



**Olmsted County Code of Ordinances  
Chapter 2300 – Olmsted County Liquor Control Ordinance**

Olmsted County MN

Updated 08/22/2017

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# OLMSTED COUNTY LIQUOR CONTROL ORDINANCE

The County Board of Olmsted County Ordains:

## **Section 2300. State Law Provisions adopted.**

The County recognizes that many persons under the age of 21 years purchase or otherwise obtain, possess, and consume alcohol, and such sales, possession and use are violations of both State and Federal laws. The provisions of Minnesota Statutes, Chapter 340A, as they may be amended from time to time, including the definition of terms, application for license, conditions of license, restrictions on consumption, provisions on sales, condition of bonds of licenses, 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 chapter. It is the intention of Olmsted County that all future amendments to Minnesota Statute Chapter 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Ordinance is adopted.

## **Section 2301. Definitions and Interpretations.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The following terms have the definitions given to them:

### **Subd. 1. Alcohol or Liquor**

means any substance or item containing more than 3.2% of alcohol by volume that may be suitable for drinking or otherwise ingesting. The term "intoxicating" may also be used.

### **Subd. 2. Applicant**

means any person making an application for a license under this Ordinance.

### **Subd. 3. Bartending Services**

means the provision of alcoholic beverages by an individual(s) to guests at an event under circumstances that are not part of a commercial transaction for which a liquor license is not required.

### **Subd. 4 Bed and Breakfast Facility**

means a place of lodging that:

Subd. 1. provides not more than eight rooms for rent to no more than 20 guests at a time;

Subd. 2. is located on the same property as the owner's personal residence;

Subd. 3. provides no meals, other than breakfast served to persons who rent rooms;  
and

Subd. 4. was originally built and occupied as, or was converted to, a single-family residence prior to being used as a place of lodging.

**Subd. 5 “Bona fide Association of Owners and Operators of Wineries”**

is defined as an association of more than ten wineries that has been in existence for more than two years at the time of application for the temporary license.

**Subd. 6. Bowling Center**

means a business establishment where the game of bowling is offered and food and beverages are available for purchase.

**Subd. 7. Brew Pub**

is a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted in Minnesota Statutes Section 340A.24, subdivision 2.

**Subd. 8. Club**

means an incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which: (1) has more than fifty members; (2) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted on each year by the governing body. Such club or congressionally chartered veterans' organization must have been in existence for at least three years.

**Subd. 9. Commissioner**

means the Minnesota Commissioner of Public Safety.

### **Subd. 10. Compliance Check**

means the system the County uses to investigate and ensure that those authorized to sell alcohol are following and complying with the requirements of this ordinance. Compliance checks will involve the use of underage people as authorized by this ordinance. Compliance checks also mean the use of underage people who attempt to purchase alcohol for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to the sale of alcohol.

### **Subd. 11. Drugstore**

means any place where drugs are kept, compounded and sold, and which at all times is in charge of a registered pharmacist or a registered assistant pharmacist during the temporary absence of the registered pharmacist.

### **Subd. 12. Exclusive Liquor Store**

means an establishment used exclusively for the sale of those items authorized in Minn. Stat. Section 340A.412, Subd. 14.

### **Subd. 13. Farm Winery**

means a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.

### **Subd. 14. Hotel.**

means in any areas of the County outside the boundaries of a statutory or home rule charter city, an establishment where food and lodging are regularly furnished to transients and which has:

- (A) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and
- (B) at least 10 guest rooms.

### **Subd. 15. License**

means a document, issued by the County, to an applicant permitting the applicant to carry on and transact the business stated therein.

**Subd. 16. Licensee**

means an applicant who, pursuant to an approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the County for carrying on the business stated therein.

**Subd. 17. License Fee**

means the money paid to the County pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

**Subd. 18. Microdistillery**

is defined as a distillery operated within the state which produces premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

**Subd. 19. Off-Sale**

means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

**Subd. 20. On-Sale**

means the sale of alcoholic beverages for consumption on the licensed premises only.

**Subd. 21. Proof Gallon**

is defined as one liquid gallon of distilled spirits that is 50 percent alcohol at 60 degrees Fahrenheit.

**Subd. 22. Restaurant**

means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority.

**Subd. 23. Retail Establishment**

means any place of business where alcohol is available for sale to the general public. Retail establishments include, but are not limited to, grocery stores, convenience stores, bowling alleys, liquor stores, bars, pubs, and restaurants.

**Subd. 24. Sale, Sell, and Sold**

mean any transfer of goods for money, trade, barter, or other consideration.



