Sale" or "Off-Sale", the business in connection with which the proposed licensee shall operate and its location, whether applicant is an owner of the business, how long he or she has been in that business at that place, and any other information the City Council may require. In addition to containing this information, each application for a license shall be in the form prescribed by the City Council.
No person shall make a false statement in an application. Applications, including all supporting documentation must be submitted to the City Clerk by September 1 for consideration for a license for the following year.

Section 5. Liability Insurance.

1. Coverage Required. An applicant shall file a liability insurance policy with the City Clerk covering any time that the person or entity holds the following licensees: On-Sale or Off-Sale Liquor, 3.2 Percent Malt Liquor, Wine, Brew Pub Off-Sale, Brew Pub On-Sale, Small Brewer Off-Sale, Microdistillery Off-Sale, Brewer Taproom, or Cocktail Room. The City Council shall set the amount of the liability insurance policy, but in no event shall the limits be lower than required by Minnesota Statute §340A.409, as amended. The City Council may change the amount of required coverage with proper notice to affected business establishments before September 1 of any year. The liability insurance policy must specifically provide for payment by the insurance company, on behalf of the insured, all sums that the insured shall become obligated to pay by reason of liability imposed upon the insured by law for injuries or damages to person or persons other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes §340A.801. The liability insurance policy shall be in effect from license issuance through December 31st and shall provide further that no cancellation for any cause can be made either by the insured or the insurance company without first giving ten (10) days written notice to the City of intention to cancel the same, addressed to the City Clerk, and shall provide that no payment of any claim by the insurance company shall in any manner decrease the coverage provided for in respect to any other claim or claims brought against the insured or company thereafter. The policy shall pay to the extent of the principal amount of the policy any damages for death or injury caused by or resulting from the violation of any law relating to the business for which the liquor license has been granted. All temporary on sale licenses shall be required to have insurance.

2. Approval Required. The liability insurance policy offered under Subdivision 1 of this Section shall be approved by the City Council. 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 effective security as required in Subdivision 1 of this Section is a cause for revocation of the license.

Section 6. License Fees.

1. Payment of Fees. 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 City Clerk shall refund the license fee, but not the investigation fee set forth in Section 7 below.

2. Fees. The City Council shall set the annual fees for the following licenses: On-Sale or Off-Sale Liquor, 3.2 Percent Malt Liquor, Wine, Brew Pub Off-Sale, Brew Pub On- Sale, Small Brewer Off-Sale, Micro distillery Off-Sale, Brewer Taproom, or Cocktail Room.
These fees are subject to change with proper notice to the affected business establishments before September 1 of any year.

3. Effective Dates. Each license under this Code Section shall be issued for a period of one (1) year, from January I through December 31. If the application is made during the license year, the City may issue the license for the remainder of the year. Partial year license fees for the On-Sale of Intoxicating Liquor shall be prorated.

4. Refunds. No refund of any fee shall be permitted except as authorized under Minnesota Statutes §340A.408.

Section 7. Granting of Licenses.

1. Preliminary Investigation. On an initial application for a license, the applicant shall pay with the application an investigation fee established by the City Council for which the City shall conduct a preliminary background and financial investigation of the applicant. The application shall be made on a form prescribed by the State of Minnesota Bureau of Criminal Apprehension and with such additional information, as the City Council may deem necessary. If the City Council deems it in the public interest to have an investigation made on a particular application for renewal of an "On-Sale" License, it shall so determine. In any case, if the City Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation through the police department, or contract with the Bureau of Criminal Apprehension for such investigation. The City Council shall not issue or renew a license if the results show to the satisfaction of the City Council that issuance or renewal would not be in the public interest. If an investigation outside the State is required, the applicant shall be charged the costs established in the city of Royalton's fee schedule of which shall be paid by the applicant after deducting any initial investigation fee already paid. The applicant shall pay the fee whether or not the license is granted. Opportunity shall be given to any person to be heard for or against the granting of the license.

2. Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1 of this Section. No license shall become effective until it, together with the security information furnished by the applicant, has been approved by the City Council or the Commissioner of Public Safety.

3. Person and Premises Licensed. The City Council shall issue each license only to the applicant and for the premises described in the application. All licensed premises shall post the license in a conspicuous place at all times. For the purpose of this Ordinance, the licensed premise may include a patio area contiguous to the building. The City may impose conditions upon the license, including but not limited to screening requirements, additional security measures, or limiting the hours of liquor consumption on the patio, in order to minimize impacts of the use of the patio area on neighboring properties.

4. Persons Ineligible for License. No license shall be granted to or be held by any person:

A. Under the age of twenty-one (21) years;

B. Who is not of good moral character or repute;

C. Who, if an individual, is not a resident of the State of Minnesota, or does not become a resident of the State of Minnesota within ninety (90) days after the license is issued. If the applicant is a corporation, at least one (1) principal officer of the corporation must be a resident of the State of Minnesota or must become a resident of the State of Minnesota within ninety (90) days after the license is issued.

D. Who is or has been convicted of any violation of any law in the United States or the State of Minnesota, or of any local ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine, or whose license has been revoked or who has committed a willful violation of any such laws or ordinances.

E. Who is directly or indirectly interested in any other establishment in the municipality to which a license ofthe same class has been issued under this Ordinance.

F. Who has had a license issued under this Ordinance (or prior ordinances) that has been revoked for cause within five (5) years of the date of license application, or to any person who at the time of the violation owned any interest in the premises or business for which a license was revoked.

Section 8. Places **Ineligible for License.**

1. General Prohibition. The City shall not issue a license for any place or any business ineligible for a license under state laws.

2. Delinquent Taxes and Charges. The City shall not issue a license for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

3. Charges. The charges referred to in Subdivision 2 of this Section may relate to unpaid water bills, and in being consistent with the policies of the City Council, may relate to charges for legal fees incurred while enforcing the provisions of this Ordinance against the licensee or the licensee's bona fide employees.

4. No "On-Sale" License shall give permission to sell Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine in any ballpark and no such liquor shall be consumed there.

5. No "On-Sale" License shall be issued for sale on any premises where a majority of the property owners, within three hundred (300) feet of the property owners, file with the City Clerk a written objection of the license and provided further that if a majority of the property owners within three hundred (300) feet of the premises holding an "On-Sale" License file a written objection to the license, the license shall be immediately revoked.

Section 9. Conditions of License. Every "On-Sale" or "Off-Sale" License is subject to the conditions in the following Subdivisions and all other provisions of this Ordinance, and to regulations promulgated by the Commissioner of Public Safety, and to State laws that are applicable to liquor violations.

Section 10. Transfer. The City Council shall issue each license only to the applicant and for the premises described in the application. No license may be transferred to another person or place. A transfer of a controlling interest in a corporate or limited liability company licensee shall be deemed a transfer under this ordinance.

Section 11. Licensee's Responsibility.

1. Every licensee shall be responsible for the conduct of the licensee's place of business and the condition of sobriety and order in it. It shall be the licensee's responsibility to employ reputable employees that shall conduct business in his or her absence in a legal manner. The act of any employee on the licensed premises authorized to sell Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine, or any entity licensed to run a Brewer Taproom or Cocktail Room, shall be deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this Ordinance and the law equally with the employee. No licensee shall keep, possess, or operate, or permit the keeping, possession, or operation of, on the licensed premises, or in any room adjoining the licensed premises, any slot machine, dice or any gambling device or apparatus, nor permit any gambling, nor permit the licensed premises or any room in the same, to be used as a resort for prostitutes or other disorderly persons except that gambling devices may be kept or operated and raffles permitted if licensed by the local unit of government in accordance with Minnesota Statutes §349.26.

