

**ORDINANCE 2011-02**

CITY OF DUNDAS  
STATE OF MINNESOTA

*An Ordinance Regulating Alcoholic Beverages*

**THE CITY COUNCIL OF THE CITY OF DUNDAS DOES ORDAIN:**

**SECTION 1.** Chapter 1102 “Liquor Regulations” is repealed in its entirety and is replaced with a completely new “Chapter 1102 Alcoholic Beverages” shown in italics as follows:

§1102.01      ADOPTION OF STATE LAW BY REFERENCE

The provisions of Minn. Stat. Ch. 340A, as they may be amended from time to time, 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 Minn. Stat. Ch. 340A are adopted.

§1102.02      CITY MAY BE MORE RESTRICTIVE THAN STATE LAW

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

§1102.03      DEFINITIONS

Unless the context clearly indicates otherwise, the words, combination of words, terms and phrases used in this article shall have the meanings set forth in Minn. Stat Ch. 340A and in this section.

In addition to the definition in Minn. Stat §340A.101, and as amended, the following terms are defined for purposes of this article:

“Liquor”, as used in this article, without modification by the words “intoxicating” or “3.2 percent malt” includes both intoxicating liquor and 3.2 percent malt liquor.

“Interest” includes any pecuniary interest in the ownership (of ten percent or greater), operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the license.

“Restaurant”, as used in this article, includes a food and beverage establishment licensed by the State of Minnesota.

§1102.04      NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS

PROHIBITED.

(1) The City Council finds it be in the best interests of the public health, safety and general welfare of the people of this city that certain types of activities are prohibited as provided in this section upon the premises of licensed liquor, wine and 3.2 malt liquor establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The Council also finds that the standard set forth in this section reflect the prevailing community standards of the city. The provisions of this section are intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council also intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conducts, including prostitution, sexual assault and disorderly conduct.

(2) 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, breast and genitals covered with a non-transparent material.

(3) A violation of this section is a misdemeanor and is justification for revocation or suspension of any liquor, wine or 3.2 malt beverage license.

§1102.05 CONSUMPTION IN PUBLIC PLACES

No person shall consume intoxicating liquor, wine 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 Chapter, unless the City Council has authorized such consumption in a designated area in advance by Council resolution.

§1102.06 LICENSE REQUIRED

(1) It is unlawful for an person directly or indirectly, on any pretense or by any device, to manufacture, import, sell, exchange, barter, dispose or keep for sale any intoxicating liquor or 3.2 percent malt liquor as part of a commercial transaction, whether directly or indirectly, without first having obtained a license therefor.

(2) The number of "On-Sale" licenses shall be limited to the number allowed under Minn. Stat. §340A.413, as amended.

(3) Not more than Five "Off-Sale" licenses shall be granted at any one time.

§1102.07 TYPES OF INTOXICATING LIQUOR LICENSES

(A) License Categories. Licenses for intoxicating liquor shall be of the following categories, which license shall be granted only for the purposes permitted by state statutes and limited by this chapter:

(1) On-sale intoxicating liquor, which may be issued only to restaurants, hotels, bowling centers, clubs and exclusive liquor stores and shall permit the sale

and consumption of alcoholic beverages on the license premises only. Club licenses may be issued only with the approval of the commissioner of public safety.

(2) On-sale wine licenses, with the approval of the commissioner of public safety to: to restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minn. Stat. §340A.404, subd.5, as it may be amended from time to time; to licensed bed and breakfast facilities which meet the criteria of §340A.401, subd.1; and to theaters which meet the criteria of §340A.404(b). 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 the content over 3.2 percent (strong beer) without an additional license.

(3) Sunday on-sale intoxicating liquor licenses, which may be issued only to a restaurant, bowling center, club 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 between the hours of 10:00 a.m. on Sundays and 2:00 am on Mondays.

(4) Off-sale intoxicating liquor, which may be issued only to exclusive liquor stores.