**Subd. 25. 3.2 percent malt liquor, also referred to as "beer,"**

means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent of alcohol by weight.

**Subd. 26. Underage Person**

means any natural person who has not yet reached the age of twenty-one (21) years.

**Section 2302. License.**

**Subd. 1. General Requirements**

(a) General Requirements - No person shall sell or offer to sell any alcohol without having a current on sale or off sale license from the County in any areas of the County outside the boundaries of a statutory or home rule charter city. All licenses shall be subject to the approval of the Commissioner of Public Safety. No license may be issued under this Section unless the Town Board where the licensed premises are located adopts a resolution supporting the issuance of the license. The County will not issue or renew a license until the County Board has received 1) a written recommendation from the Sheriff and County Attorney stating that to the best of their knowledge, the applicant is eligible to be licensed under Minn. Stat. Section 340A.402 and Section 2304 of this Ordinance and 2) a recommendation from the Property Records and Licensing Department indicating that the property taxes on the premises are current, unless an installment payment plan for repayment of taxes is recommended by PRL pursuant to Section 2302, Subd. 15.

(b) Law Enforcement Temporary License Application Review – As part of the license application review, the Sheriff or designee will determine law enforcement staffing needed for an event requiring a temporary license by reviewing the following:

Type of event

Previous event history

Event details to include 1) name of band providing music, 2) location of event including whether it will be held inside or outside, 3) type of set up including where alcohol will be dispensed on the premises, type of alcohol to be sold and how access to alcohol only by adults of legal drinking age will be assured, and 3) expected attendance numbers for the event.

Depending on the type of event, licensee may be required to provide verification of required insurance coverage.

Temporary license applications need to be submitted to the Olmsted County Sheriff's Office Training Division for review a minimum of 60 days prior to the event. The Olmsted County Sheriff's Office determines the number of deputies needed based on expected

attendance, event history, and type of entertainment, actual entertainer contracted and other public safety concerns. In any case, a deputy costs \$60.00 per hour with a 4-hour minimum. If alcohol is being served or allowed to be present, a minimum of two (2) deputies is required. If the event falls on a legal holiday, cost is \$80 per hour per deputy with a 4-hour minimum. Payment of the anticipated cost to provide law enforcement staffing for the event must be made in full no later than 3:00 pm on the day prior to events falling on a Tuesday through Friday. Payment must be made in full no later than 3:00pm the Thursday preceding an event falling on a Saturday through Monday. If the event must be cancelled for any reason, the licensee must notify the Sheriff's Office a minimum of 24 hours prior to the start of the event. If proper notice is not given, the licensee will remain legally responsible for all previously arranged costs to provide law enforcement staffing for the event.

## **Subd. 2. On Sale Licenses / Permits**

A. **General** - The County may issue an annual on-sale license to a bowling center, restaurant, club, or hotel.

B. **Bed and Breakfasts** - Pursuant to Minn. Stat. Section 340A.4011, no license under this ordinance is required for a bed and breakfast facility to provide at no additional charge to a person renting a room at the facility not more than two glasses per day each containing not more than four fluid ounces of wine or up to 12 ounces of a Minnesota-produced beer. Wine or beer so furnished may be consumed only on the premises of the bed and breakfast facility. A bed and breakfast facility may furnish wine or beer only if the facility is registered with and subject to the conditions set by the Commissioner of Public Safety.

C. **Culinary Classes** - The County may also issue a limited on-sale intoxicating liquor license to a business establishment:

Subd. 1. not otherwise eligible for an on-sale intoxicating liquor license; and

Subd. 2. 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.

## **D. Brew Pubs**

Subd. 1. **On-Sale License.** The County may also issue a brew pub an on-sale intoxicating liquor or 3.2 percent malt liquor license for a restaurant operated in the place of manufacture.

Subd. 2. **Total retail sales.** A brew pub's total retail sales at on- or off-sale under this section may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

Subd. 3. **Interest in other license.**

(a) A brew pub may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler, or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control.

(b) Notwithstanding this prohibition, a brew pub may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

(1) manufacture licensed under Minnesota Statutes Section 340A.301, subdivision 6, clause (d);

(2) manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or

(3) manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under Minnesota Statutes Section 340A.301, Subd. 6, clause (d), on January 1, 1995.

**Subd. 4. Prohibition.** A brew pub licensed under this chapter may not be licensed as an importer under Minnesota Statutes Section 340A.302.

