

CITY COUNCIL SPECIAL MEETING AGENDA

Brainerd, Minnesota

June 11, 2018

7:30 P.M.

Brainerd City Hall

Council Chambers

1. **Call To Order - 7:30 PM**

2. **Roll Call**

___ G. Johnson ___ S. Hilgart ___ J. Lambert ___ K. Stunek

___ K. Bevans ___ D. Badeaux ___ D. Pritschet ___ Mayor Menk

3. **Unfinished Business**

A. **City Code Section 1200 - Liquor Ordinance Review**

Documents:

[City Code Section 1200 - Liquor Ord Review.pdf](#)

4. **Adjourn**

ANY INDIVIDUAL NEEDING SPECIAL ACCOMMODATIONS,
PLEASE CALL 828-2307

Visit the [City's Website](http://ci.brainerd.mn.us) (ci.brainerd.mn.us)

MISSION

"Provide high quality, cost effective public services and leadership in creating
a sustainable city"



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

MEMO

TO: Mayor and City Council

CC: Mayor and City Council
Cassandra Torstenson, City Administrator
Connie Hillman, City Finance Director
Joe Langel, City Attorney

FROM: Mark Ostgarden, City Planner

DATE: June 6, 2018

RE: Liquor Zone Size and Restaurant Definitions

At the last City council meeting, there was discussion about the area of the liquor zone and this is going to be a discussion item on June 11th. Attached is the original Liquor Zone Map and several ideas for reducing or enlarging the zone. A map with no boundary is also provided to give City Council members an opportunity to draw their own idea of the liquor zone area.

Following is information from other Minnesota cites related to a restaurant definition.

1. Bemidji

The class B-2 designation is reserved for restaurant licensees which, as of February 15, 1999, held an on-sale intoxicating liquor license issued by the city and whose gross receipts are at least 35 percent attributable to the sale of food from the restaurant. Class B-2 means any restaurant which, as of February 15, 1999, held an on-sale intoxicating liquor license issued by the city and whose minimum investment in real and personal property exceeds \$100,000.00 and whose gross receipts are at least 35 percent attributable to the sale of food from the restaurant.

2. Duluth

No percentage of sales.

Food Service - The restaurant which is the holder of the on-sale license must have facilities for serving not less than 30 guests at one time and must maintain an adequate staff, including a cook whose duties must include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant.

3. Grand Rapids

Does not have its own ordinance. Follows state statute language.

4. **Mankato**

I understand that after the first license renewal period following 12 months of documented food and alcohol sales, I will be required to meet one of the following (please check): ____ Class R (at least 60% food) ____ Class RB (40% to 59% food) or ____ Class B (under 40% food).

Subd. 2. Full Kitchen. "Full Kitchen" is a facility that contains commercial grade burners, ovens, range hoods and refrigeration units of such size and capacity to accommodate the seating of the restaurant.

Subd. 5. Liquor Service Manager. "Liquor Service Manager" is the license holder, their agent or any other individual responsible for overseeing the daily operations of the establishment and for compliance with state and local laws.

Subd. 7. Restaurant. "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority.

5. **Minneapolis**

I spoke with a liquor inspector in **Minneapolis** who confirmed that it had a percentage of sales requirement several years ago. She said it was done **because everyone cheated**. **St. Paul** also repealed the requirement several years ago.

6. **Moorhead**

Had a percentage requirement but it was removed several years ago.

(1) Meets the definition of a restaurant defined in section [2-3-2](#) of this chapter while the establishment is operating with a special hours license, and

RESTAURANT: Any establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for guests of thirty (30). For the purpose of obtaining a license according to section [2-3-3](#) of this chapter, a "restaurant" shall also include a banquet hall as defined in this section

(2) Maintains a substantial menu available during special hours which includes at least four (4) entrees, sandwiches, or other principal food items, and

(3) Keeps its business open for at least eight (8) continuous hours daily except Sunday, twelve (12) months a year, not including any hours authorized by its special hours license.

7. **New Ulm**

No percent of sales. Must have a limited food license to be considered a restaurant.

8. **St. Cloud**

"On-Sale licenses will be issued only to hotels, restaurants, including restaurants operated in the place of manufacture of a brewer licensed pursuant to Minn. Stat. §340A.301, subd. 1

Notwithstanding the provisions of Section 810:35 of this ordinance, any hotel, restaurant, taproom or club as defined in this ordinance to which an on-sale license has been issued, and which has facilities for serving not less than 30 guests at one time, may serve intoxicating liquors between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays in conjunction with the serving of food. Such establishment will maintain an adequate staff, including a cook whose duties will include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant, hotel, taproom or club.

9. **Stillwater**

On-sale wine license; application.

Subd. 1. On-sale wine licenses may be issued, with the approval of the commissioner, to a restaurant having facilities for seating at least 25 guests at one time. If the holder of this license is also licensed to sell 3.2 percent malt liquor at on-sale, and has gross receipts at least 60 percent attributed to the sale of food, the holder may also sell intoxicating malt liquor on-sale without an additional license.

The person I spoke to said the percent of sales isn't relevant anymore, provided the establishment meets the Washington County Health Department definition of a restaurant. A licensing inspector with the county explained it as follows SS157.15:

Subd. 5. Food and beverage service establishment.

"Food and beverage service establishment" means a building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

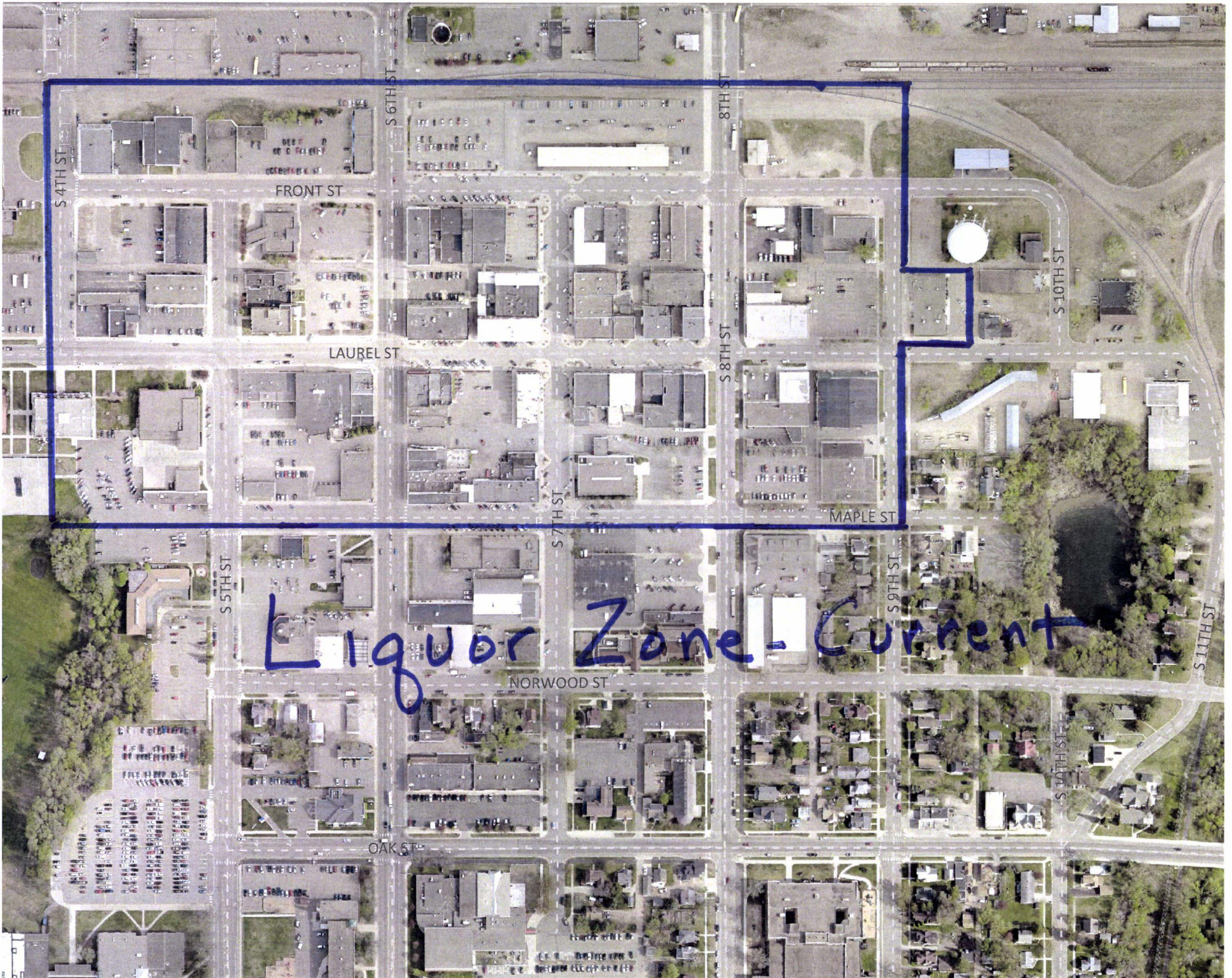
Subd. 7a. Limited food establishment.

