

**CHAPTER 12.**  
**ALCOHOLIC BEVERAGES, CIGARETTES,**  
**AND CONTROLLED SUBSTANCES**

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12.10. <b>Intoxicating Liquor.</b>	

12.11. **Definitions.** For the purpose of this Chapter of this Code the terms defined in this section shall have the meaning given them.

12.11.1. **“Intoxicating liquor@ and Aliquor@** mean ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 per cent of alcohol by weight.

12.11.2. **ASale@ and “sell@ and Asold@** mean all barter and all manners of means of furnishing intoxicating liquors including such furnishing in violation or evasion of law.

12.11.3. **“Off sale@** means the sale of liquor in original packages in retail stores for consumption off or away from the premises where sold.

12.11.4. **“On sale@** means the sale of liquor by the glass for consumption on the premises only.

12.11.5. **AWholesale@** means any sale for the purposes of resale.

12.11.6. **AManufacture@** means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquors for sale.

2.11.7. **AWholesaler@** means any person engaged in the business of selling intoxicating liquor to retailers.

12.11.8. **APerson@** includes a natural person of either sex, a co-partnership, a corporation, an association of persons, and an agent or manager of any of the aforesaid.

12.11.9. **APackage@** or **“Original Package@** means any container or receptacle holding liquor, which container is corked or sealed.

12.11.10. **ASunday Sale@** means facilities for serving not less than thirty (30) guests at one time serving intoxicating liquor between the hours of twelve o'clock noon and twelve o'clock midnight on Sundays in conjunction with the serving of food.

12.11.11. **ARestaurants@** means any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests. Such establishment shall have facilities for seating not less than 50 guests.

12.11.12. **AExclusive liquor store@** is an on-sale or off-sale, or combinations. On-sale and off-sale establishments used exclusively for the sale of intoxicating liquor at retail and under the control of an individual owner or manager and as an incident thereof may also sell cigars, cigarettes, ice, all forms of tobacco, non-intoxicating malt beverages and soft-drinks at retail. An exclusive liquor store includes an on-sale or combination on-sale and off-sale establishment operating a restaurant or selling food for consumption on the premises.

12.11.13. **AClub@** means any corporation duly organized under the laws of the

state for civic, fraternal, social, or business purposes or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans=organization, which shall have more than 50 members, and which shall for more than a year have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

12.11.14. **3.2 Percent malt liquor**@mean any malt liquor containing not less than one-half of one percent alcohol by volume not more than 3.2 percent alcohol by weight.

12.11.15. “**Original package**@means any corked or sealed container or receptacle in which non-intoxicating malt liquor is placed at the time of manufacture.

12.11.16. **ASunday Sale**@means facilities for serving not less than fifty (50) guests at one time serving intoxicating liquor between the hours of twelve o'clock noon and twelve o'clock midnight on Sundays in conjunction with the serving of food.

12.11.17. “**Restaurants or Cafe**” means any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests. Such establishment shall have facilities for seating not less than 50 guests.

12.11.18. “**Wine**” means the product from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not more than 14 percent alcohol by volume for nonindustrial use, wine does not include distilled spirits.

12.11.19. “**Commissioner**” means the commissioner of the Department of Public Safety.

12.11.20 **“Intoxicating Malt Liquor”** means malt beverages containing more than 3.2 percent alcohol by weight.

12.12. **License Required.** No person except a wholesaler or manufacturer, to the extent authorized under state license, shall directly or indirectly deal in, sell whether it be on-sale or off-sale, or keep for sale in the City any intoxicating liquor, 3.2 malt beverage, wine, or intoxicating malt beverages without a license or when applicable a permit to do so as provided in this Chapter.