**E. Brewer's Taprooms –**

The County may also issue a "brewer taproom" class of license which authorizes on-sale of malt liquor produced by the brewer for consumption on the premises in a taproom at or adjacent to their brewery. No brewer shall operate more than one taproom in the unincorporated areas of the County and no brewer may have an ownership interest in a brew pub. Brewers producing over 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually may not operate a taproom. However, nothing in this subdivision precludes the holder of a brewer taproom license from also holding a license to operate a restaurant at the brewery. The brewer holding a brewer taproom license shall pay a licensing fee as set forth in Section 2303 below. The brewer shall provide proof of financial responsibility consistent with Section 2302, Subd. 7 below.

**F. Microdistilleries/Cocktail Room Licenses –**

Subd. 1. **Microdistilleries** - The County may also issue a license to microdistilleries that 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, pursuant to obtaining a Cocktail Room License.

Subd. 2. **Cocktail Room Licenses** – The County may also issue 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 subdivision precludes the holder of a microdistillery cocktail room license from also holding a license to operate a restaurant at the distillery. A distiller may only have one cocktail room license under this subdivision, and may not have an ownership interest in a distillery licensed under Minnesota Statutes 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.

G. **Private Nonprofit Colleges** - The County may also issue liquor licenses to private nonprofit colleges. The licenses may be issued for non-contiguous spaces and may authorize sale on all days of the week to persons attending events at the private, nonprofit college.

H. **Seasonal Licenses** - The County may also issue up to ten seasonal on-sale licenses to restaurants and clubs for the sale of liquor. Notwithstanding Minn. Stat. Section 340A.412, Subd. 8, a seasonal license is valid for a period specified by the County Board, not to exceed nine months. No more than one license may be issued for any one premise during any consecutive 12-month period.

I. **Required Screening for All On Sales Licensed Premises** - Any portion of on sale premises, including any structure and parking area therefor and intervening area between such structure and parking area, excepting an access drive at its intersection therewith, within 100 feet of a dwelling not owned or occupied by the licensee, without an intervening public road; public water or public open space, shall be screened there from by a solid wall or fence not less than 6 feet in height or a 6 foot wide landscaped area containing a continuous deciduous or evergreen hedge, with plantings having a minimum height of 15 inches at time of planting. Said hedge when mature shall be maintained in a good growing condition at a minimum height of 4 feet. These screening requirements may be waived by the County Board upon finding that an acceptable buffer exists as a result of significant topographical relief existing natural vegetation or other similar circumstances.

### **Subd. 3. Establishments with Consumption and Display Permits**

A. **Permit and Approval.** It shall be unlawful for any private club or public place directly, indirectly, or upon any pretense or by any device allow the consumption or display of intoxicating liquor, or the serving of any liquid for the purpose of mixing with intoxicating liquor in the unincorporated areas of the County of Olmsted without first

securing a permit from the Commissioner of Public Safety after receiving approval from the Olmsted County Board of Commissioners and paying the required annual fees.

B. **Fees.** The County's fee for the operation of a private club or public place having a consumption and display permit shall be as established by the Olmsted County Board of Commissioners and paid on or before March 31 of each year. If a portion of the year has elapsed when payment is made, a pro rata fee shall be paid, except that in computing such fee, any unexpired fraction of a month shall be counted as one month.

C. **Required Conditions for Approving Permits.**

(1) The regulatory provisions of Minnesota Statutes Section 340A.414, are hereby incorporated and made a part of this section as completely as if set out here in full.

(2) If a private club, the club shall have no members who are minors.

(3) The premises and use shall meet all applicable state and local building, health and zoning laws, ordinances, rules and regulations.

(4) Any portion of the bottle club premises, including any structure and parking area therefor and intervening area between such structure and parking area, excepting an access drive at its intersection therewith, within 100 feet of a dwelling not owned or occupied by the licensee, without an intervening public road; public water or public open space, shall be screened therefrom by a solid wall or fence not less than 6 feet in height or a 6 foot wide landscaped area containing a continuous deciduous or evergreen hedge, with plantings having a minimum height of 15 inches at time of planting. Said hedge when mature shall be maintained in a good growing condition at a minimum height of 4 feet. These screening requirements may be waived by the County Board upon finding that an acceptable buffer exists as a result of significant topographical relief, existing natural vegetation or other similar circumstances.

**Subd. 4. Off Sale Licenses**

A. The County may issue an off-sale intoxicating license to an exclusive liquor store or a combination off-sale and on-sale license to a restaurant within that town, pursuant to Minn. Stat. Section 340A.412, Subd. 14 and 340A.404, Subd. 6.