"Limited food establishment" means a food and beverage service establishment that primarily provides beverages that consist of combining dry mixes and water or ice for immediate service to the consumer. Limited food establishments must use equipment and utensils that are nontoxic, durable, and retain their characteristic qualities under normal use conditions and may request a variance for plumbing requirements from the commissioner.

Subd. 12. Restaurant.

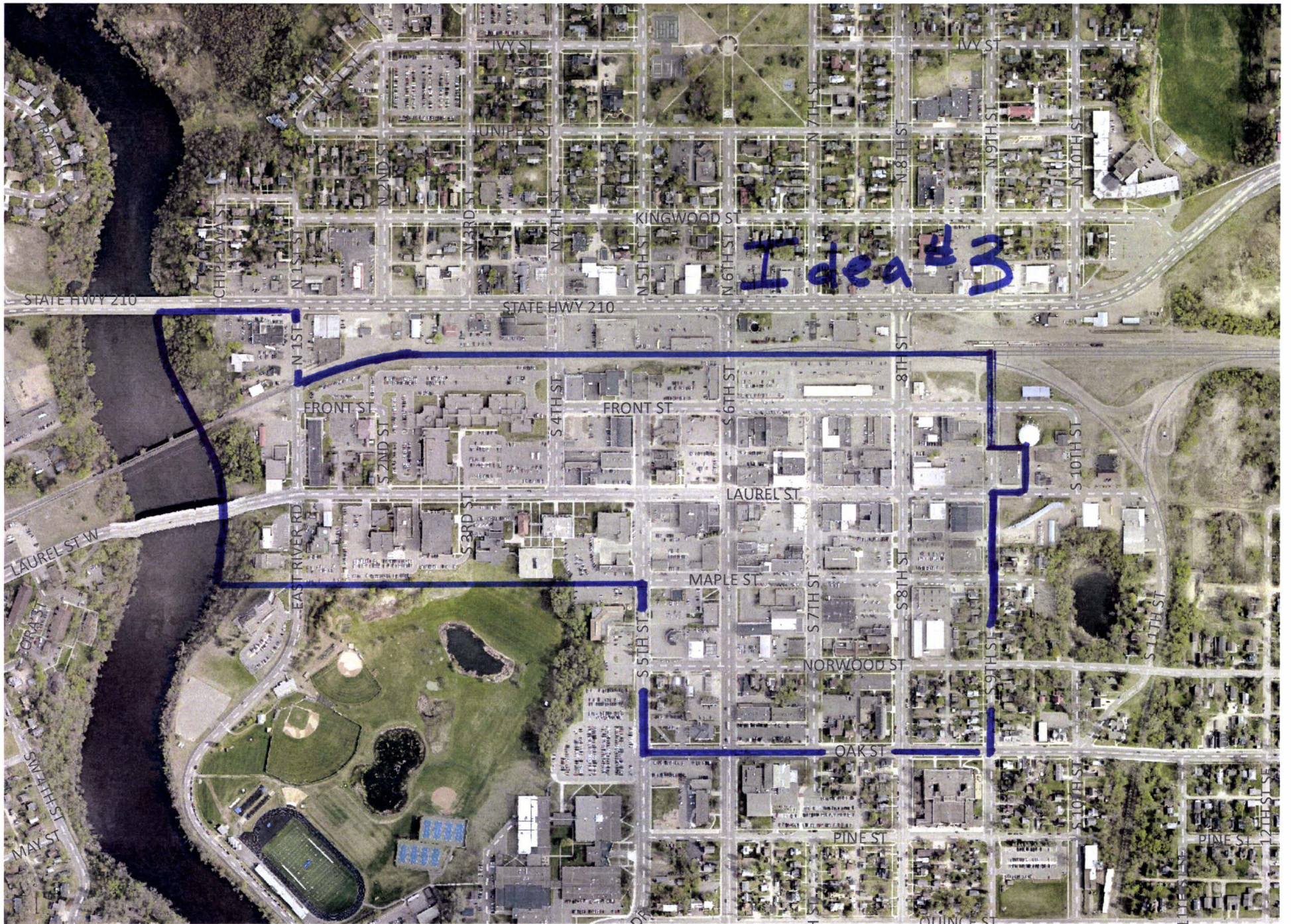
"Restaurant" means a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a

location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.









