

**ORDINANCE NO. 112**  
**AN ORDINANCE REGULATING**  
**THE POSSESSION, SALE AND CONSUMPTION**  
**OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR**  
**WITHIN THE CITY OF NEW YORK MILLS, MINNESOTA**

**THE CITY COUNCIL OF THE CITY OF NEW YORK MILLS, MINNESOTA DOES ORDAIN:**

***Section 1. ADOPTION OF STATE LAW BY REFERENCE.***

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

***Section 2. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.***

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

***Section 3. DEFINITIONS.***

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

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

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

***Section 4. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.***

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

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

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 28(B).

***Section 5. CONSUMPTION IN PUBLIC PLACES.***

No person shall consume intoxicating liquor or 3.2 percent malt liquor without first obtaining a permit, in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

For the purpose of this ordinance picnic shelters, athletic fields, historic festival sites and similar public facilities which are used periodically by families, clubs, charitable, religious and non-profit organizations shall be considered private when the facilities are reserved for in advance in accordance with policies approved by the City Council.

***Section 6. NUMBER OF LICENSES WHICH MAY BE ISSUED.***

The Council may in its sound discretion issue up to the maximum number of licenses authorized under the provisions of M.S. Ch. § 340A as it may be amended from time to time. The Council is not required to issue the full number of licenses it is authorized to issue.

***Section 7. TERM AND EXPIRATION OF LICENSES.***

All licenses except temporary licenses shall be issued for a period of one year. All 3.2 percent malt liquor licenses shall expire on February 28, or in leap years on February 29. All intoxicating liquor licenses shall expire on June 30 each year. The Council may change the date on which licenses expire by ordinance. Temporary licenses expire according to their terms. The City will pro-rate fees the first year for licenses which expire prior to twelve months.

**Section 8. KINDS OF LIQUOR LICENSES.**

The Council of the City of New York Mills is hereby authorized to issue the following liquor licenses:

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

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

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

(D) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters and clubs or congressionally chartered veterans organizations. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 9 of this ordinance shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(E) Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 9 of this ordinance, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, subd. 3c, as it may be amended from time to time.

(F) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(G) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in Section 3 of this ordinance; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 9 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

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

(I) Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 8 (M) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

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

***Section 9. LICENSE FEES; PRO RATA.***

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

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

(C) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(D) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, subd. 5, as it may be amended from time to time.

***Section 10. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.***

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. The Council may among other things consider the proposed site and its proximity to schools, churches, daycares and other similar facilities in determining if a license will be issued. No applicant has a right to a license under this Chapter.

***Section 11. APPLICATION FOR LICENSE.***

(A) *Form.* Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, the style and manner in which the applicant intends to conduct the

business, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

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

### ***Section 12. DESCRIPTION OF PREMISES.***

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

### ***Section 13. APPLICATIONS FOR RENEWAL.***

At least 30 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

### ***Section 14. TRANSFER OF LICENSE.***

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

### ***Section 15. INVESTIGATION.***

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

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive

background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

***Section 16. HEARING AND ISSUANCE.***

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

***Section 17. RESTRICTIONS ON ISSUANCE.***

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

(B) Not more than one license of a particular type shall be directly or indirectly issued within the city to any one person.

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

(D) No license shall be issued for any place or any business ineligible for a license under state law.

***Section 18. CONDITIONS OF LICENSE.***

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

(A) Within 90 days after the employees first date of employment and bi-annually thereafter, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers including training on how to deal with aggressive customers. Training must include how to respond to altercations, when to refuse service, liabilities of employees and employers and handling of aggressive or hostile customers. The training shall be provided by an organization approved by the Council. A list of the approved training organizations shall be available in the City Clerk's office. Proof of training shall be provided to the City Clerk's Office annually by the licensee at the time of application for license renewal. The Certificates of Training shall be displayed in a prominent location on the premises of the licensee's place of business.

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

the law equally with the employee. Employees shall report any violent, abusive or hostile acts to the Law Enforcement Agency immediately.

(C) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

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

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(F) Every licensee shall be responsible to ensure his business is conducted in the style and manner described in his application.

***Section 19. HOURS AND DAYS OF SALE.***

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows. For purposes of this section, the City Council is establishing by ordinance that on Mondays thru Thursdays and on any Sunday for an establishment with license to sell on Sundays, an establishment may not make any sale after 11:30 p.m., with closing no later than 12:00 midnight. On Fridays and Saturdays, and also on certain holidays including New Year's Eve, the 3<sup>rd</sup> of July, and Thanksgiving Eve, the last legal sale may occur no later than 12:30 a.m., with closing no later than 1:00 a.m.

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

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) It is unlawful for any person, other than an on-sale licensee or his or her bona fide employee actually engaged in the performance of his or her duties, to be on the licensed premises more than 30 minutes after the legal time for making licensed sales.

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

***Section 20. MINORS ON PREMISES.***

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

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

**Section 21. RESTRICTIONS ON PURCHASE AND CONSUMPTION.**

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

**Section 22. SUSPENSION AND REVOCATION.**

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

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

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

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

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

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

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

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

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

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

(D) The provisions of Section 28 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

**Section 23. EXISTING MUNICIPAL STORES.**

A municipal liquor store is hereby established to be operated within this municipality for the sale of liquor pursuant to MS 340A.601 as it may be amended from time to time.

**Section 24. LOCATION.**

The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on sale stores at other locations as it may, from time to time, by motion, determine.

**Section 25. OPERATION.**

(A) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law for the receipts and disbursements of city funds generally.