B. **Brew Pubs.** Notwithstanding Minnesota Statutes Section 340A.405, a brew pub that holds an on-sale license issued pursuant to this section may, with the approval of the commissioner, be issued a license by the County 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 unincorporated areas of the County, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores, except that malt liquor in growlers only may be sold at off-sale on Sundays. Sunday sales must be approved by the County and hours may be established by the County. Packaging of malt liquor for off-sale

under this subdivision must comply with Minnesota Statutes section 340A.285. All other conditions set forth above pertaining to brew pubs in Section 2302, Subd. 2D 2, 3, and 4 apply to this type of license as well.

C. **Microdistilleries.** A microdistillery may be issued a license for off-sale of distilled spirits. The license may allow the sale of one 375 milliliter bottle per customer per day of product manufactured on-site, subject to the following requirements:

Subd. 1. off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the County and

Subd. 2. no brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

All other conditions set forth above pertaining to microdistilleries in Section 2302, Subd. 2F 2, apply to this type of license as well.

D. **Small Brewers Off-Sale.** A brewer licensed under Minnesota Statutes Section 340A.301, subdivision 6, clause (c), (i), or (j), may be issued a license by the County for off-sale of malt liquor at its licensed premises that has been produced and packaged by the brewer. The license must be approved by the commissioner. A brewer may only have one license under this subdivision. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the unincorporated areas of the County, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores, except that malt liquor in growlers only may be sold at off-sale on Sundays. Sunday sales must be approved by the County and hours may be established by County as set forth in Section 2306, Subd. 7 below. Packaging of malt liquor for off-sale under this subdivision must comply with Minnesota Statutes Section 340A.285.

The County may 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.

E. No license may be issued under this subdivision unless a public hearing is held on the issuance of the license. Notice must be given to all interested parties and to any city located within three miles of the premises proposed to be licensed. At the hearing the County Board shall consider testimony and exhibits presented by interested parties and may base its decision to issue or deny a license upon the nature of the business to be conducted and its impact upon any municipality, the character and reputation of the applicant, and the propriety of the location. Any hearing held under this paragraph is not subject to Chapter 14 of the Minnesota Statutes.

### **Subd. 5. 3.2 Percent Malt Liquor Licenses**

A. **On-Sale and Off-Sale** - The County may issue off-sale or on-sale licenses for the sale of 3.2 percent malt liquor within its jurisdiction.

#### **B. Temporary On-Sale Licenses.**

(1) A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale of 3.2 percent malt liquor.

(2) The temporary on-sale license may authorize the sale of 3.2 percent malt liquor in any school or school buildings.

(3) Temporary licenses shall be subject to the terms set by the County.

C. **Who May Be Issued On-Sale 3.2 Percent Malt Liquor Licenses** - On-sale 3.2 percent liquor licenses may be issued only to drugstores, restaurants, hotels, clubs, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

D. **Duration of 3.2 Percent Malt Liquor License** - All retail 3.2 percent malt liquor licenses must be issued for one year, except that for the purpose of considering the time of expiration of license in general, licenses may be issued for a shorter time, in which case a pro rata license fee must be charged.

#### **E. Exemption –**

(1) Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale license under this section, and may sell 3.2 percent malt beverages at on-sale without further license.

(2) Any person licensed to sell intoxicating liquor at off-sale shall not be required to obtain an off--sale license under this section, and may sell non-intoxicating malt beverages at off-sale without further license.

### **Subd. 6. Temporary License**

A. **Applicant.** A state university, a political committee registered under Minn. Stat. Section 10A.14, or a club or charitable, religious, or nonprofit organization, duly incorporated as a nonprofit or religious corporation under the laws of the state, and having its registered office and principal place of activity within the County and having been in existence for at least three years, shall qualify for a temporary on-sale license in connection with a social event sponsored by the licensee.

B. **Conditions.** Conditions of the license shall be as follows:

- (1) An application for a temporary license shall state the exact dates and place of the proposed temporary sale.
- (2) No applicant shall qualify for a temporary license for more than four consecutive days.
- (3) A license may be issued for sales on premises other than premises which the licensee owns or permanently occupies.
- (4) The license may provide that the licensee may contract for catering services with the holder of a full year on-sale intoxicating liquor license issued by the County. In this case the full year on-sale intoxicating liquor licensee shall be stated in the application and the license.
- (5) The County may, but at no time shall it be under any obligation whatsoever to, grant a temporary license on premises owned or controlled by the County. Any such license may be conditioned, qualified or restricted as the County may determine. The applicant shall file with the County, prior to issuance of the license, 1) a \$1,500 refundable cash deposit to guarantee that the premises will be cleaned up after the expiration of the temporary license, and 2) a certificate of liability insurance coverage in at least the sum of \$100,000.00 for injury to any one person and \$300,000.00 for injury to more than one person, and property damage of at least \$10,000.00, naming the County as an insured during the license period.
- (6) The license shall be subject to the payment of a license fee as set by Resolution of the County Board.
- (7) The licensee shall be subject to all laws and County ordinances governing the sale of alcoholic beverages, except Minn. Stat. Section 340A.409, Subd. 4, and those laws and ordinances which, by their nature, are not applicable.
- (8) Licenses under this section are not valid unless first approved by the Minnesota Commissioner of Public Safety.