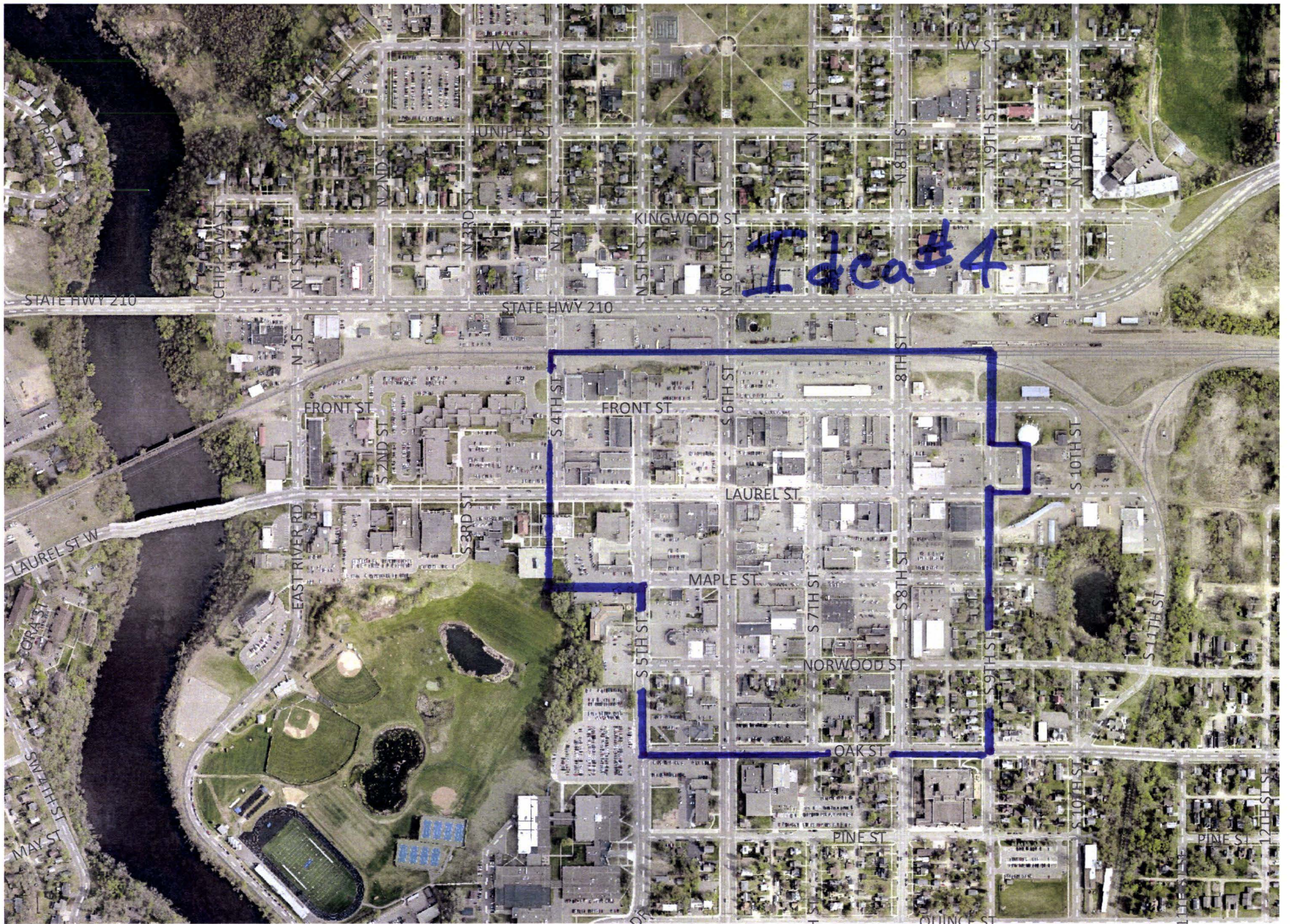
Idea #3

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Idea #4

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You're Idea



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MEMO



TO: Mayor and Council Members

FROM: Joe Langel, City Attorney
Cassandra Torstenson, City Administrator
Mark Ostgarden, City Planner
Connie Hillman, Finance Director

DATE: May 31, 2018

RE: Liquor Ordinance Review – Code Section 1200

Background

At the May 7, 2018 Council meeting, the Council passed Resolution No. 32:18 directing staff to review City Code section 1200 and to report back in 30 days. The Council also put a hold on all new on-sale liquor licenses for that 30-day time period. Upon review, a couple issues became apparent: (1) the code language is not entirely clear, and (2) the prior issuance of liquor licenses may not have been consistent with that language.

Initial discussions amongst staff and with Council revealed a desire to reevaluate the geographical restrictions on liquor licenses and revise the code in a manner that reflects current desires with respect to licensing, and reflects the existing reality of the nature of the businesses that already hold a liquor license. This memo examines the existing code language and the existing on-sale intoxicating liquor license holders, and suggests language to improve and clarify the code.

State and City Liquor Codes

License Limit.

Under state law, Brainerd may not issue more than 12 on-sale intoxicating liquor licenses city-wide unless voters authorize more by referendum. *Minn. Stat. § 340A.413, subd. 1(3)*. This limit, however, does not apply to clubs, restaurants, theaters, hotels and bowling alleys. *Id., subd. 4*. Given these exceptions, the 12-license limit effectively applies to bars, or any other establishment that does not qualify for an exception.

City Code further restricts the 12 available on-sale licenses in two ways. First, the Code creates multiple “liquor zones” and prohibits the issuance of on-sale to any facility outside those prescribed zones. So, there is a geographical restriction. Second, one-half

or more of the 12 licenses “shall be issued to bona fide restaurants, eating establishments, or other eligible facilities (such as hotels, motels, convention centers, bowling alleys, etc.) where the serving and sale of liquor is only incidental to the principal business use.” Thus, there is a restriction by type of facility.

This restriction by type of facility is odd because, by state law, the 12-license limit does not apply to restaurants, hotels, etc., in the first place. Why reserve at least half of the 12 licenses for facilities that do not need any of the 12? The effect is that only six on-sale licenses are left for bars and other non-exempt facilities.

Restaurants.

Note that the definition of restaurant under state law is “an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority.” *Minn. Stat. § 340A.101, subd. 25*. The seating capacity criteria is therefore left up to the City to define.

If a restaurant wants a Sunday license, however, it must meet the statutory seating capacity requirement, which is seating capacity “for at least 30 persons.” *Minn. Stat. §340A.504, subd. 3(a)*. Given that restaurants typically obtain a Sunday license, the practical effect is that, by State law, they must have at least 30 seats. The City Code far exceeds that, requiring “a seating capacity in the dining area for at least 75 persons.”

In addition to minimum seating capacity, City Code contains two other requirements in order to be deemed a restaurant or eating establishment: (1) the bar area must be less than half the size of the dining area, and (2) there must be off-street parking provided at the ratio of one stall for every three units of seating capacity in the dining area. Plans and specifications for this off-street parking area are supposed to be submitted with the liquor license application. *City Code § 1200.21, subds. 4, 5*.

Bowling Alleys.

City Code restricts the issuance of on-sale licenses “to hotels, clubs, restaurants, and exclusive liquor stores...” *City Code § 1200.01, subd. 2*. This restriction means that on-sale licenses may not be issued to theaters and bowling alleys, as otherwise provided by state law. This is odd because another City code provision allows for Sunday on-sale licenses to be issued to bowling centers. *City Code § 1200.03, subd. 7(a)*. Under state law, Sunday sales are only allowed by bowling centers that otherwise have an on-sale intoxicating liquor license. *Minn. Stat. § 340A.504, subd. 3(a)*. So, a bowling alley cannot sell on Sunday unless it also has a regular on-sale license. Perhaps the omission of bowling centers in City Code section 1200.01, subdivision 2, was an oversight. This interpretation is supported by the mention of bowling centers in the list of “eligible facilities” in section 1200.21, subdivision. 4. It bears mentioning that Jack’s House Bowl has had an on-sale intoxicating liquor license since 2003 per review of the minutes.

Downtown Zone.

The downtown zone is a rectangular area bounded by S. 4th Street on the west, S. 9th Street on the east, Maple Street on the south, and the railroad tracks on the north. Yesterday's Gone Bar & Grill, on S. 9th Street, is also within the Downtown Zone in a small area added onto the original zone.

The Downtown Zone is restricted to having no more than six non-exempt on-sale liquor licenses, meaning no more than six bars or other facilities that do not meet the definition of an exempt facility (like a restaurant, hotel, etc.). *City Code § 1200.21, subd. 1.* This restriction is subject to a somewhat complicated "grandfather clause":

Subject to all other provisions of this Ordinance, all existing on sale liquor licenses within this zone on January 1, 2001, shall continue to be allowed unless current liquor licensing for such business fails to be maintained. If current licensing for such a business shall lapse or expire without a timely renewal, any future license applications for that business within this zone will be subject to the limitations of this Subdivision. Nothing in this Subdivision shall prevent existing licenses issued prior to January 1, 2001, from being transferred to new owners at the same site. Further, the City Council shall be allowed to grant requests for existing licenses to be moved from one location in the area of the City covered by this subdivision to another location within the area covered by this subdivision without meeting the requirements of Subdivision 4 of this Section. Upon the grant of said license at a new location, the licensee shall return to the City their license granted for the former location at which time the license shall be cancelled at that location. However, the City Council may take action to grant approval of a new license at the former location. These restrictions shall not apply to clubs, and shall only apply when six (6) or more on sale licenses are issued within this zone.

It is unclear which existing on-sale liquor license holders in the Downtown Zone would be deemed "grandfathered" in and not subject to the six-license restriction. Obtaining that information would require a historical analysis of all on-sale liquor licenses issued over the past 18 years in this zone.

Existing On-Sale Licenses

The following facilities currently hold an on-sale intoxicating liquor license:

American Legion	Brainerd Elks Lodge
Fraternal Order of Eagles	VFW
Jack's House Bowl	612 Station
Last Turn Saloon	Yesterday's Gone Bar & Grill
Sage on Laurel	Senor Patron
9 th Street Social Club	SE's Bar
Pit Stop Bar	The Parlor Saloon
O'Neary's Irish Pub	Shep's on 6 th
The Local 218	

Of those 17 facilities, the American Legion, Elks, Eagles and VFW are considered clubs and Jack's House Bowl is a bowling center. Pursuant to state law, those five are not subject to the 12-license city-wide limit. That leaves 12 on-sale license holders, all of which would normally be considered bars or restaurants. Given the seating capacity and off-street parking requirements for exempt restaurants under City Code, however, none of the remaining 12 license holders can be considered restaurants for licensing purposes. None of the 12, therefore, are exempt.