(5) 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 and manufacture and who meet the criteria established at Minn. Stat. §340A.301, subd. 6(d) and 7(b), and as amended. 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, 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.

(6) Brewer off-sale intoxicating liquor license, with the approval of the commissioner of Public Safety, may be issued to a brewer that is a licensee under this Chapter or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at §340A.301, subd. 6(d) and 7(b), as amended. Off-sale of malt liquor is limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by §340A.301, subd.7, as amended. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses an on-sale brew pub license under section 1102.07 (5) above, the brewer's total 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.

(7) Brewer temporary on-sale intoxicating liquor license, 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 city and sponsored by the brewer.

(8) 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 any calendar year.

(9) Combination on-sale/off-sale intoxicating liquor licenses.

(10) Culinary class limited on-sale license may be issued to a business establishment that meets the criteria of §340A.4041, and as amended.

(11) Temporary off-sale wine license, with the approval of the Commissioner of Public Safety, for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly offered by sale by any wholesaler in Minnesota. The license shall not authorize the off-sale of wine for more than three consecutive days provided not more than 600 cases of wine are sold at auction.

(B) Community Festivals. Any licensee authorized to sell intoxicating liquor, wine and/or 3.2 percent malt beverage may also dispense such alcoholic beverages off the licensed premises at a Community Festival held within the City of Dundas, if approved by Resolution of the City Council. The licensee must specify the area in which the alcoholic beverages must be dispensed and consumed, and shall demonstrate that it has liability insurance that covers the event, as prescribed by Minn. Stat. § 340A.409, as amended.

#### §1102.08 TYPES OF 3.2 PERCENT MALT LIQUOR LICENSES

Licenses for 3.2 percent malt liquor shall be of the following categories, which license shall be granted only for the purposes permitted by state statutes and limited by this chapter:

- (1) On-sale License
- (2) Off-sale License
- (3) Temporary 3.2 percent malt liquor license

#### §1102.09 APPLICATIONS FOR LICENSE

(1) Every application for a license issued under this chapter, new or renewal shall be on a form provided by the City. Such application form shall be completed by the applicant to the satisfaction of the City. If the application form is not completed to the satisfaction of the City, the form and the application fee shall be returned by the City to the applicant. Every application shall state the name of the applicant, the applicant's date of birth, driver's license number or other government approved identification (subject to review and approval of the city), with references as the city may require, the type of license applied for the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is the owner and operator of the business, who will manage the business, how long the applicant has been in that business at that place, and any other information as the city 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 by this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(2) Financial Responsibility. No license may be issued, maintained or renewed unless the Applicant demonstrates proof of financial responsibility as required by Minn. Stat. §340A.409 with regard to liability under §340A.801. Such proof shall be approved by the City Council and filed with the Commissioner of Public Safety.

#### §1102.10 LICENSE FEES

(1) Fee. The annual fee for all licenses shall be established by Chapter 101 and Chapter 300, section 300.11.

(2) Time of Payment. All license fees shall be paid in full at the time of filing the application for a license under this Chapter.

(3) Term: Pro Rata Fee. All license fees shall expire on the last day of June of each year. Each license shall be issued for a period of one year except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(4) Refunds. Pro rata refunds of license fees shall be permitted as authorized by Minn. Stat. §340A.408, subd.5, except that no part of the investigation fee is refundable.

(5) Failure to Pay. Failure to pay any required license fee automatically terminates the license and it may only be reinstated after a hearing before the council.

(6) Changes in Fee. Any change of a license fee shall take effect immediately for new licenses, but for renewal licenses, the fee shall take effect at the expiration of the current license year in which the new fee was approved.

#### §1102.11 INVESTIGATION

(1) The Council shall cause an investigation to be made of all the representations set forth in a license application under this Chapter. Every new or renewal application or application for transfer of a license shall be referred to the Dundas Police Department for investigation of each individual or person having any interest in the license.