**C. Conditions for Temporary Licenses for Bona fide Association of Owners and Operators of Wineries –**

The County may issue a temporary license to a bona fide association of owners and operators of wineries in order to host an annual wine festival to showcase wines produced at their winery.

The temporary license authorizes:

- 1) Sale of table, sparkling, or fortified wines produced by the wineries at on-sale by the glass.



- 2) No more than two glasses per customer may be sold.
- 3) Dispensing free samples of wines offered for sale within designated premises of the festival.

**D. Conditions for Temporary Licenses for Farm Wineries at County Fair** - the County may issue a temporary license to a farm winery for on-sale at the Olmsted County Fair. The farm winery shall pay a licensing fee as set forth in Section 2303 below and the license must be approved by the Commissioner of Public Safety.

#### **Subd. 7. Moveable Place of Business.**

No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

#### **Subd. 8. Bartending Services.**

The County seeks to address the lack of awareness involving the provision of bartending services where alcoholic beverages are provided to guests at an event that may not be part of a commercial transaction. In these circumstances the bartending service may not be subject to any form of liquor license or any requirement to obtain liquor liability insurance. The resulting problem is that the event host is likely unaware of the liability he or she is assuming. The County Board adopts this provision in its effort to increase awareness regarding liability.

A. Any person providing bartending services at an event in the county shall notify Vital Records and Licensing not less than 60 days before the event and shall provide a copy of an agreement between the person or entity providing the bartending services and the event host. The agreement must identify whether the person or entity providing bartending services carries liquor liability insurance and if so, whether the policy contains an endorsement making the event host an additional insured.

B. Any person who violates this section is guilty of a petty misdemeanor with a maximum fine of \$300.

#### **Section 2303. Fees.**

The annual fee for a license shall be as set from time to time by the Olmsted County Board by resolution. No license or other fee established by the County Board will exceed any limit established by Minn. Stat. Section Ch. 340A, as it may be amended from time to time, for a liquor license. No license will be issued under this ordinance until the appropriate license fee shall be paid in full, except for any installment payment plans authorized under Section 2302, Subd. 15. If the application is denied, the license fee shall be returned to the applicant. No refund of any fee shall be made except as authorized by statute or this Ordinance.

## **Section 2304. Basis for Denial of License.**

Subd. 1. **Action.** The County Board may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the County Board approves the license, the Property Records and Licensing Department Director will issue the license to the applicant. If the County Board denies the license, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.

The procedures which must be followed in the event a) an exception or variance to any provision of this ordinance is sought where no process for an exception or variance has been spelled out in this ordinance, b) a violation of any provision of this ordinance occurs, or c) an appeal of a notice of violation is sought shall be governed by the Olmsted County Administrative Enforcement and Appeals Ordinance set forth in Chapter 4000 of the Olmsted County Code of Ordinances. However, no exception or variance may be granted for any license condition which is mandated by state or federal law.

Subd. 2. **Delinquent Taxes and Charges.** No License will be granted for operation on any premises upon which taxes, assessments, or other financial claims of the County, are owed and are delinquent and unpaid. However, the County may, at its sole discretion, permit a licensee to enter into an installment payment plan to repay outstanding taxes, or assessments so that the taxes will be paid in full prior to the time when the license is up for renewal. If the licensee fails to abide by the terms of this repayment plan, the entire remaining amount shall become due and payable immediately and the County may suspend the license pending payment in full of the outstanding balance.

Subd. 3. **Additional Grounds.** The following are grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the County must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of 21 years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to the sale and/or serving of liquor.
- C. The applicant has had an intoxicating liquor or non-intoxicating liquor license revoked within five years of the license application, or the applicant owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon,

or the application is for a corporation, partnership, association, enterprise, business, or firm in which the applicant is in any manner interested.

D. The applicant fails to provide any information required on the application, or provides false or misleading information.

