

CITY OF APPLE VALLEY
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF APPLE VALLEY, MINNESOTA, AMENDING
CHAPTER 111 OF THE CITY CODE REGULATING ON-SALE AND OFF-SALE OF
ALCOHOL AT BREWPUBS, BREWER TAPROOMS & MICRODISTILLERIES

The City Council of Apple Valley ordains:

Section 1. Chapter 111 of the Apple Valley City Code is hereby amended by revising
Section 111.01 to read as follows:

§ 111.01 ESTABLISHMENT.

There are hereby established municipal liquor stores for the on-sale and off-sale of
intoxicating liquor. No liquor may be sold off-sale at retail elsewhere in the City, unless
otherwise authorized in this chapter.

Section 2. Section 111.21 of the Apple Valley City Code is hereby amended to add the
following definitions:

§ 111.21 DEFINITIONS.

BREW PUB means a restaurant establishment holding an on-sale intoxicating liquor
license in which malt liquor is brewed or manufactured solely for sale and consumption on tap
on the licensed premises that shall be owned by the brewer or for off-sale from the licensed
premises as permitted herein.

BREWER TAPROOM means an area on the premises of a brewery or on premises
adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides
exclusively malt liquor produced by the brewer for consumption within the brewer taproom.

COCKTAIL ROOM means an area on the premises of a microdistillery or on premises
adjacent to a microdistillery owned by the distiller in which the distiller sells or otherwise
provides exclusively distilled spirits produced by the distiller for consumption within the cocktail
room.

DISTILLED SPIRITS means ethyl alcohol, hydrated oxide of ethyl, spirits of wine,
whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof,
for nonindustrial use.

MICRODISTILLERY means a distillery operated within the state producing premium,
distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

PROOF GALLON means one liquid gallon of distilled spirits that is 50 percent alcohol
at 60 degrees Fahrenheit.

Section 3. Chapter 111 of the Apple Valley City Code is hereby amended by revising Section 111.38 to read as follows:

§ 111.38 TEMPORARY ON-SALE INTOXICATING LIQUOR LICENSES.

The City Council may authorize issuance to: (1) a club or charitable, religious or non-profit organization, in existence for at least three years, a temporary license for the on-sale of intoxicating liquor; (2) a brewer that manufactures less than 3,500 barrels of malt liquor in a year and is licensed by the Minnesota Commissioner of Public Safety a temporary license for the on-sale of malt liquor produced by the brewer; and (3) a microdistillery as defined herein and licensed by the Minnesota Commissioner of Public Safety for a temporary license for the on-sale of distilled spirits manufactured by the microdistillery, provided the on-sale is in connection with a social event within the City sponsored by the licensee. The temporary license herein may authorize the on-sale of liquor for be for a duration not be for more than three four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The A license issued to a club or charitable, religious or non-profit organization may provide that the licensee may contract for liquor catering services with the holder of a full-year on-sale liquor license issued by a municipality. The licenses are subject to the terms, including the license fee, normally imposed by the City. The licenses issued under this Section are subject to all laws and ordinances governing the sale of intoxicating liquor alcoholic beverages, including furnishing a form of proof of financial responsibility as provided in § 111.28(C). Temporary licenses must first be approved by the Minnesota Commissioner of Public Safety before they become valid.

Section 4. Chapter 111 of the Apple Valley City Code is hereby amended to add Section 111.39 to read as follows:

§ 111.39 BREWPUB LICENSE AND REGULATIONS.

(A) It is unlawful for any person or entity, directly or indirectly, to operate a brewpub without the appropriate license issued by the Minnesota Commissioner of Public Safety in accordance with Minnesota Statutes, Chapter 340A, or to sell, barter, keep for sale or otherwise dispose of malt liquor on or from the premises on which the malt liquor is manufactured or brewed without an on-sale intoxicating liquor license or an off-sale license therefor from the City as provided herein. A brewer who holds a brewer license issued by the Minnesota Commissioner of Public Safety for the operation of a brewpub shall be subject to the provisions of this Chapter, all other applicable provisions of the City Code, and other state and local laws relating to the operation of the licensee's business.