12.13. **Types of License:**

12.13.1. **“On-sale liquor licenses”** shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit Aon-sale@ of liquor only;

12.13.2. **“Off-sale liquor licenses”** shall be issued only to exclusive liquor stores and shall permit Aoff-sale@ liquor only;

12.13.3. **ASpecial club@** licenses shall be issued only in corporate clubs which have been in existence for 15 years or more or to congressionally chartered veterans= organizations which have been in existence for 10 years. Such a license shall be Aon-sale@ only;

12.13.4. **” 3.2 Percent Malt Liquor License”** No person shall sell, vend, deal in or dispose of, by gift, sale or otherwise, or keep or offer for sale, any 3.2 percent malt liquor within the City without first having obtained a license therefor. Licenses shall be of two kinds:

12.13.4.1. **AOn-sale@** licenses shall be granted only to drug stores, to cafes, restaurants or hotels where food is served for consumption on the premises or to bona fide clubs, and shall permit the sale of 3.2 percent malt liquor for consumption on the premises only;

12.13.4.2. **AOff-sale@** licenses shall be granted to permit the sale at retail or wholesale of 3.2 percent malt liquor in the original packages for removal from and consumption off the premises only.

12.13.5. **“On-sale Wine Licenses”** shall be issued only to restaurants and shall permit the sale of wine with up to 14% alcohol by volume with the consumption of food;

12.13.6. **“Bottle Club Licenses”** shall be issued only to Clubs that permit their members to deposit with the club for safe-keeping, containers of intoxicating liquor,

wine or intoxicating malt beverages owned by Club members and intended for consumption on Club property and not intend for resale by the Club or its members.

12.14. **Application for a Liquor License.** Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from the applicant. In addition to containing such information, the application shall be in the form prescribed by the liquor controlling commissioner and shall be verified and filed with the City Administrator. No person shall make a false statement in an application.

12.15. **Application for 3.2 Malt Beverage Licenses, “on-sale” Wine Licenses, Bottle Club Licenses & Temporary Permits. .**

12.15.1 **3.2 License Malt Beverage License.** All applications for any license to sell 3.2 percent malt liquor shall be made on forms supplied by the City setting forth the name of the person asking for the license, his citizenship, his age, references as to his character, the location where the business is to be carried on, whether applicant is owner and operator of such business, the time the applicant has been owner and operator of such business, the time the applicant has been in that business at that place, and such other information as the Council may require from time to time. No person shall make any false statement on an application. All applications for licenses shall be accompanied by a receipt from the City Administrator for the required annual fee for the respective license. All such fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the City Administrator shall refund the amount paid.

12.15.2. **Wine License.** Every application for a license to sell wine shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from the applicant. In addition to containing such information, the application shall be in the form prescribed by the liquor controlling commissioner and shall be verified and filed with the City Administrator. No person shall make a false statement in an application.

12.15.3. **Bottle Club License.** Application for such license shall be made to the City Administrator on a form supplied by the City. Such application shall state the full name and address of the applicant, the location of the building and the part

intended to be used by the applicant under such license, the kind of business conducted at such location, and such other information as shall be required by the application form. Upon the filing of the application with the City Administrator, the application shall be presented to the Council for consideration, and if granted by the Council, a license shall be issued by the City Administrator upon payment of the required fee.

**12.15.4. Temporary “on-sale” license for sale of 3.2. Malt Beverages.**

Application for such license shall be made to the City Administrator on a form supplied by the City. Such application shall state the full name and address of the applicant, the location of the building and the part intended to be used by the applicant under such license, the kind of business conducted at such location, and such other information as shall be required by the application form. Upon the filing of the application with the City Administrator, the application shall be presented to the Council for consideration, and if granted by the Council, a license shall be issued by the City Administrator upon payment of the required fee. The duration of any license issued pursuant to this section may not exceed 72 hours.

12.16. **Bond.** Each application for an intoxicating liquor license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided in Minnesota Statutes, Section 340A. Such surety bond or other security shall be in the sum or \$3,000.00 for an on-sale license and \$1,000.00 for an off-sale license.

12.16.1 All applications for on-sale 3.2 licenses and “on-sale wine licenses”, including temporary licenses, shall be accompanied by a corporate surety bond in the penal sum of \$300.00 with sureties approved by the Council, conditioned that the applicant will not violate any of the provisions of this Chapter and will not violate any of the laws of the State of Minnesota or the United States, relating to the manufacture, sale, or transportation or wine, 3.2 percent malt liquor, intoxicating malt liquor or intoxicating liquor.

12.17. **Approval of Security.** The security offered under this Chapter shall be approved by the council and, in the case of applicants for off-sale licenses, by the state liquor control commissioner. Surety bonds shall be approved as to form by the City attorney. Operation of a licensed business without having on file with City at all times effective security as required by this Chapter is a cause for revocation of the license.