E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

F. The applicant is not a person of good moral character and repute.

### **Section 2305. Prohibited Sales.**

It will be a violation of this ordinance for any person is to sell or offer to sell liquor:

A. To any person under the age of twenty-one (21) years.

B. By any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision or other regulations.

### **Section 2306. Responsibility.**

Subd. 1. **Applications.** An application for a license to sell alcohol shall be made on a form provided by the County. The application shall include, but is not limited to, the following information:

A. the full name of the applicant

B. the applicant's residential and business addresses and telephone numbers

C. the name of the business for which the license is sought

D. a complete listing of any and all convictions relating to any violations of state law or ordinances of any jurisdiction for the use or consumption of alcohol and a complete listing of any and all gross misdemeanor and/or felony convictions, whether alcohol related or not.

E. any additional information the County deems necessary.

Information required may vary with the type of liquor license the business is applying for. All licenses need to have an application, application fee and insurance policy completed and returned to the County Property Records and Licensing Department, prior to the year the license will be valid for. Upon receipt of a completed application, the Director of Property Records and Licensing shall forward the application to the County Board for action at its next regularly scheduled meeting. If the Director determines that an application is incomplete, he/she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2. **Financial Responsibility of Licensees.** No liquor license shall be issued or renewed until the applicant has provided proof of financial responsibility, consistent with Minnesota Statutes Section 340A.409, by filing with the County for the license period, information meeting the following requirements:

A. A certificate that there is in effect an insurance policy providing minimum coverage of at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, \$100,000 for loss of means of support of two or more persons in any one occurrence, \$50,000 for other pecuniary loss of any one person in any one occurrence, and \$100,000 for other pecuniary loss of two or more persons in any one occurrence;

B. a bond of a surety company with minimum coverages as provided in Subd. 2A above; or

C. a certificate of the commissioner of management and budget that the licensee has deposited with the commissioner of management and budget \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

D. In the event an applicant has added on to the premises where liquor is sold since initially receiving a liquor license, applicant shall provide verification of required insurance coverage for that added space to the County.

E. This does not prohibit an insurer from providing the coverage required by this subdivision in combination with other insurance coverage.

F. An annual aggregate policy limit for dram shop insurance of not less than \$300,000 per policy year may be included in the policy provisions.

G. A liability insurance policy required by this section must provide that it may not be canceled for:

(1) any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 60 days' notice in writing to the insured of intent to cancel the policy; and

(2) nonpayment of premium unless the cancelling party has first given ten days' notice in writing to the insured of intent to cancel the policy.

H. In the event of a policy cancellation, the insurer shall send notice to the County at the same time that a cancellation request is received from or a notice is sent to the insured.

Subd. 3. **Term.** All non – temporary licenses issued under this ordinance will be valid until December 31 of each year.

Subd. 4. **Transfers.** All licenses issued under this ordinance will be valid only on the premises for which the license was issued and only for the person or entity to which the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the County Board. 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 ordinance applying to applications for a license shall apply.

Subd. 5. **License Extension; Death of Licensee.** In the case of the death of a licensee, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee, pursuant to Minn. Stat. Section 340A.410, Subd. 3.

Subd. 6. **Display.** All licenses must be posted and displayed in plain view of the general public on the licensed premises.

Subd. 7. **Renewals.** The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least sixty days, but not more than ninety days before the expiration of the current license. The procedures which must be followed pertaining to a renewal are otherwise the same as those spelled out for an initial application in Section 2302.

Subd. 8. **Hours and Days of Liquor Sales.** The hours of operation and the days of sale are those set by Minn. Stat. Section 340A.504, as it may be amended from time to time, except that the County Board may, by resolution or ordinance, provide for more restrictive hours than state law allows. Effective July 1, 2017, the hours of operation and days of sale set by Minn. Stat. Section 340A.504 shall include sales on Sundays between the hours of 11:00 a.m. and 6:00 p.m. In addition, 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.

Subd. 9. Any change to the state laws referred to in this ordinance shall be deemed to incorporate corresponding changes to this ordinance by reference. All licensees under this Ordinance will be responsible for the actions of their employees in regard to the sale of alcohol or liquor products, on the licensed premises, and the sale of such items by an employee will be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the County from also subjecting the employee to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable laws or regulations. Licensee will be required to attend Alcohol Selling and Server Responsibility Training annually as provided by Olmsted County Sheriff's Office.

Subd. 10. **Revocation or Suspension.** Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties sections of this Ordinance.