Of those 12 license holders, 11 are in the Downtown Zone (The Local 218 is not). City Code only allows six, except for any that are legitimately grandfathered, so it is possible that more on-sale licenses have been issued in the Downtown Zone than are allowed. Regardless, the City is at its maximum number of licenses currently; no more on-sale licenses may be issued unless the City Code is changed in some respect.

Proposed City Code Changes

Eliminate Most Liquor Zones.

The liquor zones regulate the location of on-sale intoxicating liquor licenses as well as some of the off-sale licenses. Given that 11 of the 17 on-sale licenses are in the Downtown Zone, and that area seems to be the one of the most concern from a regulatory standpoint, it may make sense to simplify the ordinance by eliminating all other zones. This would allow both on-sale and off-sale licenses to be issued anywhere in the City if more licenses become available (and subject, of course, to zoning regulations).

Revise the Definition of Restaurant.

The existing definition of restaurant has the single largest impact on how the on-sale licenses are counted. If the seating capacity is reduced from 75 to a number that is consistent with the capacity of what are commonly considered "restaurants" in the Downtown Zone, that would help considerably. In addition, given that few, if any, of the "restaurants" in the list above have sufficient off-street parking to satisfy the existing standard, but there appears

to be no adverse impact from that deficiency, it may be appropriate to remove the off-street parking requirement entirely. That would leave the seating capacity and bar area size as determining factors.

Depending on how seating capacity is and bar area size are modified, six of the facilities listed above would be deemed restaurants and be exempt from the 12-license limit (612 Station, Last Turn Saloon, The Local 218, Sage on Laurel, Yesterday's Gone and Senor Patron). That would open up six on-sale licenses (assuming the Council wants to utilize all 12 available licenses).

Eliminate the Grandfather Clause.

The existing grandfather clause is unclear and may be very difficult to apply in light of the passage of time (the operative time period commenced over 17 years ago). If the definition of restaurant is modified, making several existing license holders exempt from the 12-license limit, and the Downtown Zone license limit of six licenses is retained, the grandfather clause will be unnecessary. Those six bars who currently have non-exempt licenses may continue to keep them, subject to the usual rules, and no new licenses would be issued for the Downtown Zone. New licenses could be issued for non-exempt facilities (bars) outside the Downtown Zone.

A modified version of the existing City Code chapter 1200 is attached for review and discussion.

CHAPTER XII

SALE, CONSUMPTION, AND DISPLAY OF LIQUOR, BEER, AND WINE

Section 1200 – Intoxicating Liquor

1200.01 Provision of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale with the exception that no on-sale sales of intoxicating liquor or 3.2 percent malt liquor shall be made after 1:00 a.m., and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this Section as if set out herein in full.

(Amended Ord. 1199 – 2003)

1200.03 License Required. Subdivision 1. General Requirements. No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in the Section. Liquor licenses shall be of ten kinds: on-sale, on-sale wine, off-sale, special club licenses, temporary on-sale, Sunday on-sale, on-sale brewer taproom, off-sale growler, microdistillery/cocktail room, and off-sale distilled spirits.

(Amended Ord 1403 – 2013, Amended Ord 1480 - 2018)

Subd. 2. On-Sale Licenses. On-sale licenses shall be issued only to hotels, clubs, bowling centers, restaurants, and exclusive liquor stores and permit on-sale of liquor only.

Subd. 3. On-Sale Wine Licenses. On sale wine licenses shall be issued only to restaurants meeting the qualification of Minnesota Statutes, Section 340A, 404, Subdivision 5, ~~and permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.~~

(Amended Ord. 1199 – 2003)

Subd. 4. Off-Sale Licenses. Off-sale licenses shall be issued only to drug stores and exclusive liquor stores and permit off-sales of liquor only.

Subd. 5. Special Club Licenses. Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for ten years.

Subd. 6. Temporary Licenses. A temporary on-sale intoxicating liquor license may be issued to any club, charitable, religious, or other non-profit organization which has its principal location within the City of Brainerd and which has been in existence for a period of not less than three (3) years at the time of making an application for this license. This temporary on-sale intoxicating liquor license shall only be issued for a social event occurring within the City limits of Brainerd and which is being sponsored by the licensee. The license may authorize on-sales on the premises other than the premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the City of Brainerd. The fee for such license shall be \$135.00 per day and shall be issued for not more than three (3) consecutive days. No organization shall be granted more than six (6) such licenses per calendar year. This license shall not be effective unless approved by the Commissioner of Public Safety for the State of Minnesota.

(Amended Ord. 883 – 1989, Ord. 964 – 1994, Ord. 965 – 1994, Ord 1397 – 2012)

Subd. 7 (a). Sunday On-Sale License. Special on sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to ~~bowling~~bowling centers and to hotels, restaurants, and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, Subd. 3.

(Added Ord. 1058 – 1998)

Subd. 7(b). Sunday Hours. The sale of on sale intoxicating liquor on Sundays is allowed between the hours of 8:00 a.m. on Sunday and 1:00 a.m. on Monday. Establishments serving liquor on Sundays must obtain a special license under subdivision 7(a) above.

(Added Ord. 1058 – 1998, Amended Ord. 1070 – 1999, Amended Ord. 1473 - 2017)

Subd. 8. On-Sale Brewer Taproom Licenses. An on-sale brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this chapter and Minnesota Statutes, Section 340A.301, Subdivision 6b, as it may be amended from time to time.

(Added Ord. 1403 – 2013)

Subd. 9. Off-sale Growler Licenses. An off-sale growler license authorizes off-sale of malt liquor produced by a brewer and packaged in sixty four (64) ounce or seven hundred fifty milliliter (750 ml) containers that are designed, sealed and labeled pursuant to Minnesota Statutes, Section 340A.301, as it may be amended from time to time. Only brewers licensed under Minnesota Statutes Section 340A.301, Subdivision 6(d), (i) or (j) are eligible for an off-sale growler license, subject to the limitations set forth in Section 340A.301, as it may be amended from time to time. The off-sale of growlers may be conducted on Sundays between the hours of 10:00 a.m. and 10:00 p.m.

(Added Ord. 1403 – 2013, Amended Ord. 1451 – 2016)

Subd. 10. Microdistilleries. (a) An on-sale microdistillery license authorizes samples on its premises of distilled spirits manufactured on its premises, in an amount not to exceed 15 milliliters per variety per person. No more than 45 milliliters may be sampled under this paragraph by any person on any day (b) A microdistillery can sell cocktails to the public, pursuant to subdivision 2 of State Statute 340A.22 (c) A microdistillery may not operate a cocktail room under subdivision 2 of State Statute 34A.22 or conduct sales at off-sale under subdivision 4 of State Statutes 340A.22 unless at least 50 percent of the annual production of the license is processed and distilled on premises. (d) Distilled spirits produced or in production prior to July 1, 2017 are not counted as part of the calculations under paragraph (c).

(Added Ord 1480 – 2018)

Subd. 11. Cocktail Rooms. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller, subject to the restrictions in this chapter and Minnesota Statutes, Section 340A.22, Subdivision 2, as it may be amended from time to time. Notwithstanding section 340A.504, subdivision 3, a cocktail room may be open and may conduct on-sale business on Sundays if authorized by the municipality.

(Added Ord 1480 – 2018)

Subd. 12. Off-Sale Distilled Spirits Licenses. A off-sale distilled spirits license authorizes off-sale of distilled spirits of one 375 milliliter bottle per customer per day of product manufactured on site, subject to the following requirements: (2) off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the licensing municipality; and (2) no brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

(Added Ord 1480 – 2018)

1200.05 Application for License. Subdivision 1. Form. An 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 time to time. In addition to containing such information, the application shall be in the form prescribed by the commission of public safety and shall be verified and filed with the Clerk-Treasurer. No person shall make a false statement in an application.

Subd. 2. Deleted Ord. 888 – 1990

Subd. 3. Financial Responsibility. Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340.11, Subdivision 11, with reference to liability under the Statutes, Section 340.95. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this Subdivision shall conform to Minnesota Statutes, Section 340.12.

Subd. 2. Deleted Ord. 888 – 1990

Subd. 3. Financial Responsibility. Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340.11, Subdivision 11, with reference to liability under the Statutes, Section 340.95. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this Subdivision shall conform to Minnesota Statutes, Section 340.12.