(2) The Police Department shall make necessary inquiry and list all violations of federal and state law or municipal ordinance, including verified complaints that occurred at the establishment being investigated while under the same ownership. The findings and comments of the investigation shall be reported to the City Administrator, who shall order or conduct such additional investigations as are deemed necessary or as the council directs.

(3) Each application for a new license or renewal of a previously issued license shall be investigated as is deemed necessary by the fire chief and/or building official to establish that the business operation and structure to be licensed is in full compliance with all

building and fire codes, laws and regulations of the state and the City. No license shall be issued until the proposed operation and premises is found to be in full compliance with such building and fire codes, laws and regulations.

§1102.12 GRANTING LICENSE

(1) Persons and Places Ineligible. No license shall be granted to or held by any person, or issued for any place or business that is ineligible for such a license under state law. The city council shall not grant a license until the premises at issue has received a certificate of occupancy.

(2) Hearing. No license shall be granted until a public hearing shall have been conducted by the council at least ten days after published notice in the official newspaper, unless such license shall be a renewal of a license previously granted at the same location to the same licensee. The City Council shall give an opportunity at a regular or special meeting of the council to any person to be heard for or against the granting of a license.

(3) Council Discretion. 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. No applicant has a right to a license under this ordinance.

§1102.13 TRANSFER OF INTOXICATING LIQUOR OR WINE LICENSE

(1) 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 City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license. In all cases where the approval of the council is required, a new application, new investigation, new license fee and a new processing pursuant to this Chapter is required. The failure to obtain prior council approval or to produce books or other records in compliance with this Chapter is grounds for immediate revocation of the license.

(2) Each corporate licensee having a change in ownership of ten percent or more of the stock of the corporation shall report to the clerk within 10 days prior to each and any proposed change of legal ownership or beneficial interest in any of the shares of stock.

(a) The report shall be in writing and list all shareholders, their age, occupation, residence address and the number of shares held by each, whether individually or for the benefit of others.

(b) The report shall include all powers of attorney for proxies granted that relate to the voting of the corporate shares of stock.

§1102.14 TRANSFER OF 3.2 PERCENT MALT LIQUOR LICENSE.

A 3.2 percent malt liquor license is nontransferable with regard to the licensee or location of premises licensed.

§1102.15 CONDITIONS OF LICENSE

Any license granted under this Chapter is subject to the following conditions, any and all conditions imposed by the city council at the time of issuance or renewal, all other conditions of this chapter and all other applicable ordinances of the City, and all regulations promulgated by the commissioner of public safety and statutes of the State of Minnesota.

(1) No license shall be granted for operation on any premise on which taxes, assessment or other claims of the City are delinquent and unpaid.

(2) No license shall be issued to a location within 350 feet of any school or within 350 feet of any church.

(3) Every license is granted subject to the conditions of this Chapter and any other applicable city ordinances and state laws and regulations.

(4) Each licensee is responsible for the conduct of their place of business and the conditions of sobriety and order therein.

(5) Any peace officer, health officer, or any properly designated officer or employee of the City shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant.

#### §1102.16 HOURS AND DAYS OF SALE

(1) The hours and days of sale shall be those established by Minn. Stat. §340A.50, as amended.

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

(3) No on-sale licensee shall permit any glass, bottle, or other container of intoxicating liquor, wine or 3.2 percent malt liquor 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.

(4) No person, other than the licensee and any employee, shall remain on the on-sale premises more than 30 minutes after the time when a sale can legally occur.

(5) Any violation of any condition of this section shall be grounds for revocation, suspension or nonrenewal of the license.

#### §1102.17 SALE AND POSSESSION OF INTOXICATING LIQUOR, WINE AND 3.2 PERCENT MALT LIQUOR ON PUBLIC SIDEWALKS

Notwithstanding any other ordinance provision to the contrary, the holder of an “On-Sale” License for premises which is located in the B-1 zoning district of the City, may apply for a temporary expansion of the licensed premises permit to allow sale and possession of alcoholic beverages on public sidewalks directly adjacent and contiguous to the permanently

licensed premises.