## **Section 2307. Compliance Checks and Inspection.**

All licensed premises or any portion thereof will be open to inspection by County personnel during regular business hours or at any other time customers are permitted to be present without the need for a search warrant. The business records of the licensee, including Federal and State tax returns, shall be available for inspection by the duly authorized representatives of the County at all reasonable times.

From time to time, the County will conduct compliance checks by engaging underage people over the age of eighteen (18) years but less than twenty-one (21) years, to enter the licensed premises to attempt to purchase liquor. Underage people used for the purpose of compliance checks shall be supervised by County personnel. Underage people used for compliance checks will not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of liquor when such items are obtained or attempted to be obtained as a part of the compliance check. No underage person used in compliance checks will attempt to use false identification misrepresenting the underage person's age, and all underage people lawfully engaged in a compliance check will answer all questions about the underage people when they are asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section will prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal Law.

## **Section 2308. Other Illegal Acts.**

Unless otherwise provided, the following acts shall be a violation of this Ordinance.

### **Subd. 1. Illegal Sales.**

It will be a violation of this Ordinance for any person to sell or otherwise provide any liquor to any underage person as prohibited by Minnesota Statutes Section 340A.503, Subd. 2(1). For the purposes of consuming, purchasing or possessing liquor, age may only be established by producing one of the valid forms of identification authorized in Minnesota Statutes Section 340A.503, Subd. 6.

### **Subd. 2. Illegal Possession.**

It will be a violation of this ordinance for any underage person to have in his or her possession any liquor as prohibited by Minnesota Statutes Section 340A.503, Subd 3. This subdivision shall not apply to underage people lawfully involved in a compliance check.

### **Subd. 3. Illegal Use.**

It will be a violation of this ordinance for any underage person to consume any liquor as prohibited by Minnesota Statutes Section 340A.503, Subd. 1(a) (2).

**Subd. 4. Illegal Procurement.**

A. It will be a violation of this Ordinance for any underage person to purchase or attempt to purchase or otherwise obtain any liquor as prohibited by Minnesota Statutes Section 340A.503, Subd. 2(2),

B. It will be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of an underage person as prohibited by Minnesota Statutes Section 340A.503, Subd. 2(1) and 2(3).

C. This subdivision will not apply to underage people lawfully involved in a compliance check.

**Subd. 5. Use of False Identification.**

It will be a violation of this Ordinance for any underage person to attempt to disguise his or her own true age by the use of a false form of identification, as prohibited by Minnesota Statutes Section 340A.503, Subd. 5 and 6.

**Subd. 6. Illegal Gambling Devices.**

It will be a violation of this ordinance to permit any gambling or gambling device on any licensed premises, except such as are licensed under state law.

**Section 2309. Violations.**

**Subd. 1. Continued Violation.**

Each violation, and every day in which a violation occurs or continues, will constitute a separate offense.

**Subd. 2 License Sanctions.**

Any liquor license issued pursuant to the provisions of this ordinance may be suspended, revoked or placed on probation upon a finding that the licensee, during the term of the license or in connection with the application, transfer or renewal of such license:

A. Failed to comply with any applicable statute, rule or ordinance relating to alcoholic beverages;

B. Failed to comply with any condition set forth in the license, set forth in a County Board action regarding the license or set forth as part of the placement of the license on probation; or

C. Allowed the licensed business to be operated or maintained in a way that unreasonably annoyed, endangered or injured the safety, health, morals, comfort or repose of any considerable number of members of the public.

**Subd. 3. Grounds for Hearing –**

Whenever it appears to the Property Records and Licensing Department that adequate grounds may exist for the suspension, revocation or imposition of probation of a specific alcoholic beverage license, the Property Records and Licensing Department shall issue a notice of violation consistent with the requirements of County Administrative Enforcement and Appeals Procedure Ordinance specifying the nature of the alleged grounds and order that a hearing on the matter be held as provided in that ordinance.

**Subd. 4. Hearing –**

No such suspension, revocation or probation shall be effective until the license or permit holder has been afforded an opportunity for a hearing after reasonable notice. The notice shall state the time, place and issues to be addressed. All parties will be afforded an opportunity at the hearing to present evidence and argument concerning the issues. The County Hearing Officer shall approve written Findings of Fact, Conclusions of Law and an Order in support of its decision and shall have the Property Records and Licensing Department provide a copy to the licensee within 30 days of the conclusion of the hearing.

**Subd. 5. Licensing Sanctions –**

Upon a finding by the County Hearing Officer or following a subsequent appeal pursuant to the County Administrative Enforcement and Appeals Procedure Ordinance that the licensee or permit holder has violated any such statute, rule or ordinance, the County Board may:

- A. Suspend the license or permit for up to 60 days;
- B. Revoke the license or permit;
- C. Impose a civil fine not to exceed \$2,000 for each violation found as a result of the hearing; or
- D. Place the license on probation for a stated time period.