2. Mixed drinks, cocktails, or infused beverages that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises if the following conditions are met:

A. Mixed drinks or cocktails shall be stored, for no longer than 72 hours, in a labeled container in a quantity that does not exceed five gallons.

B. Infused beverages may be stored in containers in a quantity not to exceed five gallons.

C. Added flavors and other non-beverage ingredients included in the mixed drinks or infused beverages shall not include hallucinogenic substances or added pure or supplemental caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

D. The licensee shall keep records as to when the contents in a particular container were mixed and the recipe, including brand names, used for that mixture.

Section 12. Inspections. Every licensee shall allow any police officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of the licensee without a warrant during business hours, and within one and one-half(1 1/2) hours after the closing time as prescribed by law, without warrant. The Chief of Police, or the Chief of Police's designated agents, shall conduct periodic checks of "On-Sale" or "Off-Sale" Licensed premises to ensure that the requirements of this Ordinance are not being violated.

Section 13. Gambling. No gambling nor any gambling device prohibited by law, shall be permitted in any licensed premises.

Section 14. Nudity and Sexual Conduct Prohibited. The following acts or conduct on licensed premises shall be strictly prohibited:

1. To employ or use any person in the sale or service of Alcoholic Beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing so as to expose or to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

2. To employ or use services of any host or hostess while the host or hostess is unclothed or in such attire, costume or clothing as described in Subdivision 1 of this Section.

3. To employ or use any dancers, musicians, or other performers or entertainers, who are unclothed or in such attire, costume or clothing as described in 1. of this Section.

4. To directly or indirectly sponsor any contests which may foreseeably cause, result in or lead to the occurrence of the acts or incidents described in 6 of this Section.

5. To encourage or permit any person on the licensed premises to touch, caress or fondle breasts, buttocks, anus or genitals of any employee of the licensee or any performers or entertainers who are employed or whose services are used by the licensee.

6. To permit 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 act which is 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 breasts;

D. The displaying of the pubic hair, anus, vulva, genitals or female breasts below the top of the areola;

7. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Section.

8. To permit any person to remain in or upon the licensed premises, or any area owned or controlled by the licensee which is viewable from upon the licensed premises, who exposes to public view any portion of his or her genitals or anus.

9. To permit the showing of film, still pictures, electronic reproduction, or other visual reproduction depicting:

A. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act which is prohibited by law.

B. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

C. Scenes where a person displays the vulva, 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 prohibited activities described herein.

10. Any person violating any portion of this Section shall be guilty of a misdemeanor. Any violation of this Section shall also constitute grounds for revocation or suspension of the licensee's license, in accordance with the rules and procedures otherwise established by this Ordinance and State law.

Section 15. Hours of Operation.

1. Times. No "On-Sale" of Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine shall be made after 2:00 a.m. on Sunday nor until 8:00 a.m. on Monday, except as allowed by M.S.A. §340A.504, Subd. 3, nor between the hours of 2:00 a.m. and 8:00 a.m. on any weekday or Saturday. All sales after 1:00 a.m. are subject to additional permit requirements under Minn. Stat. 340A.504, Subd. 7. No "Off-Sale" shall be made before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday. No "Off-Sale" shall be made anytime on Sundays except between the hours of 11:00 a.m. and 6:00 p.m. No "Off-Sale" shall be made on Thanksgiving Day; or after 8:00 p.m. on December 24 or all day on December 25. By license, the City Clerk may, upon approval by the City Council, issue a permit for a liquor vendor to sell Intoxicating Liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday, provided that the licensee is in conformance with the Minnesota Clean Air Act. All other license holders in the City who have not applied and do not qualify for serving liquor in the establishment in conformance with the service of food shall maintain the hours of 12:00 p.m. Sunday to 1:00 a.m. Monday morning.