Subd. 4. Approval of Security. The security offered under Subdivision 2 shall be approved by the Council and in the case of applicants for on sale wine licenses and off sale licenses, by the commissioner of public safety. Liability insurance policies required by this Section but not by state law and surety bonds required under Subdivision 2 shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

1200.07 License Fees. Subdivision 1. Fees: Amounts. The annual fees for licenses under this Section are set by Chapter X.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the Clerk-Treasurer for payment in full of the license fee and the fixed investigation fee required by this Section, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the Clerk-Treasurer shall, refund the amount paid as the license fee.

Subd. 3. Term: Pro Rata Fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by Statute.

1200.09 Granting of Licenses. Subdivision 1. Preliminary Investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with the application an investigation fee of \$100 and the City shall conduct a preliminary background and financial investigation of the applicant pursuant to Chapter 15 of the Brainerd City Code. The application in such case shall be made on a form prescribed by the Minnesota Bureau of Criminal Apprehension (BCA) and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation pursuant to Chapter 15 of the Brainerd City Code. No license shall be issued, transferred or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the State is required, the applicant shall be charged the cost not to exceed \$10,000 which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted. The Council shall estimate the cost of the out State investigation and said sum shall be payable by the applicant prior to the out State investigation.

(Amended Ord. 1353 – 2010)

Subd. 2. Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. 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 discretion, grant or refuse the application. No on-sale wine license or off sale license shall become effective until it, together with the security furnished by the applicant, has been approved by the commission of public safety.

Subd. 3. Person and Premises Licenses: Transfer. 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 grounds for revocation of the license.

1200.11 Person Ineligible for License. No license shall be granted to any person made ineligible for such license by State law. No more than one on-sale and one off-sale intoxicating liquor license shall be directly or indirectly issued within the City to any one person.

(Amended Ord. 1017 – 1996)

1200.13 Places Ineligible for License. Subdivision 1. General Prohibition. No license shall be issued for any place or business ineligible for such a license under State law.

Subd. 2. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City or the State of Minnesota are delinquent and unpaid.

(Amended Ord. 1373 – 2010)

1200.15 Condition of a License. Subdivision 1. In General. Every license is subject to the conditions in the following subdivision and all other provision of this Section and of any other applicable provisions of State law or regulation and this Code.

Subd. 2. Insurance. Compliance with financial responsibility requirements of State law and of this Section is a continuing condition of any license.

Subd. 3. Licensee's Responsibility. Every licensee is responsible of 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 Ordinance and the law equally with the employee.

Subd. 4. Inspections. Every licensee shall allow any peace officer, health officer, or a properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 5. Display During Prohibited Hours and Days. The hours and days of sale of licenses issued pursuant to the terms of this Chapter shall be the same as those set forth in Chapter 340A of the Intoxicating Liquor Act of the State of Minnesota adopted by reference as part of this Chapter

(Amended Ord. 1138 – 2002)

Subd. 6. Restrictive Hours for Patrons, Employees, and Consumption. No patrons of on-sale license holders shall remain on the licensed premises after one-thirty (1:30) A.M., and in any event no persons except bona fide employees of the license holder or a janitorial service shall remain on the licensed premises after one thirty (1:30) A.M., unless they are actively engaged in a clean-up operation for the premises. No person, including employees of the licensed premises or of the cleaning service shall consume any intoxicating liquor or nonintoxicating malt liquor on the licensed premises after one twenty (1:20) A.M., until the licensed premises can next properly be opened for business. Any unconsumed intoxicating liquor or non-intoxicating malt liquor remaining on the premises, other than that necessary for inventory purposes, shall be disposed of at one twenty (1:20) A.M. No unconsumed intoxicating liquor or non-intoxicating malt liquor shall be removed from the premises for consumption at a different place by any employee or patron.

(Amended Ord. 1138 – 2002)

Subd. 7. Possession, Sale, or Distribution of Controlled Substances or Marijuana Prohibited. No licensee or employee or agent of an on-sale licensee shall possess, sell, or distribute controlled substances or marijuana as defined by MN Statute 152.01 while on the licensee's premises.

(Amended Ord. 1138 – 2002)

Subd. 8. Federal Stamps. No licensee shall possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp.

(Amended Ord. 1138 – 2002)

1200.17 Restrictions on Purchase and Consumption. Subdivision 1. Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the Commission of Public Safety under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.

Subd. 2. Consumption in Public Places. No person shall consume liquor on a public highway, public park except in compliance with Section 1205.03, Subd. 5, or other public places.

(Amended Ord. 1012 – 1996)

1200.19 Suspension and Revocation. Subdivision 1. Violation of Statute, Regulations, or City Code Relating to Intoxicating Liquor. The City Council may suspend for a period not to exceed 60 days or revoke any liquor license after finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this Code relating to intoxicating liquor. Except in cases of failure of financial responsibility, or where a conviction by a court of competent jurisdiction for such violation has occurred, no sanction under this Ordinance shall be imposed until the licensee has been afforded an opportunity for a full hearing before the City Council or its designee.

Subd. 2. Conviction of Sale to a Minor or Discovery of Non-Compliance During Liquor Compliance Investigation. Upon either the conviction of a licensee or the licensee's employee or agent of sale of alcohol to a minor, or discovery of non compliance during a liquor compliance investigation, the sanctions set out below shall apply.

Subd. 3. First Occurrence. Upon either the first conviction of sale of alcohol to a minor by a licensee or the licensee's employee or agent, or upon the first failure of a liquor compliance check within any three year period, the licensee shall pay a civil penalty to the City of \$500.00 and participate in training concerning liquor and beer sales regulations and restrictions.

Subd. 4. Subsequent Occurrences. In the event of a second conviction of sale of alcohol to a minor by a licensee or the licensee's employee or agent, or a second failure of the liquor compliance check within three (3) years of any such prior conviction or failure, shall pay a civil penalty to the City of \$1,000.00 and participate in training concerning liquor and beer sales regulations and restrictions.

Subd. 5. Additional Penalties for Frequent Violations of this Section. If the licensee or an employee or agent of the licensee is either convicted of sale of alcohol to a minor or fails a liquor compliance check for a third time within any three (3) year period the liquor license shall be suspended for such five (5) day period as shall be determined by the Chief of Police. In addition, the licensee shall pay a civil penalty to the City in the sum of \$2,000.00.

Subd. 6. Extended License Suspension. If the licensee or an employee or agent of the licensee is either convicted of sale of alcohol to a minor or fails a liquor compliance check a fourth time within any three (3) year period, the liquor license shall be revoked.

(Amended Ord. 1097 – 2000)

1200.21 On-Sale Liquor Zones and License Limitations. On sale intoxicating liquor licenses may be issued in the following areas and under the following limitations:

Subd. 1. This Subdivision shall only apply to that portion of the City of Brainerd bounded on the west by the west line of Fourth Street South; on the north by the centerline of the Burlington Northern Santa Fe Railway Company right of way; on the east by the east line of Ninth Street South; on the south by the south line of Maple Street; and, Lots 16 thru 24 inclusive Block 37 excepting that part of Lots 19 and 20 desc as follows; beg at the NW corner of said Lot 19, then N 89 deg 57 min 40 sec E, assumed bearing, along N line of said Lot 19, 79.79 ft, then S 00 deg 07 min 58 sec E 45.14 FT, then S 89 deg 52 min 02 sec W 79.88 ft to the W line of said Block 37, then N 00 deg 01 min 06 sec W along said W line of Block 37, 45.27 ft to the point of beg subject to easements of record. Not more than six (6) on sale liquor licenses that are not excluded from license limits under Minnesota Statutes section 340A.413, subdivision 4, do not comply with subdivision 4 of this Section shall be issued in this zone. ~~Subject to all other provisions of this Ordinance, all existing on-sale liquor licenses within this zone on January 1, 2001, shall continue to be allowed unless current liquor licensing for such business fails to be maintained. If current licensing for such a business shall lapse or expire without a timely renewal, any future license applications for that business within this zone will be subject to the limitations of this Subdivision. Nothing in this Subdivision shall prevent existing licenses issued prior to January 1, 2001, from being transferred to new owners at the same site. Further, the City Council shall be allowed to grant requests for existing licenses to be moved from one location in the area of the City covered by this subdivision to another location within the area covered by this subdivision without meeting the requirements of Subdivision 4 of this Section. Upon the grant of said license at a new location, the licensee shall return to the City their license granted for the former location at which time the license shall be cancelled at that location. However, the City Council may take action to grant approval of a new license at the former location. These~~