(B) *Hours of operation.* No off-sale liquor shall be made before 8:00 am or after 10:00 pm on any day per restrictions set forth under State Law.

**Section 26. PROOF OF FINANCIAL RESPONSIBILITY.**

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. § 340A.409, as it may be amended from time to time.

**Section 27. ISSUANCE OF OTHER LICENSES.**

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**Section 28. PENALTIES.**

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

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

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

- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term "violation" as used in Section 22 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

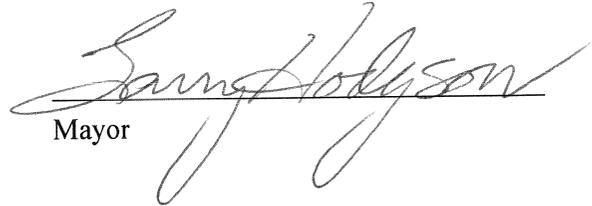
**Section 29. EFFECTIVE DATE**

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

**Section 30. SUMMARY APPROVED**

The Council hereby determines that the text of the summary of this ordinance marked "Official Summary of Ordinance No. 112," and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The City Clerk shall file a copy of this ordinance and the summary in the City Office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the New York Mills Public Library.

Adopted by the City Council on this 16<sup>th</sup> day of July 2007.

  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

**OFFICIAL SUMMARY OF ORDINANCE NO. 112,  
AN ORDINANCE REGULATING  
THE POSSESSION, SALE AND CONSUMPTION  
OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR  
WITHIN THE CITY OF NEW YORK MILLS, MINNESOTA**

The following is the official summary of Ordinance No. 112, which was passed by the City Council on 16<sup>th</sup> day of July 2007.

A printed copy of this ordinance is available for inspection by any person at the office of the city clerk during normal business hours, and at the community library, if there is one, or if not, in any other public location which the council designates.

The ordinance regulating the possession, sale and consumption of intoxicating and 3.2 percent malt liquor within this city contains the following provisions.

Section 1 adopts Minnesota Statutes Chapter 340A, as it may be amended from time to time, by reference.

Section 2 permits the city to be more restrictive than state law concerning the sale and possession of alcoholic beverages.

Section 3 defines "liquor" and "restaurant" as those terms are used in the ordinance.

Section 4 makes it is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of Section 29(B) of this ordinance.

Section 5 provides that no person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted

Section 6 limits the number of license which may be issued.

Section 7 establishes the term and expiration dates for licenses.

Section 8 establishes the kinds of licenses which may be issued including; 3.2 percent malt liquor on-sale, 3.2 percent malt liquor off-sale, temporary 3.2 percent malt liquor, on-sale intoxicating liquor, Sunday on-sale intoxicating liquor, temporary on-sale intoxicating liquor, on-sale wine culinary class limited on-sale, brew pub on-sale intoxicating liquor and brewer temporary on-sale intoxicating liquor.

Section 9 authorizes the establishment of license fees by ordinance or resolution.

Section 10 permits the Council, in its sound discretion, to grant or deny applications for licenses, or for the transfer or renewal of any license.

Section 11 describes the information required in an application for a license.

Section 12 requires a specific description of the premises to be licensed.

Section 13 provides that applications for renewal of licenses must be filed at least 30 days before the date of expiration, and permits the council in its sound discretion to renew or not renew a license.

Section 14 prohibits the transfer of a license without Council approval.

Section 15 requires background and financial investigations of applicants for a license, renewal of a license or transfer of a license.

Section 16 provides for a hearing on the issuance of a license.

Section 17 establishes restrictions on the issuance of a license.

Section 18 establishes the conditions of a liquor license that a licensee must follow to avoid suspension or revocation. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- Within 90 days after employment and bi-annually thereafter, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training of the servers shall be provided by the licensee.
- Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.
- Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.
- Every licensee shall be responsible to ensure his business is conducted in the style and manner described in his application.

Section 19 establishes the hours and days of sale which are consistent with those established by state law. In addition, the ordinance provides that:

- No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premise more than 30 minutes after the time when a sale can legally occur.
- No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

Section 20 prohibits minors and underage persons on licensed premises except under certain conditions:

- No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a waiter or waitress delivering food items, bus person or dishwashing services in places defined

as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

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

Section 21 prohibits persons from mixing or preparing liquor for consumption in any public place of business unless it has a license or permit.

Section 22 establishes the circumstances and procedures for suspension and revocation of a license. The Council is required to either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this ordinance relating to liquor. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. A schedule of minimum periods of suspension and for revocation is established.

Section 23 provides that Sections 24 to 28 apply to cities with municipal liquor stores.

Section 24 provides for the location of municipal liquor stores.

Section 25 provides for the operation of municipal liquor stores.

Section 26 provides for proof of financial responsibility of municipal liquor stores.

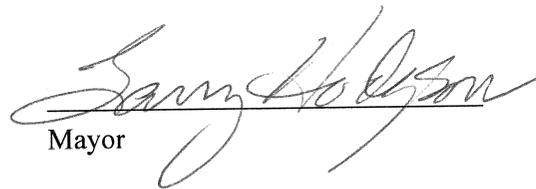
Section 27 provides for the issuance of other licenses by cities with municipal liquor stores.

Section 28 provides for penalties for violating this ordinance, including a schedule of civil penalties.

Section 29 establishes the effective date of the ordinance which is the date of the publication of this summary of the ordinance.

Section 30 approves this summary of the ordinance.

This summary was approved by the City Council of New York Mills, Minnesota, on the 16<sup>th</sup> day of July 2007.

  
Mayor

Attest:

  
City Clerk