(B) A licensed brewpub shall be subject to the following regulations:

(1) The brewpub shall be operated in and as a part of a restaurant establishment for which an on-sale intoxicating liquor license may be, and has been, issued.

(2) An off-sale license may be issued solely for the malt liquor produced and packaged on the licensed premises and only upon approval of the license by the

Minnesota Commissioner of Public Safety. An off-sale license issued hereunder shall be subject to the payment of an annual off-sale malt liquor license fee as duly adopted and set forth in Chapter 35, Appendix Fee Schedule.

(3) The off-sale of malt liquor from the licensed premises shall be limited to the legal hours for off-sale intoxicating liquor and shall be removed from the premises before the off-sale closing time requirements. Off-sale of malt liquor on Sundays between the hours of 8:00 a.m. and 10:00 p.m. may occur provided the licensee has a valid Sunday sale permit from the City and only 64-ounce containers, commonly known as "growlers", of malt liquor that was manufactured and brewed on the licensed premises may be sold. Malt liquor sold off-sale shall be packaged as required by state law set forth in Minn. Stat. Ch. 340A.

(4) Only malt liquor may be brewed or manufactured at the licensed premises and no more than 3,500 barrels of malt liquor in a year may be brewed or manufactured at the licensed premises.

(5) The entire production of malt liquor is solely for consumption on tap on the licensed premises or for off-sale for personal consumption from the licensed premises. No wholesale sale or sale for re-sale of the malt liquor shall be conducted.

(6) The malt liquor manufactured or brewed on the licensed premises and sold off-sale shall be packaged in 64-ounce containers, commonly known as "growlers", or 750 milliliter bottles with a twist-type closure, cork, stopper, or plug as required by Minn. Stat. Chapter 340A.

(7) At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container.

(8) The container shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquors unless the alcohol content is labeled as otherwise in accordance with the provisions of Minnesota Rules.

(9) The brewpub's total retail sales at on- and off-sale may not exceed 3,500 barrels per calendar year, provided that off-sales may not total more than 500 barrels. Commencing with a license renewal immediately following the first year which the license was initially issued, the licensee shall submit to the City Clerk a certified statement declaring the number of barrels of malt liquor produced and sold off-sale for the most recent preceding 12-month period beginning September 1 the preceding year and ending August 31 of the current license year.

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

direction or control. Notwithstanding this prohibition, a brewer licensed under this provision may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

(a) As a brewpub as defined herein and limited to the regulations of a brewpub by this chapter;

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

(c) Manufactured in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture, if the brewer was licensed subject to the regulations herein on January 1, 1995.

(11) A brewpub holding an on-sale intoxicating liquor license shall be subject to all of the provisions and regulations for such license. A brewpub holding an off-sale license for the sale of malt liquor brewed on the premises shall be subject to all of the provisions and regulations for off-sale licenses set forth in this chapter.

Section 5. Chapter 111 of the Apple Valley City Code is hereby amended to add Section 111.40 to read as follows:

§ 111.40 BREWER TAPROOM ON-SALE LICENSE.

(A) It is unlawful for any person or entity, directly or indirectly, to operate a brewer taproom or to sell, barter, keep for sale or otherwise dispose of malt liquor on or from the premises on which the malt liquor is manufactured or brewed without an on-sale brewer taproom license or an off-sale malt liquor license from the City. This Section does not apply to the disposal of home brewed or manufactured of malt liquor which is defined as brewed malt liquor in quantities of ten gallons or less.

(B) An on-sale brewer taproom license may be issued only to a brewer who holds a brewer license issued by the Minnesota Commissioner of Public Safety under Minn. Stat. §340A.301, subdivision 6, clause (c), (i) or (j). An on-sale brewer taproom license shall be subject to the following requirements:

(1) Only malt liquor produced by the brewer on the licensed premises may be sold or consumed on the licensed premises.

(2) The financial responsibilities required under this Chapter for on-sale intoxicating licenses shall apply to an on-sale brewer taproom license issued under this Section.

(3) All provisions of this Chapter that apply to an on-sale intoxicating liquor license shall apply to an on-sale brewer taproom license issued under this Section, unless the provision is explicitly inconsistent with this Section.