12.18. **License Fees.** The annual fees for all licenses shall be as specified by Chapter 18 of the Tyler City Code.

12.18.1. Each application for a license shall be accompanied by a receipt from the City Administrator for a payment in full of the appropriate license fee. All fees shall

be paid into the general fund. If an application for a license is rejected, the City Administrator shall refund the amount paid

12.18.2. Each license shall be issued for a period of one year, except that if the application is made during the year, a license may be issued for the remainder of the license period for a prorated fee with any unexpired fraction of a month being counted as one month. Each license shall expire on November 1st of each year.

12.18.3. No refunds shall be made except as authorized by statute.

12.19. **Granting of Licenses.** The Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After investigation and hearing, the council shall, in its discretion, grant or refuse the application. No off-sale license shall become effective, until it, together with the security furnished by the applicant, has been approved by the liquor control commissioner.

12.20. **Transferability of License.** Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license.

12.21. **Persons Ineligible for License.** No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the City.

12.22. **Places Ineligible for License.** No license shall be issued for any place or business ineligible for any license under state law.

12.22.1. No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for six months.

12.22.2. No license shall be granted for operation on any premises on which taxes, assessment, or other financial claims of the City are delinquent and unpaid.

12.23. **Conditions of License.** Every license is subject to the conditions in the following subdivisions and all other provisions of this code and of any other applicable code, state law or regulation.

12.23.1. Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this code and law equally with the employee.

12.23.2. No non-sale establishment shall display liquor to the public during the hours when the sale of liquor is prohibited.

12.23.3. No licensee shall possess a federal wholesale liquor dealers special tax stamp or a federal gambling stamp. Any violation shall constitute conditions for the revocation of liquor license by council resolution.

12.23.4. No license shall be granted to any manufacturer or wholesaler of 3.2 percent malt liquor nor to anyone interested in the control of any such manufacturer and no equipment or fixtures in any licensed place shall be owned in whole or in part by any such manufacturer.

12.23.5. No license shall be granted for sales on any premises where a licensee has been convicted of a violation of this Chapter or where any license has been revoked for cause for at least one year after the conviction or revocation.

12.23.6. Licenses shall be granted only to persons who are citizens of the United States and of good moral character.

12.23.5. All licenses granted under this code shall be issued to the applicant only and shall be issued for the premises described in the application. A license shall not be transferred to another person or place without the approval of the City Council.

12.23.6. All licensed premises shall have the license posted in a conspicuous place at all times.

12.23.7. All premises where any license hereunder is granted shall be open to inspection by any police or health officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.

12.23.8. All sales made or had by any licensee shall be made by the licensee in person or an employee of lawful age.

12.23.9 No sale of any 3.2 percent malt liquor shall be made to any person under guardianship, nor to any person under 18 years of age.

12.47.1. **Approval of the Commissioner.** No Non-sale wine license" shall become effective, until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

12.24. **Hours.** Except as hereinafter provided, no sale of intoxicating liquor or 3.2 malt beverage shall be made after 1 A.M. on Sunday until noon on Sunday, or between the hours of 1 A.M. and 8 P.M. on any Election Day in the City.

12.24.1. No Non-sale@ shall be made between the hours of 1 A.M. and 8 A.M. on any weekday.

12.24.2. No Aoff-sale@ shall be made before 8 A.M. or after 10 P.M. on weekdays and Saturday.

12.24.3. No Aoff-sale@ shall be made on New Year's Day, January 1; Independence Day, July 4; Thanksgiving Day; or Christmas Day, December 25; but on the evenings preceding such days, if the sale of liquor is not otherwise prohibited on such evenings, Aoff-sale@ may be made until 10:00 P.M. except that no Aoff-sale@ shall be made on December 24, after 8 P.M.

12.25. **Premises to Be Vacant.**

12.25.1. All drinks shall be collected by personnel of the Licensee and shall be removed from the tables, bars or other areas available to the customers by not later than 1:30 A.M.

12.25.2. All patrons of the Licensee shall have vacated the premises not later than 1:30 A.M.

12.25.3. The Licensee and all employees of the Licensee shall have vacated the premises by 3:00 A.M., and there shall be no persons in the licensed premises between 3:00 A.M. and 6:00 A.M.