~~restrictions shall not apply to clubs, and shall only apply when six (6) or more on sale licenses are issued within this zone.~~

(Amended Ord. 1371 – 2010, Ord. 1374 – 2010, Ord. 1377 - 2011)

~~Subd. 2. The Commercially Zoned property located 200 feet north and south of Washington Street from the west edge of the Mississippi River Bridge to the west City Limits and the Commercially Zoned property located 150 feet north and south of Washington Street from the east City Limits to the east edge of the Mississippi River Bridge.~~

~~Subd. 3. The following described realty: That part of the SE 1/4 SW 1/4 of Sec. 19, Twp. 45 North, Rge. 30 West, described as follows: Commencing at the Northeast corner of Block 13, "East Side Addition To The City Of Brainerd"; thence West, assumed bearing, along the North line of said Block 13 and said North line extended, 560.15 feet; thence South 267.25 feet to the place of beginning; thence South 55 feet; thence East 34 feet; thence North 55 feet; thence West 34 feet to the place of beginning.~~

~~a) Lot 1, Block 1, Rademacher's Commercial Addition~~

~~b) Lots 1 and 2, Block 1, Haines Addition to the Town of East Brainerd and that part of adjacent vacated Ash Street~~

~~c) Lots 4, 5, 6, 7, 8 & 9, Block 2, Millers Addition to East Brainerd, along with the vacated north/south alley in Block 2, Millers Addition to East Brainerd~~

(Amended Ord. 1190 – 2003, Ord. 1343 – 2009, Ord. 1350 - 2010)

Subd. 4. ~~One half (1/2 or more of all on sale liquor licenses shall be issued to bona fide restaurants, eating establishments, or other eligible facilities (such as hotels, motels, convention centers, bowling alleys, etc) where the serving and sale of liquor is only incidental to the principal business use. In furtherance of this objective~~For purposes of this Chapter 1200, in order to qualify as a "restaurant," the following criteria must be satisfied:

a) ~~A restaurant or eating establishment must provide~~The facility must have a seating capacity in the dining area for at least 75 _____ persons.

b) ~~The bar area for aof the restaurant, eating or other eligible establishment shall be not more than 49% of the size of the dining area or principle use of the establishment.~~

(Amended Ord. 1347 – 2009)

~~e) Said establishments shall further provide off street parking to accommodate motor vehicles of its patrons. Off street parking spaces shall be provided at the ratio of one parking stall for every three units of seating capacity in the dining area of restaurant or eating establishments. Other establishments shall comply with the parking regulations contained in the Zoning Code. Said motor vehicle parking area shall be located adjacent or contiguous to the facility or, if this is not feasible, in a nearby area, which shall be subject to Council approval.~~

Subd. 5. All applicants for an on sale liquor license shall submit plans and specifications of their proposed building ~~including the proposed off street parking area~~ for Council approval.

(Added Ord. 862 – 1987)

Subd. 6. ~~The following described realty: All that part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) and of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 19, Township 45 North, Range 30 West, and Lots 1, 2, and 3, Block 13, East Side Addition to the City of Brainerd; and Lots 1, 2 and 3, Block 16, Lots, 1, 2, 3, 4, 5, and 6, Block 15, and Lots, 1, 2, and 3, Block 14, Haines Addition to the Town of East Brainerd; Fractional Block 3, and Lots 1, 2 and 3, Block 2, Millers Addition to East Brainerd; Lots 10, 11 and 12, Block 2, Millers First Addition to the City of Brainerd and the vacated streets and alleys included within the following described tract; Beginning at the Northeast corner of Lot 3, Block 13, said East Side Addition to the City of Brainerd; thence West 885 feet along the South line of E Street to the Northwest corner of said Lot 3, Block 14, Haines Addition to the Town of East Brainerd; thence South 150 feet along the West line of said Lot 3 to the North line of the alley South of said Block 14; thence East 72.2 feet along the North line of said alley; thence South 20 feet across said alley; thence West 50 feet along the South line of said alley to the Northwest corner of Fractional Block 3, Millers Addition to East Brainerd; thence South 142 feet along the West line of said Fractional Block 3 to the North line of D Street; thence East 50 feet along the North line of said D Street; thence South 66 feet to the South line of D Street; thence West 190 feet along the South line of said D Street to the Northwest corner of said Lot 3, Block 2, Millers Addition to East Brainerd; thence South 300 feet to the Southwest corner of Lot 10, Block 2, Millers First Addition to the City of Brainerd on the North line of C Street; thence East 40 feet along the North line of said C Street; thence South 66 feet to the South line of said C Street; thence West 100 feet to the Northwest corner of Lot 4, Block 3, Millers First Addition to the City of Brainerd; thence South 140 feet to the Southwest corner of said Lot 4; thence East 150 feet to the Southeast corner of Lot 2, Block 3, Millers First Addition to the City of Brainerd; thence South 160 feet to the Southwest corner of Lot 12, Block 3, Millers First Addition to the City of Brainerd on the North line of B Street; thence East 50 feet along the North line of B Street to the Southeast corner of said Lot 12, thence South 66 feet to the right of way line for Highway No. 210, thence East 215.66 feet along said right of way line; thence North 48 degrees 08 minutes~~

~~East 506.12 feet continuing along said right of way line; thence North 1 degree 17 minutes West 429.74 feet; thence North 89 degrees 54 minutes East 301.19 feet to the Westerly right of way~~

Brainerd City Code

1200.21 Subd. 6 cont.

~~line for Trunk Highway No. 25; thence North 3 degrees 56 minutes West 192.55 feet along said right of way line; thence West 8.3 feet to the Southeast corner of Lot 1, Block 13, East Side Addition to the City of Brainerd; thence North 150 feet along the East line of said Block 13 to the place of beginning. Except the following described property: Lots 1, 2 and 3, Block 3, Millers First Addition to the City of Brainerd, except any portion of the vacated part of C Street which lies adjacent to and Northerly of said Lots 1 and 2, and that portion of the vacated 20 foot alley in said Block 3 which lies between said Lots 1, 2 and 3 and Lots 10, 11 and 12, Block 3, Millers First Addition to the City of Brainerd.~~

~~Lots 1, 2 and 3, Block 2, Millers Addition to East Brainerd;~~

~~Lots 10, 11 and 12, Block 2, Millers First Addition to the City of Brainerd;~~

~~Lot 12, Block 3, Millers First Addition to the City of Brainerd;~~

~~Lot 4, Block 3, Millers First Addition to the City of Brainerd.~~

(Added Ord. 1139 – 2002)

(Amended Ord. 1110 – 2000)

~~Subd. 7. Lot 1 Block 1, Northern Pacific Center~~

(Added Ord. 1440, 2015)

1200.23 ~~Off Sale Liquor Zones and License Limitations. Intoxicating off-sale liquor licenses may be issued in the following areas and under the following limitations:~~

~~———— Subd. 1. All on-sale liquor zones as described in Section 1200.21.~~

~~———— Subd. 2. Lots 1 and 2, Block 8, Willis Addition to the City of Brainerd~~

(Added Ord. 897 – 1991)

~~———— Subd. 3. Lots 7 through 9, Block 3, Miller's First Addition to the City of Brainerd~~

(Added Ord. 980 – 1995)

~~———— Subd. 4. Lot 1, Block 1, Jake's Warehouse Foods.~~

(Added Ord. 1061 – 1999)

~~Subd. 5. That part of the Southeast quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-nine (29), Township Forty-Five (45) North, Range Thirty (30) West described as follows: Commencing at a point on the South line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ which is 1760.40 feet East of the West quarter corner of said section 29; thence North 50 feet to the Northerly right-of-way (ROW) line of Oak Street; thence East along said Northerly ROW line 225.00 feet to the Point of Beginning (POB); thence North 33 degrees 21 minutes 06 seconds East 566.65 feet to the Westerly ROW line of State Highway 25; thence South 34 degrees 44 minutes 21 seconds East along said Westerly ROW line 276.00 feet; thence South 27 degrees 37 minutes 43 seconds West 278.26 feet to the Northerly ROW of Oak Street; thence West along said Northerly ROW line 339.76 feet to the POB. Subject to easements, reservations, or restrictions of record. Parcel address: 3325 Oak Street, Brainerd.~~

(Added Ord. 1237 – 2004)

Subd. 6. Off-sale liquor licenses may be issued subject to the following conditions:

- a) Every off-sale license holder shall have a place of business with solid walls, floor to ceiling, with no interior openings and with a separate exterior entrance.
- b) Off-street parking shall be provided to accommodate not less than five motor vehicles contiguous to said place of business or, if this is not feasible, in a nearby area, which shall be subject to Council approval.