The City Council may grant such a permit on the terms and conditions specified in this section, and such other terms and conditions as the City Council may determine are necessary or advisable to protect the public health, safety and welfare. Applications shall be subject to the following requirements and procedures.

(A) APPLICATION FOR TEMPORARY EXPANSION AREA

(1) Application for a temporary expansion of the licensed premises shall be made on forms provided by the City and shall contain the following information, and such other information as the Council may require from time to time:

(a) The names, addresses and telephone numbers of the license holders, the owner of the premises, and the manager of the licensed establishment;

(b) A specific description and diagram of the area in which the temporary expansion activity is to occur. The description and diagram must include dimensions, barriers proposed to be used, ingress and egress arrangements, seating capacity, and other relevant information;

(c) The purpose for which the temporary expansion is sought and a description of planned activities, including food and beverage service, security plans (including lighting, sanitation, liquor control, etc.), and days and hours of operation;

(d) A detailed description of the methods that the licensee will use to ensure that consumption of alcoholic beverages is restricted to the licensed premises and the temporary expansion area, and that alcoholic beverages are not removed from those areas;

(e) Such other information as the City may deem necessary.

(B) CONDITIONS - TEMPORARY EXPANSION AREA

(1) Approval of an application may be made subject to any appropriate restrictions or conditions, which may vary from establishment to establishment depending on the circumstances. As a minimum, the following restrictions and conditions shall apply:

(a) The temporary expansion area located on the public sidewalk must be immediately at the front of an establishment and not encroach on the sidewalk of any neighboring premises;

(b) Hours of operation shall be limited to between 11 a.m. and 10 p.m., subject to other limitations of the underlying on-sale license and subject to any greater restrictions which the City Council may determine should apply to a temporary expansion area due to its particular circumstances;

(c) The City Council may determine the specific days of operation which shall be specified in the permit. Sale or possession of alcoholic beverages within the temporary expansion area shall only be permitted between May 1 and October 1;

(d) Service of alcoholic beverages shall be only at tables and limited to the approved seating capacity in the temporary expansion area. Food service shall be available in the temporary expansion area during all hours of operation;

(e) The City Council may specify the type of beverage containers which may be used in a temporary expansion area, and may require a specific type and number of refuse containers to be provided within the area;

(f) An approved temporary barrier at least 30 inches in height shall be placed at the line of the temporary expansion area which adjoins any other neighboring premises, during the hours of operation;

(g) The licensee shall have submitted adequate plans addressing liquor control and other public safety concerns, and shall comply with all such plans which are approved by the City when the permit is issued under this section, at all times.

(h) At least four (4) feet of sidewalk must be maintained outside the temporary expansion area for barrier free (including wheelchair accessible) pedestrian traffic;

(i) All temporary barriers, tables and chairs, and other property of the licensee shall be removed from any public sidewalk within the temporary expansion area at all times other than the hours of operation;

(j) The licensee shall be responsible for picking up trash and litter generated in the operation of the temporary expansion area, and within a reasonable distance (minimum of 20 feet) from the area;

(k) All applicable liquor laws shall be strictly observed by the licensee and his or her employees;

(l) The licensee shall maintain general liability insurance expressly covering any temporary expansion area which is on public property or sidewalks, with the minimum of \$500,000.00 combined single limit, and shall name the City of Dundas as an additional insured thereon. The licensee shall provide proof of such insurance to the City prior to the issuance of any permit under this section, and from time to time upon reasonable request of the City;

(m) Issuance of the permit under this section shall indicate that the licensee has agreed to defend, indemnify and hold the City, its officers, employees and agents, harmless from any claims, damages, losses, costs and expenses which may arise as a result of the use of temporary expansion area by the licensee and his or her employees, agents and customers.

Additionally, the licensee shall be responsible for the cost of any clean-up required by reason of such use, whether within or outside the temporary expansion area, which may be incurred by the City. The City shall have a lien against the licensed premises for any such claim, damage, loss, cost or expense which is paid by the City.