The County Hearing Officer or following a subsequent appeal the County Board may also impose conditions upon the license during the time of probation.

**Subd. 6. Suspension for Lack of Financial Responsibility –**

A license issued pursuant to this chapter may be summarily suspended by the County Hearing Officer or following a subsequent appeal, by the County Board, if the licensee fails to maintain financial responsibility in the manner required by Minnesota Statutes, Section 340A.409.



### **Subd. 7. Notification to Commissioner of Public Safety –**

The County Property Records and Licensing Department shall inform the Commissioner of any intoxicating liquor license transfer, cancellation, suspension, or revocation during the license period.

### **Subd. 8. Appeals.**

Appeals of any decision concerning a license suspension, revocation or probation shall be pursued consistent with the requirements of the Olmsted County Administrative Enforcement and Appeals Procedure Ordinance set forth in Chapter 4000 of the Olmsted County Code of Ordinances.

## **Section 2310. Penalties.**

### **Subd. 1. Licensees.**

Any licensee found to have violated this Ordinance, or whose employee has violated this Ordinance, will be charged an administrative penalty of \$100 for a first violation of this Ordinance; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$400 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the liquor license shall be suspended for not less than 10 days. Olmsted County Property Records and Licensing will notify licensee via certified mail with dates of suspension unless a request for a hearing is made by the licensee. All penalties for violations must be paid within 10 working days after the signed date on the certified mail receipt. If the penalty is not received within this 10 day period, the licensee will be subject to an additional penalty on a per day basis; at a rate of an additional \$5.00 per day fee, not to exceed the amount of the initial penalty charged.

### **Subd. 2. Other Individuals.**

Other individuals, other than underage people regulated by Subdivision 3 of this section, found to be in violation of this ordinance will be charged an administrative fee of \$50 for the first offense, and \$100 for the second and subsequent offenses. All penalties for violations must be paid within 10 working days after the signed date on the certified mail receipt. If the penalty is not received within this 10 day period, the individual will be subject to an additional penalty on per day basis; at a rate of an additional \$5.00 per day fee, not to exceed the amount of the initial penalty charged. If not paid within 10 days, it may be referred for criminal prosecution.

### **Subd. 3. Underage People.**

Underage people found in unlawful possession of, or who unlawfully purchase or attempt to purchase liquor, alcohol, or alcoholic beverages, will be subject to sanctions provided by state law.

**Subd. 4. Misdemeanor Prosecution.**

Each violation of this ordinance is a misdemeanor criminal offense punishable by up to a maximum of 90 days in jail and/or a \$1,000 fine. Nothing in this Section will prohibit the County from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance. If the County elects to seek misdemeanor prosecution, no administrative penalty will be imposed.

**Subd. 5. Failure to Pay Fine.**

Failure to pay a fine as levied above will be grounds for termination or suspension of the liquor license to sell alcohol.

**Section 2311. Exceptions and Defenses.**

Nothing in this Ordinance will prevent providing alcohol to an underage person as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this Ordinance for a person to have reasonably relied on proof of age as described by State law.

**Section 2312. Severability and Savings Clause.**

If any section or portion of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid or unenforceable, the validity of the remaining terms and provisions shall not be affected.

**Section 2313, Repeal of Previous Liquor Control Ordinance**

The County’s previous liquor control ordinance which was passed on November 8, 2011 as Ordinance 11-02 is hereby repealed in its entirety and replaced by this updated version of this ordinance.

**Section 2314. Effective Date.**

The changes to Section 2304, Subd. 1 and Section 2309 pertaining to the manner in which appeals of civil notices of violations and liquor license denials, suspensions or revocations are directed to a County Hearing Officer for initial review pursuant to the County Administrative Enforcement and Appeals Procedure Ordinance shall take effect shall take effect January 1, 2018.

Dated at Rochester, Minnesota this 22 day of August, 2017.

OLMSTED COUNTY BOARD OF  
COMMISSIONERS

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Ken Brown, Chairperson

ATTEST:

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Heidi Welsch, Clerk/Administrator

CONTACT COUNTY PROPERTY RECORDS AND LICENSING DEPARTMENT FOR CURRENT  
SCHEDULE OF LIQUOR LICENSE FEE POLICY, FEES AND APPLICATION PROCEDURES  
AND GUIDELINES

**End of Chapter 2300 – Liquor Control Ordinance**