Subd. 7. All applicants for an off-sale liquor license shall submit plans and specifications of their proposed building including the proposed off-street parking area for council approval.

(Amended Ord. 1110 – 2000)

**ORDINANCE
NO. 1483**

**AN ORDINANCE AMENDING BRAINERD CITY CODE
SECTION 1200 INTOXICATING LIQUOR**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: That Section 1200.03 – License Required shall be amended to read:

Subd. 2. - On-Sale Licenses. On-sale licenses shall be issued only to hotels, clubs, **BOWLING CENTERS**, restaurants, and exclusive liquor stores and permit on-sale of liquor only.

Subd. 3. On-Sale Wine Licenses. On sale wine licenses shall be issued only to restaurants meeting the qualification of Minnesota Statutes, Section 340A, 404, Subdivision 5, and ~~permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.~~

Subd. 7(a) – Sunday On-Sale License. Special on sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to **BOWLING** centers and to hotels, restaurants, and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, Subd. 3.

SECTION TWO: That Section 1200.21 – On-Sale Liquor Zones and License Limitations On sale intoxicating liquor licenses may be issued in the following areas and under the following limitations shall be amended to read:

Subd. 1. This Subdivision shall only apply to that portion of the City of Brainerd bounded on the west by the west line of Fourth Street South; on the north by the centerline of the Burlington Northern Santa Fe Railway Company right of way; on the east by the east line of Ninth Street South; on the south by the south line of Maple Street; and, Lots 16 thru 24 inclusive Block 37 excepting that part of Lots 19 and 20 desc as follows; beg at the NW corner of said Lot 19, then N 89 deg 57 min 40 sec E, assumed bearing, along N line of said Lot 19, 79.79 ft, then S 00 deg 07 min 58 sec E 45.14 FT, then S 89 deg 52 min 02 sec W 79.88 ft to the W line of said Block 37, then N 00 deg 01 min 06 sec W along said W line of Block 37, 45.27 ft to the point of beg subject to easements of record. Not more than six (6) on sale liquor licenses that **ARE NOT EXCLUDED FROM LICENSE LIMITS UNDER MINNESOTA STATUTES SECTION 340A.413, SUBDIVISION 4**, ~~do not comply with subdivision 4 of this Section~~ shall be issued in this zone. ~~Subject to all other provisions of this Ordinance, all existing on sale liquor licenses within this zone on January 1, 2001, shall continue to be allowed unless current liquor licensing for such business fails to be maintained. If current licensing for such a business shall lapse or expire without a timely renewal, any future license applications for that business within this zone will be subject to the limitations of this Subdivision. Nothing in this Subdivision shall prevent existing licenses issued prior to January 1, 2001, from being transferred to new owners at the same site. Further, the City Council shall be allowed to grant requests for existing licenses to be moved from one location in the area of the City covered by this subdivision to another location within the area covered by this subdivision without meeting the requirements of Subdivision 4 of this Section. Upon the grant of said license at a new location, the licensee shall return to the City their license granted for the former location at which time the license shall be cancelled at that location. However, the City Council may take action to grant approval of a new license at the former location. These restrictions shall not apply to clubs and shall only apply when six (6) or more on sale licenses are issued within this zone.~~

Subd. 2. ~~The Commercially Zoned property located 200 feet north and south of Washington Street from the west edge of the Mississippi River Bridge to the west City Limits and the Commercially Zoned property located 150 feet north and south of Washington Street from the east City Limits to the east edge of the Mississippi River Bridge.~~

Subd. 3. ~~Subd. 3. The following described realty: That part of the SE 1/4 SW 1/4 of Sec. 19, Twp. 45 North, Rge. 30 West, described as follows: Commencing at the Northeast corner of Block 13, "East Side Addition To The City Of Brainerd"; thence West, assumed bearing, along the North line of said Block 13 and said North line extended, 560.15 feet; thence South 267.25 feet to the place of beginning; thence South 55 feet; thence East 34 feet; thence North 55 feet; thence West 34 feet to the place of beginning.~~

~~a) Lot 1, Block 1, Rademacher's Commercial Addition~~

~~b) Lots 1 and 2, Block 1, Haines Addition to the Town of East Brainerd and that part of adjacent vacated Ash Street~~

~~c) Lots 4, 5, 6, 7, 8 & 9, Block 2, Millers Addition to East Brainerd, along with the — vacated north/south alley in Block 2, Millers Addition to East Brainerd~~

Subd. 4. ~~One half (1/2 or more of all on sale liquor licenses shall be issued to bona fide restaurants, eating establishments, or other eligible facilities (such as hotels, hotels, convention centers, bowling alleys, etc) where the serving and sale of liquor is only incidental to the principal business use. In furtherance of this objective~~ **FOR PURPOSES OF THIS CHAPTER 1200, IN ORDER TO QUALIFY AS A "RESTAURANT," THE FOLLOWING CRITERIA MUST BE SATISFIED:**

~~a) A restaurant or eating establishment must provide~~ **THE FACILITY MUST HAVE a seating capacity in the dining area for at least ___ persons.**

~~b) The bar area for a~~ **OF THE restaurant, eating or other establishment shall be not more than 49% of the size of the dining area or principle use of the establishment.**

~~c) Said establishments shall further provide off street parking to accommodate motor vehicles of its patrons. Off street parking spaces shall be provided at the ratio of one parking stall for every three units of seating capacity in the dining area of restaurant or eating establishments. Other establishments shall comply with the parking regulations contained in the Zoning Code. Said motor vehicle parking area shall be located adjacent or contiguous to the facility or, if this is not feasible, in a nearby area, which shall be subject to Council approval.~~

Subd. 5. ~~All applicants for an on-sale liquor license shall submit plans and specifications of their proposed building including the proposed off street parking area for Council approval.~~

Subd. 6. ~~The following described realty: All that part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) and of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 19, Township 45 North, Range 30 West, and Lots 1, 2, and 3, Block 13, East Side Addition to the City of Brainerd; and Lots 1, 2 and 3, Block 16, Lots, 1, 2, 3, 4, 5, and 6, Block 15, and Lots, 1, 2, and 3, Block 14, Haines Addition to the Town of East Brainerd; Fractional Block 3, and Lots 1, 2 and 3, Block 2, Millers Addition to East~~