(4) An on-sale brewer taproom licensee may only have one brewer taproom license under this Section.

(5) An on-sale brewer taproom licensee may not have an ownership interest in a brewpub brewery licensed under Minn. Stat. §340A.301, subdivision 6, clause (d).

(6) No on-sale brewer taproom license shall be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(7) The license hereunder shall be subject to the payment of an annual on-sale brewer taproom license fee as duly adopted and set forth in Chapter 35, Appendix Fee Schedule.

(8) The license hereunder shall be subject to all the provisions under Minn. Stat. Chapter 340A (2014 and as may be hereafter amended) as applicable to brewer taproom licenses.

Section 6. Chapter 111 of the Apple Valley City Code is hereby amended to add Section 111.41 to read as follows:

§ 111.41 BREWER OFF-SALE MALT LIQUOR LICENSE.

(A) It is unlawful for any person or entity to sell, barter, keep for sale or otherwise dispose of malt liquor, directly or indirectly, on or from the premises on which the malt liquor is manufactured or brewed for off-site consumption without an off-sale malt liquor license from the City. This Section does not apply to the disposal of home brewed or manufactured of malt liquor which is defined as brewed malt liquor in quantities of ten gallons or less.

(B) An off-sale malt liquor license may be issued only to a brewer who holds a brewer license issued by the Minnesota Commissioner of Public Safety under Min. Stat. §340A.301, subdivision 6, clause (c), (i) or (j). An off-sale malt liquor license shall be subject to the following requirements:

(1) An off-sale malt liquor license shall be issued exclusively for the premises on which the malt liquor is brewed and packaged.

(2) Only malt liquor brewed and packaged by the brewer on the licensed premises may be sold from the licensed premises.

(3) The off-sale malt liquor license issued by the City must be approved by the Minnesota Commissioner of Public Safety to be valid and effective.

(4) The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Commencing with a license renewal immediately following the year in which the license was initially issued, the licensee shall submit to the City Clerk a certified statement

declaring the number of barrels of malt liquor sold off-sale for the most recent preceding 12-month period beginning September 1 the preceding year and ending August 31 of the current license year.

(5) The off-sale of malt liquor from the licensed premises shall be limited to the legal hours for off-sale intoxicating liquor and shall be removed from the premises before the off-sale closing time requirements. Off-sale of malt liquor on Sundays between the hours of 8:00 a.m. and 10:00 p.m. may occur provided the licensee has a valid Sunday sale permit from the City.

(6) The malt liquor sold off-sale under the off-sale malt liquor license shall be packed in 64-ounce containers, commonly known as "growlers", or in 750 milliliter bottles, except only "growlers" may be sold off-sale on Sundays provided a Sunday sale permit has been issued. The containers or bottles shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100.

(7) A brewer may only have one license under this Section.

(8) No off-sale malt liquor license may be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 20,000 barrels of its own brands of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(9) The license hereunder is subject to the payment of an annual off-sale malt liquor license fee as duly adopted and set forth in Chapter 35, Appendix Fee Schedule.

(10) The license hereunder shall be subject to all the provisions under Minn. Stat. Chapter 340A (2015 and as may be hereafter amended) as applicable to brewer off-sale malt liquor licenses.

Section 7. Chapter 111 of the Apple Valley City Code is hereby amended to add Section 111.42 to read as follows:

§ 111.42 MICRODISTILLERY AND COCKTAIL ROOM.

(A) It is unlawful for any person or entity, directly or indirectly, to sell, barter, keep for sale or otherwise dispose of distilled spirits on or from the premises on which the distilled spirits are manufactured or produced without a microdistillery license from the Minnesota Commissioner of Public Safety and a license issued by the City as provided herein.

(B) *Samples.* A microdistillery with a valid license from the Minnesota Commissioner of Public Safety may provide to the public samples of distilled spirits manufactured on its premises in an amount not exceeding 15 milliliters per variety per person or 45 milliliters per person per day.