2. Restriction. All persons, except the licensee, his or her bona fide employees, and law enforcement officers, shall be excluded from the premises within thirty (30) minutes after the expiration of the time on any day when Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine may be legally sold on the premises. Each licensee shall be required to keep a current written list setting forth the names of current employees, including their names, addresses and social security numbers. This list shall be provided to members of the police department or other persons acting on behalf of the City upon demand. It shall be unlawful to permit the consumption or displaying of Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine later than thirty (30) minutes after the sale of such Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine.
It shall be conclusively presumed that any Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine remaining on a bar, or in a booth, or on a table, shall be for the purpose of consuming the same in violation of this Section. No delivery of alcohol to an off-sale licensee may be made by a wholesaler or accepted by an off-sale licensee on a Sunday. No order solicitation or merchandising may be made by a wholesaler on a Sunday.

Section 16. Persons to Whom Sale is Illegal.

1. No person to whom the sale of Intoxicating Liquor or Non-Intoxicating Liquor is forbidden by State law in "On-Sale" or "Off-Sale" Licensed premises shall misrepresent his or her age for the purpose of obtaining Intoxicating Liquor or Non-Intoxicating Liquor nor shall he or she enter any premises licensed under this Ordinance in order to procure said beverages, or to consume or purchase, or attempt to purchase, or have another purchase for him or her, such beverages on licensed premises.

2. No person to whom the sale of Intoxicating Liquor or Non-Intoxicating is forbidden shall be permitted to remain in any place where "On-Sale" Intoxicating Liquors or Non-Intoxicating Liquors are sold or given away, except as permitted in this Section. This Section shall not prohibit a person to whom the sale of Intoxicating Liquor or Non-Intoxicating Liquor is forbidden from entering a restaurant for purposes of eating, or from entering a bowling alley for purposes of bowling, or a special club for special functions occurring within that facility, as long as the individual stays in the eating area or bowling area, or area where the special function is occurring without consuming Intoxicating Liquors or Non-Intoxicating Liquors. Minors shall not be allowed in Clubs or exclusive liquor stores after 10:00 p.m. The licensee shall be responsible for enforcement of this Section.

3. No person shall give, procure or purchase Intoxicating Liquor or Non-Intoxicating Liquor for any person to whom the sale of Intoxicating Liquor or Non-Intoxicating Liquor is forbidden by state law.

4. No sale of any Intoxicating Liquor, 3.2 Percent Malt Liquor. or Wine shall be made to anyone under the age of 21 years of age.

Section 17. Consumption in Public Places.

1. No person shall mix or prepare Intoxicating Liquor or Non-Intoxicating Liquor for consumption in any public place or place of business not licensed to sell "On-Sale"
Intoxicating Liquor or Non-1ntoxicating Liquor in any such place.

2. No Intoxicating Liquor or Non-Intoxicating Liquor shall be sold or consumed on a public highway or in an automobile in any public place in the City.

3. No Intoxicating Liquor or Non-Intoxicating Liquor shall be consumed on or any open container carried on any public street, highway, alley, public sidewalk, public parking lot, or private parking lot which is open for use by the general public in the City limits.

4. No person shall carry or consume an open container of any Intoxicating Liquor or Non-Intoxicating Liquor on any parking lot provided for patrons of a licensee under this Ordinance.

5. All Intoxicating Liquor or Non-Intoxicating Liquor sold "On-Sale" shall be possessed and consumed inside the building where purchased "On-Sale". No person shall possess or consume any Intoxicating Liquor or Non-Intoxicating Liquor outside the building of an "On-Sale" Licensed premises if said Intoxicating Liquor or Non-Intoxicating Liquor was purchased "On-Sale". The licensee shall be responsible for the enforcement of this provision, and permitting a person possessing Intoxicating Liquor or Non-Intoxicating Liquor "On-Sale" to leave the building may be deemed to be a violation of this Ordinance by the licensee.