~~Brainerd; Lots 10, 11 and 12, Block 2, Millers First Addition to the City of Brainerd and the vacated streets and alleys included within the following described tract; Beginning at the Northeast corner of Lot 3, Block 13, said East Side Addition to the City of Brainerd; thence West 885 feet along the South line of E Street to the Northwest corner of said Lot 3, Block 14, Haines Addition to the Town of East Brainerd; thence South 150 feet along the West line of said Lot 3 to the North line of the alley South of said Block 14; thence East 72.2 feet along the North line of said alley; thence South 20 feet across said alley; thence West 50 feet along the South line of said alley to the Northwest corner of Fractional Block 3, Millers Addition to East Brainerd; thence South 142 feet along the West line of said Fractional Block 3 to the North line of D Street; thence East 50 feet along the North line of said D Street; thence South 66 feet to the South line of D Street; thence West 190 feet along the South line of said D Street to the Northwest corner of said Lot 3, Block 2, Millers Addition to East Brainerd; thence South 300 feet to the Southwest corner of Lot 10, Block 2, Millers First Addition to the City of Brainerd on the North line of C Street; thence East 40 feet along the North line of said C Street; thence South 66 feet to the South line of said C Street, thence West 100 feet to the Northwest corner of Lot 4, Block 3, Millers First Addition to the City of Brainerd; thence South 140 feet to the Southwest corner of said Lot 4; thence East 150 feet to the Southeast corner of Lot 2, Block 3, Millers First Addition to the City of Brainerd; thence South 160 feet to the Southwest corner of Lot 12, Block 3, Millers First Addition to the City of Brainerd on the North line of B Street; thence East 50 feet along the North line of B Street to the Southeast corner of said Lot 12, thence South 66 feet to the right of way line for Highway No. 210, thence East 215.66 feet along said right of way line; thence North 48 degrees 08 minutes East 506.12 feet continuing along said right of way line; thence North 1 degree 17 minutes West 429.74 feet; thence North 89 degrees 54 minutes East 301.19 feet to the Westerly right of way line for Trunk Highway No. 25; thence North 3 degrees 56 minutes West 192.55 feet along said right of way line; thence West 8.3 feet to the Southeast corner of Lot 1, Block 13, East Side Addition to the City of Brainerd; thence North 150 feet along the East line of said Block 13 to the place of beginning. Except the following described property: Lots 1, 2 and 3, Block 3, Millers First Addition to the City of Brainerd, except any portion of the vacated part of C Street which lies adjacent to and Northerly of said Lots 1 and 2, and that portion of the vacated 20 foot alley in said Block 3 which lies between said Lots 1, 2 and 3 and Lots 10, 11 and 12, Block 3, Millers First Addition to the City of Brainerd.~~

~~Lots 1, 2 and 3, Block 2, Millers Addition to East Brainerd;~~

~~Lots 10, 11 and 12, Block 2, Millers First Addition to the City of Brainerd;~~

~~Lot 12, Block 3, Millers First Addition to the City of Brainerd;~~

~~Lot 4, Block 3, Millers First Addition to the City of Brainerd.~~

Subd. 7. Lot 1 Block 1, Northern Pacific Center

SECTION THREE: That Section 1200.23 – Off-Sale Liquor Zones and License Limitations shall read as follows:

Subd. 1. ~~All on-sale liquor zones as described in Section 1200.21.~~

Subd. 2. ~~Lots 1 and 2, Block 8, Willis Addition to the City of Brainerd~~

Subd. 3. ~~Lots 7 through 9, Block 3, Miller's First Addition to the City of Brainerd~~

Subd. 4. ~~Lot 1, Block 1, Jake's Warehouse Foods.~~

Subd. 5. ~~That part of the Southeast quarter of the Northwest quarter (SE¼NW¼) of Section Twenty-nine (29), Township Forty-Five (45) North, Range Thirty (30) West described as follows: Commencing at a point on the South line of said SE¼NW¼ which is 1760.40 feet East of the West quarter corner of said section 29; thence North 50 feet to the Northerly right-of-way (ROW) line of Oak Street; thence East along said Northerly ROW line 225.00 feet to the Point of Beginning (POB); thence North 33 degrees 21 minutes 06 seconds East 566.65 feet to the Westerly ROW line of State Highway 25; thence South 34 degrees 44 minutes 21 seconds East along said Westerly ROW line 276.00 feet; thence South 27 degrees 37 minutes 43 seconds West 278.26 feet to the Northerly ROW of Oak Street; thence West along said Northerly ROW line 339.76 feet to the POB. Subject to easements, reservations, or restrictions of record. Parcel address: 3325 Oak Street, Brainerd.~~

Subd. 6 Off-sale liquor licenses may be issued subject to the following conditions:

- a) Every off-sale license holder shall have a place of business with solid walls, floor to ceiling, with no interior openings and with a separate exterior entrance.
- b) Off-street parking shall be provided to accommodate not less than five motor vehicles contiguous to said place of business or, if this is not feasible, in a nearby area, which shall be subject to Council approval.

Subd. 7. All applicants for an off-sale liquor license shall submit plans and specifications of their proposed building including the proposed off-street parking area for Council approval.

SECTION FOUR: All other provisions of Section 1200 shall remain in full force and effect.

SECTION FIVE: This ordinance shall take effect and be in full force one week from and after its publication.

Adopted this ____ day of ____, 2018

DAVID J. PRITSCHET
President of the Council

Approved this ____ day of ____, 2018

EDWIN L. MENK
Mayor

ATTEST: _____
CASSANDRA TORSTENSON
City Administrator

Summary Published: One Time, ____, 2018

Business Name	Address	Dept of Health Category Type	Seating Capacity within Dining Area
JACK'S HOUSE	300 HIGHWAY 25 SOUTH	Category 3	
THE LOCAL 218	723 MILL AVE	Category 3	122
BRAINERD EAGLES #287	124 FRONT STREET	Category 3	
AMERICAN LEGION # 255	708 FRONT STREET	Category 2	
BRAINERD ELKS LODGE	215 SOUTH 9TH STREET	Category 3	
VFW POST #1647	309 SOUTH 6TH STREET	Category 2	
SE'Z LLC	707 LAUREL ST	Category 1	-
9TH STREET SOCIAL CLUB	212 S 9TH STREET	Category 1	12
O'NEARY'S IRISH PUB	305 S 7TH ST	Category 1	20
THE PARLOR LLC	714-718 LAUREL ST	Category 1	34
SHEP'S ON 6TH	315 SOUTH 6TH STREET	Category 1	94
PIT STOP BAR	723 LAUREL STREET	Category 2	50
YESTERDAY'S GONE	219 S 9TH STREET	Category 3	48
THE LAST TURN SALOON & EATERY LLC	214-216 SOUTH 8TH STREET	Category 3	50
612 STATION LLC	612 FRONT STREET	Category 3	56
SAGE ON LAUREL LLC	606 LAUREL STREET	Category 3	70
SENIOR PATRON MEXICAN CUISINE	314 S. 7TH STREET	Category 3	122

Total = 17

	= Bowling Alley
	= Clubs
	= Category 3 Food License

(<http://www.health.state.mn.us/index.html>)



Minnesota Department of Health

Licensing Definitions

Food, Pools, and Lodging Services (FPLS)

Base Fee

an annual fee paid by each establishment except special event food stands.

Category 1 establishment

An establishment which provides one or more of the following:

Pre-packaged food that is served in the package; continental breakfast such as rolls, coffee, juice, milk and cold cereal; serves beverages; cleans eating, drinking or cooking utensils or is a child care facility licensed under Minnesota Statutes, 245A.03; a food establishment where the method of food preparation is low-risk as defined by Minnesota Statutes, part 157.20 subd. 2(c).

*frozen pizza
microwaved
sandwiches*

Category 2 establishment

An establishment which is not a category 1 establishment and is either a food establishment where the method of food preparation is medium risk as defined by Minnesota Statutes, part 157.20 subd. 2 (b); an elementary school or secondary school as defined in Minnesota Statutes, part 120A.05.

*same as above
plus deep fried foods*

Category 3 establishment

An establishment which is not a category 1 or 2 establishment and is either a food establishment where the method of food preparation is high risk as defined by Minnesota Statutes, part 157.20 subd. 2 (a); an establishment where 500 or more meals are prepared each day and served at one or more locations.

*actual full
restaurant*

Additional food service

A location at a food establishment, other than the primary food preparation and service area, used to prepare or serve beverages from a bar or food to the public.

HACCP verification

An annual fee category for a business that performs one or more specialized process that requires an HACCP plan as required in Minnesota Statutes, chapter 31 and Minnesota Rules, chapter 4626.

Special event food stand (SEFS)

A special event food stand is a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than ten total days in the current calendar year. The dates for your event must be listed before the Department can issue a license.