(n) The licensee shall post notice to all patrons that they must remain within the temporary expansion area while possessing or consuming any alcoholic beverages. The notice shall also advise patrons that they are subject to citation by the City of Dundas if they leave the temporary expansion area with any alcoholic beverage.

#### (C) VIOLATION

In addition to any other penalties which may be available under the general liquor ordinances, and regardless of any other limitations or sanctions which may be imposed by the City, any violation of this section, or of a material term or condition of a permit issued hereunder, or any applicable liquor law or ordinance, shall be cause for the immediate suspension of a temporary expansion permit by the Dundas Police Department, subject to review by the City Council at its next regular meeting upon request by the licensee. If the City Council finds that a material violation of this section, or of a material term or condition of a permit issued hereunder, or of any other applicable liquor law or ordinance has occurred, the City Council may suspend or revoke a temporary expansion permit in its sole discretion.

#### §1102.18 SUSPENSION AND REVOCATION

The City 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 ordinance relating to liquor. Neither the charging of a criminal violation nor a criminal conviction is required in order for the Council to suspend or revoke a license. 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 Minn.Stat. §§14.57 to 14.70 of the Administrative Procedures Act, as amended. The Council may act as the hearing body, or it may contract with the Minnesota Office of Administrative Hearings or other appropriate agency for a hearing officer.

Lapse of required dram shop insurance or bond, or withdrawal of required deposit of cash or securities, shall affect an immediate suspension of any license pursuant to this ordinance without any action of the City Council. Notice of Cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee to the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a

required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the clerk, a hearing shall be granted within ten days, or such longer period as may be requested. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirement of this ordinance has again been met.

§1102.19 PENALTIES

1. Any person violating any provision of this ordinance or Minn. Stat. Chapter 340A, as amended, shall be guilty of a misdemeanor and upon conviction shall be punished criminally as provided by law.

2. The Council shall impose a civil penalty not to exceed \$2,000.00, for each violation of this ordinance and Minn. Stat. Ch. 340A. These civil penalties shall be in addition to any criminal penalties imposed under this section or any suspension or revocation under section 1102.18.

**SECTION 2.** This ordinance becomes effective from and after its passage and publication in accordance with law.

**BE IT FURTHER ORDAINED BY THE CITY COUNCIL FOR THE CITY OF DUNDAS:**

1. The Attached Summary of Ordinance 2011-02 is hereby approved for publication.

**ADOPTED** by the Dundas City Council, of Dundas, Minnesota, on this 22 day of August 2011.

CITY OF DUNDAS BY:

ATTESTED TO BY:

\_\_\_\_\_  
Nathan Ryan, Acting Mayor

\_\_\_\_\_  
John McCarthy, City Administrator/Clerk

Ordinance 2011-02

\_\_\_\_\_Switzer, \_\_\_\_\_Ryan, \_\_\_\_\_Pribyl, \_\_\_\_\_Modory, \_\_\_\_\_Carroll

Publication in *Northfield News* on: Saturday, August 27, 2011

**ATTACHMENT:** Summary of Ordinance 2011-02

**SUMMARY OF  
ORDINANCE 2011-02**

CITY OF DUNDAS

STATE OF MINNESOTA

*An Ordinance Regulating Alcoholic Beverages*

**The following is the official summary of Ordinance 2011-02, which was approved and adopted by the Dundas City Council on August 22, 2011:**

Chapter 1102 “Liquor Regulations” is repealed in its entirety and is replaced with a completely new Chapter 1102 “Alcoholic Beverages”.

A copy of the entire Ordinance 2011-02 is available for inspection by any person during regular office hours at the Dundas City Hall, 216 Railway Street North, Dundas, Minnesota 55019; and is posted at the Dundas City website: [www.cityofdundas.org](http://www.cityofdundas.org).

ADOPTED BY THE DUNDAS CITY COUNCIL on the 22nd day of August 2011.

Published by order:  
John McCarthy, City Administrator/Clerk  
in the *Northfield News* on August 27, 2011