(C) *On-Sale Cocktail Room.* An on-sale cocktail room license may be issued only to a distiller who holds a microdistillery license issued by the Minnesota Commissioner of Public Safety under Minn. Stat. Chapter 340A. An on-sale cocktail room license shall be subject to the following requirements:

(1) Only distilled spirits produced by the distiller on the licensed premises may be sold or consumed on the licensed premises.

(2) The financial responsibilities required under this Chapter for on-sale intoxicating licenses shall apply to an on-sale cocktail room license issued under this Section.

(3) All provisions of this Chapter that apply to on-sale intoxicating liquor licenses shall apply to an on-sale cocktail room license issued under this Section, unless the provision is explicitly inconsistent with this Section.

(4) An on-sale cocktail room licensee may only have one on-sale cocktail room license under this Section.

(5) An on-sale cocktail room licensee may not have an ownership interest in a distillery licensed under Minn. Stat. §340A.301, subdivision 6, paragraph (a).

(6) No on-sale cocktail room license shall be issued to a distiller if the distiller seeking the license, or any person having an economic interest in the distiller seeking the license or exercising control over the distiller seeking the license, is a distiller that produces more than 40,000 proof gallons of distilled spirits in a calendar year.

(7) No single entity may hold both an on-sale cocktail room and on-sale brewer taproom license, and a cocktail room and brewer taproom shall not be co-located.

(8) The license hereunder shall be subject to the payment of an annual on-sale microdistillery cocktail room license application and license fees as duly adopted and set forth in Chapter 35, Appendix Fee Schedule.

(D) *Off-Sale Distilled Spirits.* An off-sale distilled spirits license may be granted to a microdistillery, subject to the limitations of this Chapter and the additional limitations as follows:

(1) The microdistillery may sell for off-sale only one (1) 375 milliliter bottle of distilled spirits per customer per day of product manufactured on-site;

(2) The off-sale of distilled spirits from the licensed premises shall be limited to the legal hours for off-sale intoxicating liquor and shall be removed from the premises before the off-sale closing time requirements and no off-sale sales shall occur on Sundays; and

(3) No brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

(4) The license hereunder shall be subject to the payment of an annual on-sale microdistillery cocktail room license fee as duly adopted and set forth in Chapter 35, Appendix Fee Schedule.

(5) The license hereunder shall be subject to all the provisions under Minn. Stat. Chapter 340A (2015 and as may be hereafter amended) as applicable to microdistillery cocktail room licenses.

Section 8. Summary approved. The City Council hereby determines that the text of the summary marked "Official Summary of Ordinance No. ____" a copy of which is attached hereto clearly informs the public of the intent and effect of the ordinance. The City Council further determines that publication of the title and such summary will clearly inform the public of the intent and effect of the ordinance.

Section 9. Filing. A copy of the ordinance shall be filed in the office of the City Clerk. This copy shall be available for inspection by any persons during regular office hours.

Section 10. Publication. The City Clerk shall publish the title of this ordinance and the official summary in the official newspaper of the City with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the Office of the City Clerk.

Section 11. Effective date. This ordinance shall take effect upon its passage and the publication of its title and the official summary.

PASSED by the City Council this ____ day of _____, 2015.

Mary Hamann-Roland, Mayor

ATTEST:

Pamela J. Gackstetter, City Clerk

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ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF APPLE VALLEY, MINNESOTA, AMENDING
CHAPTER 111 OF THE CITY CODE REGULATING ON-SALE AND OFF-SALE OF
ALCOHOL AT BREWPUBS, BREWER TAPROOMS & MICRODISTILLERIES

The following is the official summary of Ordinance No. ____ approved by the City
Council of Apple Valley on _____, 2015:

Apple Valley City Code, Chapter 111, governing the City's beer, wine and liquor
licensing and regulations, is amended to add definitions and to revise sections regulating
brewpubs, brewer taproom licenses, small brewery off-sale malt liquor licenses, Sunday
sale hours, microdistillery off-sale licenses and microdistillery cocktail room licenses.

A printed copy of the ordinance is available for inspection by any person during regular
office hours at the office of the City Clerk at the Apple Valley Municipal Center, 7100 147th
Street West, Apple Valley, Minnesota 55124.