

**CITY OF WOODBURY
WASHINGTON COUNTY, MINNESOTA**

ORDINANCE 1870

**AN ORDINANCE OF THE CITY OF WOODBURY, WASHINGTON COUNTY,
MINNESOTA PROVIDING THAT THE CITY CODE BE AMENDED
BY AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, ARTICLE I, IN
GENERAL, SECTION 4.1 DEFINITIONS; ARTICLE II, INTOXICATING
LIQUOR, SECTION 4-28 FOOD SALES AND
SECTION 4-30 DAYS AND HOURS OF SALE**

THE CITY COUNCIL OF THE CITY OF WOODBURY, WASHINGTON COUNTY,
MINNESOTA DOES ORDAIN:

**SECTION ONE. Amendment That Chapter 4, Alcoholic Beverages, Article I,
In General , Section 4.1 Definitions; Article II, Intoxicating Liquor,
Section 4-28 Food Sales and Section 4-30 Days and Hours of Sale be
amended to delete the same in its entirety and substitute the following
therefore:**

Sec. 4-1. - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means any beverage containing more than one-half of one percent alcohol volume.

Affiliate or subsidiary company is a company in which a manufacturer or its stockholders own a majority of the stock.

Brewer is a person who manufactures malt liquor for sale.

Commissioner means the commissioner of public safety.

Department means the Department of Public Safety.

Establishment is an entity or business as identified in Section 4-25 Eligibility, Subsection (b).

Exclusive liquor store is an establishment used exclusively for the sale of those items authorized in Minnesota Statute 340A.412, subdivision 14.

Fortified wine is wine to which brandy, or neutral grape spirits, has been added during or after fermentation resulting in a beverage containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use.

Farm winery is a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.

Home brewing equipment means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten gallons or less and supplies and ingredients for home manufacture of malt liquor.

A licensed premise is the premises described in the approved license application, and only for a space that is compact and contiguous. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Liqueur-filled candy is any confectionery containing more than one-half of one percent alcohol by volume in liquid form that is intended for or capable of beverage use.

Manufacturer. is a person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor for sale.

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

Package is a sealed or corked container of alcoholic beverages

Proof Gallon is one liquid gallon of distilled spirits that is 50 percent alcohol at 60 degrees Fahrenheit.

Public facility is a park, community center, or other accommodation or facility owned or managed by or on behalf of a subdivision of the state, including any county, city, town, township, or independent district of the state.

Restaurant means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and are served at tables to the general public, having seating capacity for 25 guests or more.

Wine is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, [sherry] perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for non-industrial use. Wine does not include distilled spirits defined as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin or other distilled spirits, including all dilutions and mixtures thereof for non-industrial use.

Section 4-28 – Food Sales

No on-sale intoxicating liquor license shall be issued to an establishment unless at least 50 percent of the gross food and beverage receipts of the establishment are annually attributable to the sale of food. This requirement shall be regulated as follows:

- (a) Each on-sale intoxicating licensee shall have the continuing obligation to have at least 50 percent of gross food and beverage receipts from the establishment during the preceding business year attributable to the sale of food.
- (b) In the case of a new establishment, the applicant must make a bona fide estimation that at least 50 percent of the gross receipts from the sale of food and beverages of the establishment during its first year of business will be attributable to the sale of food.
- (c) For the purpose of this section, "establishment" shall include the food and beverage portion of a multi-service establishment. Financial records for the food and beverage portion must be maintained separately from the records of the remainder of the establishment.
- (d) For the purpose of this section, "sale of food" shall include gross receipts attributable to the sale of food items, soft-drinks and nonalcoholic beverages. It shall not include any portion of gross receipts attributable to the nonalcoholic components of plain or mixed alcoholic beverages, such as ice, soft-drink mixes or other mixes.
- (e) The city may require the production of such documents or information, including but not limited to books, records, audited

Financial statements or pro forma financial statements, sales reports and analysis as it deems necessary or convenient to enforce these provisions. The city may also obtain its own audit or review of such documents or information, and all licensees shall cooperate with such a review, including prompt production of requested records.

- (f) Establishments found to fall below the 50 percent standard of annual food sales from the preceding business year shall be required to meet with the city clerk, prior to license renewal, and reassess their business operations and prepare and implement a plan of operations reasonably directed to achieve the 50% food sales requirement in the subsequent year. The plan will be subject to the approval of the City Administrator. Public Safety compliance confirmation will be reviewed by the city clerk and the Director of Public Safety.
- (g) Establishments found to have less than 40 percent of annual gross food receipts may be placed on probation status. The probationary status review will be conducted by the city council and the council may require the establishment be placed on probationary status for one year and require the licensee to prepare any plans and reports, participate in any required meetings and take other action that the city may require to increase the sale of food. The licensee shall submit the plans and periodic reports to the city clerk.
- (g) If, after the initial probationary period, ~~if~~ food sales are still less than 40 percent and the establishment is not in compliance with applicable statute, regulation or ordinance relating to alcoholic beverage, the city council may:
 - (1) Extend the probation period up to 12 additional months;
 - (2) Limit alcohol service hours by revoking an establishment's 2:00 a.m. liquor license (if applicable);
 - (3) Reduce the hours of service by one hour for the period of one year; or
 - (4) Deem the establishment ineligible to sell intoxicating beverages.
- (h) Denial of an intoxicating liquor license shall not prohibit the license holder from applying to obtain a license to sell 3.2 percent

malt beverages.

- (i) Food must be available to guests up until two hours before discontinuing alcohol service.

Sec. 4-30. - Days and hours of sale

- (a) No sale of intoxicating liquor for consumption on the premises holding an on-sale license issued under this article may be made:
 - (1) Between 1:00 a.m. and 8:00 a.m. on the days of Tuesday through Thursday;
 - (2) Between 2:00 a.m. and 8:00 a.m. on the days of Friday through Saturday, provided the licensee has obtained a 2am license from the MN Alcohol and Gambling Division;
 - (3) Between 12:00 midnight and 8:00 a.m. on Mondays;
 - (4) After 2:00 a.m. on Sundays except as provided by section titled Sunday Sales;
- (b) Sale of intoxicating liquor for consumption on the premises holding an on-sale license issued under this article may be made from midnight until 2:00 a.m. on New Year's Day, notwithstanding any other law.
- (c) Licensees who have not obtained a special 2:00 a.m. license from MN Alcohol and Gambling Enforcement Division are prohibited from selling alcohol between 1:00 a.m. and 2:00 a.m. on any day of the week.

Severability

In the event that a court of competent jurisdiction adjudges any part of this chapter to be invalid, such judgment shall not effect any other provision of this Chapter not specifically included within the judgment.

SECTION TWO. Effective date.

This ordinance shall be in full force and effect following its passage and publication according to law

Passed and adopted by the City Council of the City of Woodbury, Washington County, Minnesota this 23 day of October, 2013.

Mary Giuliani Stephens
Mayor

ATTEST:

Clinton P. Gridley
City Administrator

(SEAL)