12.26. **Underage Consumption.** No licensee or employee of any licensee shall permit a person under the age of twenty-one (21) to purchase or consume alcoholic beverages on the licensed premises. It is unlawful for a person under the age of twenty-one (21) to purchase or attempt to purchase an alcoholic beverage.

12.27. **Clubs.** No club shall sell liquor except to members and to guests in the company of members.

12.28. **Misrepresentation of Age.** No person shall misrepresent age to purchase any type of alcoholic or non-alcoholic beverage.

12.29. **Revocation.** The violation of any provisions of this Chapter or of any laws of the State of Minnesota or of the United States relating to the manufacture, sale or transportation 3.2 percent malt liquors, intoxicating malt liquor, wine or liquor, shall be ground for revocation or suspension of the license. In all other cases, a license may be revoked or suspended by the council after written notice to the licensee and a public hearing. The notice shall give at least eight days notice of the time and place of the hearing and shall state the nature of the charges against the license. The Council may suspend any license pending a hearing on revocation or suspension.

12.39. **Prohibited Sale.** Except as otherwise allowed under other provisions of this Chapter, no person, corporation or firm shall permit the manufacture, sale or transportation, or keeping or having in possession for sale or transportation, or taking or receiving, or soliciting, any order for any liquor of a greater alcoholic content than 3.2 percent by weight, except for medicinal, pharmaceutical or scientific purposes, and any such act is hereby made unlawful. Any violation of this provision upon any premises licensed hereunder shall also constitute grounds for revocation of the license and the same shall be automatically revoked upon a conviction for violation of this provision.

12.40. **Combination of Licenses.** Any applicant granted an on-sale wine license under this Chapter, may subject to the following sell intoxicating malt liquor on the premises:

12.40.1 The applicant must have a valid 3.2 percent malt liquor license,

12.40.2. Notwithstanding any limit imposed by the City, the applicant's restaurant must be capable of seating at least 25 guests,

12.40.3. The applicant must demonstrate that 60% of the applicant's gross receipts are attributable to the sale of food.

12.48.4. The City Council must adopt an ordinance authorizing such sale.

12.50. **Authorization to Sell Intoxicating Malt Liquor.** The Tyler Golf Club of Tyler, Minnesota is authorized to sell intoxicating malt liquor "on sale" from its clubhouse facilities, subject to the following conditions:

12.50.01. The Tyler Golf Club shall maintain a valid license to sell "on-sale" wine with not more than 14% alcohol by volume.

12.50.02. The Tyler Golf Club shall maintain a valid license to sell “on-sale” malt liquor with not more than 3.2 percent alcohol by volume.

12.50.03. The Tyler Golf Club shall regularly sell prepared food to club members and the public.

## 12.50 Cigarettes.

12.51. **License Required.** No person shall, directly or indirectly, or by means of any device keep for retail sale, sell at retail, or otherwise dispose of any cigarette or cigarette wrapper at any place in the City unless a license therefore shall first have been obtained.

12.52. **Application and Issuance.** Application for such license shall be made to the Clerk on a form supplied by the City. Such application shall state the full name and address of the applicant, the location of the building and the part intended to be used by the applicant under such license, the kind of business conducted at such location, and such other information as shall be required by the application form. Upon the filing of the application with the City Administrator, the application shall be presented to the Council for consideration, and if granted by the Council, a license shall be issued by the City Administrator upon payment of the required fee.

12.53. **License Fee.** The fee for every such license shall be as set by Chapter 18 of the Tyler City Code. Licenses shall not be transferrable from one person to another.

12.58. **License Shall Be Displayed.** Every such license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

12.59. **Restrictions.** No license shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of cigarettes at any place other than his established place of business. No license shall be issued for the sale of cigarettes at a movable place of business; nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any cigarette, cigarette paper or cigarette wrapper to any person, below the age of 18 years. No person shall keep for sale, sell, or dispose of any cigarette containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine.

12.60. **Revocations.** Every such license may be revoked by the Council for a violation of any provision of this code if the licensee has been given a reasonable notice and an opportunity to be heard.

12.61. **Penalty.** Unless otherwise specified, a violation of this Chapter is a misdemeanor. Any person found guilty of this Chapter shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not to exceed 90 days, or both.