6. No "Off-Sale" Intoxicating Liquor or Non-Intoxicating Liquor may be consumed while on the licensed "Off-Sale" premises.

7. Notwithstanding the provisions of this Ordinance, the City Council may, upon application and upon such other proof as may be deemed appropriate by the Council, grant special exceptions to the preceding sections regarding sales on a licensed premises or in public areas or parking lots. A special exception shall be limited to a period no longer than twenty-four(24) hours. The approval shall be further subject to proof of insurance for the type of event requested by the applicant. The City Council shall determine the fee to be charged for a special permit on a case-by-case basis.

Section 18. Identification.

1. Proof of Age. Proof of age for purposes of consuming, purchasing or possessing an Alcoholic Beverage, the consumption, sale, or possession of which is regulated by age, shall only be established by a valid driver's license issued by the State of Minnesota or of another state, or a current Minnesota identification card issued pursuant to Minnesota Statutes §171.07, a valid instructional permit issued under section 171.05 to a person of legal age to purchase alcohol which includes a photograph and the date of birth of the person issued the permit, or in the case of a foreign national, by a valid passport.

2. Refusal. No person shall refuse to show proper identification to the licensee, or the licensee's bona fide employees, or to a police officer when requested to do so. Refusal to do so shall be a violation of this Ordinance, if the person is then in an establishment licensed to sell Intoxicating Liquor, 3.2 Percent Malt Liquor or Wine, or is consuming, or possessing, Alcoholic Beverages outside such establishments.

Section 19. Underage Consumption. No person under the age of twenty-one (21) years shall consume any Alcoholic Beverage, unless the Alcoholic Beverage is consumed in the household of said person's parent or guardian and with the consent of the parent or guardian.

1. Penalty. A violation of this provision of this Ordinance is subject to the administrative penalty adopted by the City Council and set forth in the Royalton Schedule of Fee Charges.

Section 20. Prohibited Sale. Nothing under this Ordinance shall permit the manufacture, sale or transportation or keeping or having in possession for sale or transportation of, or taking or receiving, or soliciting, any order for any liquor of a greater alcoholic content than 3.2 by weight except for medicinal, pharmaceutical or scientific purposes, and any such act shall be unlawful. Any violation of this provision upon any premises licensed shall constitute grounds for revocation of the license and the license shall be automatically revoked upon a conviction of the violation of this provision.

Section 21. Suspension and Revocation of License. The City Council may suspend or revoke any license for any falsification of any statement in the application, for violation of any provision or condition of this Ordinance or any State law regulating the sale of Intoxicating Liquor, 3.2 Percent Malt Liquor and/or Wine, including child labor laws prohibiting minors from serving, dispensing or handling alcoholic beverages, including any violations or license conditions relating to the operation of the establishment, and shall revoke the license if the licensee willfully violates any provision of Minnesota Statutes §340A.501 to 340A.510. Suspensions shall not exceed sixty (60) days. Fines shall not exceed the statutory limit of $2,000.00 for each violation. Notice to the licensee for proposed revocation or suspension shall be given under the terms set forth in Minnesota Statutes §340A.415; a hearing shall be held by the Council and the revocation shall be made for cause. No portion of the license fee paid into the City shall be returned upon suspension or revocation.

Section 22. Penalties. Any person violating Section 17 or Section 18 of this Ordinance shall be guilty of a petty misdemeanor. Any person violating any other provision of this Ordinance shall be guilty of a misdemeanor, and shall be subject to a fine plus the costs of prosecution. The City Council may elect to handle the case with a civil hearing rather than criminal prosecution for any violation of the provisions of this Ordinance. The City's costs of civil hearings, including, but not limited to, court reporter and the City Attorney's fees, may also be charged against the licensee.

This ordinance shall supersede and repeal all prior and consistent ordinances. This ordinance shall be effective upon passage and publication required by law.

DATED: 10-8-2019

Carol Madsen
CLERK

Andrea Lauer
MAYOR