

WACONIA CITY COUNCIL  
MEETING AGENDA



MONDAY, APRIL 4, 2016  
6:00 P.M.

**VISION STATEMENT**

Waconia is a free-standing growth center that is friendly, self-reliant and well managed.

**MISSION STATEMENT**

We are committed to providing an ideal mix of housing, commerce, health care, recreation, downtown vitality, natural resources, transportation planning, Inter-generational charm, and life-long learning.

*MAYOR: JIM SANBORN*  
*COUNCILMEMBER, WARD I: LYNN AYERS*  
*COUNCILMEMBER, WARD I: MARC CARRIER*  
*COUNCILMEMBER, WARD II: CHARLES ERICKSON*  
*COUNCILMEMBER, WARD II: KENT BLOUDEK*

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**NOTE: AGENDA TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE ACCORDING TO LENGTH OF DISCUSSION.**  
**TO ENSURE THAT YOU ARE PRESENT FOR ITEMS OF INTEREST, PLEASE BE PRESENT AT 6:00 P.M.**

**PAGE NO.**

- 1. CALL MEETING TO ORDER AND ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADOPT AGENDA**
- 4. VISITOR’S PRESENTATIONS, PETITIONS, CORRESPONDENCE**  
-Tim Litfin, Tour de Tonka
- 5. ADOPT CONSENT AGENDA**

The items listed on the Consent Agenda are considered routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember, City Staff, or Citizen so requests; in which case, the item will be removed from the Consent Agenda and considered at the end of the Regular Agenda.

- 1) Approve March 21, 2016 City Council Meeting Minutes ..... 1-6
- 2) Authorize Payment of April 4, 2016 Expenditures ..... 7
- 3) Motion Calling for Annual Storm Water Pollution Prevention Program Meeting ..... 8
- 4) Motion to Approve Use of Streets, Lake Waconia Triathlon ..... 9-11
- 5) Adopt Resolutions No. 2016-76 & 77, Approving Temporary Liquor License for Waconia Lions Club ..... 12-14
- 6) Adopt Resolution No. 2016-78, Accepting Voluntary Resignation of Brian Vos and Authorizing Recruitment ..... 15-16
- 7) Adopt Resolution No. 2016-79, Approving Temporary Liquor License – St Joseph Church .... 17-18

- 8) Adopt Resolution No. 2016-80, Accepting a Petition for Vacation of a Public Drainage and Utility Easement and Setting a Public Hearing ..... 19-22
- 9) Motion to Approve Use of Streets, Community Dinner..... 23

**6. COUNCIL BUSINESS**

- 1) Motion Adopting Ordinance 692, Amending Chapter 580 Regarding Alcoholic Beverages.....24-60

**7. ITEMS REMOVED FROM CONSENT AGENDA**

**8. STAFF REPORTS**

**9. BOARD REPORTS**

- 1) Councilmember Erickson
- 2) Councilmember Bloudek
- 3) Councilmember Carrier
- 4) Councilmember Ayers
- 5) Mayor Sanborn

**10. ANNOUNCEMENTS**

- 1) Waconia Fire Department Breakfast: Sunday, April 10, 8:30 am-12:30 pm
- 2) Public Services Open House, May 7, 8:00 a.m. to 12:00 p.m.

**12. ADJOURN REGULAR MEETING**

.....OFFICE OF THE CITY ADMINISTRATOR  
Susan Arntz

**WORK SESSION:** Stormwater Truck Fees HS Project Options; Schmittville and Reitz Lake Sanitary Sewer System Feasibility Study with Laketown Township; CSAH 110 Highway Improvement Plan Update.

**CALENDAR OF EVENTS/MEETINGS:**

April 4	Monday	6:00 p.m.	City Council Meeting
April 4	Monday	after CC Meeting	Work Session
April 10	Sunday	8:30 a.m. to 12:30 p.m.	Waconia Fire Dept. Pancake Breakfast
April 13-17			Severe Weather Awareness Week
April 18	Monday	6:00 p.m.	City Council Meeting
April 18	Monday	after CC Meeting	Work Session: TBD
April 29	Friday		Arbor Day

**CITY OF WACONIA**  
**March 21, 2016**

Pursuant to due call and notice thereof, the regular meeting of the City Council of the City of Waconia was called to order by Mayor Jim Sanborn at 6:00 p.m. The following members were present: Jim Sanborn, Kent Bloudek, Charles Erickson, and Lynn Ayers. Absent: Marc Carrier

Staff Present: Susan Arntz, Lane Braaten, Craig Eldred, Mike Melchert, Ann Meyerhoff, Nicole Lueck

Visitors: Terry Hartman, Jeff & Tammy Born, Tod Hann, James & Nicole Mase

Pledge of Allegiance was led by Mayor Sanborn.

**ADOPT AGENDA:** Agenda amended removing item number 5 from Council Business. Motion by Erickson, seconded by Ayers to adopt the agenda as amended. All present voted aye. **MOTION CARRIED.**

**VISTOR'S PRESENTATION:** James Mase of 8 Goldfinch Drive made a formal request of the Council to reverse the ordinance that prohibits backyard chickens within City limits.

**ADOPT CONSENT AGENDA**

- 1) Approve February 29, 2016 City Council Meeting Minutes.
- 2) Authorize Payment of March 21, 2016 Expenditures.
- 3) Adopt Resolution No. 2016-61, Approving Temporary On-Sale 3.2% Malt Liquor License for Waconia Baseball Association.
- 4) Motion to Approve Use of Streets for the Walk on Waconia Even, Sat, April 23, 2016.
- 5) Motion to Approve Use of Streets for Lola's Lake Waconia Running/Walking event, June 4 2016.
- 6) Authorize Contract Pay Request #9, Park Construction – Trunk Highway 5 Construction Project.
- 7) Adopt Resolution No. 2016-62, Approving First Amendment to Solar Energy Contract – Oak Leaf Energy, LLC.
- 8) Adopt Resolution No. 2016-65, Second Site Plan Amendment: Nagel Assisted Living.
- 9) Motion to Approve lodging Tax Reimbursement from Waconia CVB, January – March 2016.
- 10) Authorize City Administrator to Sign MOU Agreement with Waconia ISD 110 on Design & Construction of Pedestrian Underpass for CSAH 110, Resolution 2016-71.
- 11) Adopt Resolution No. 2016-72, Authorizing Bolton & Menk to Design, Preparation of Plans, and Advertise CSAH 110 Pedestrian Underpass for Construction.
- 12) Adopt Resolution No. 2016-74, Authorizing City Engineers; Bolton & Menk to Prepare Feasibility Report for the Proposed 2017 Infrastructure Project.
- 13) Adopt Resolution No. 2016-75, Approving Cigarette License for United Petroleum, LLC.

Motion by Erickson, seconded by Bloudek to Adopt the Consent Agenda as presented. All present voted aye. **MOTION CARRIED.**

**PUBLIC HEARING - Annexation Agreement with Waconia Township:** Mayor Sanborn called the Public Hearing to Order. Lane Braaten stated that the City of Waconia and Waconia Township desire to enter into a Joint Resolution for Orderly Annexation of certain road segments located south of Highway 5. The agreement, upon approval by the Council, will be submitted to the State for a final order of annexation. The State is required by statute to order the annexation within 30 days.

Mayor Sanborn asked for comments from Council Members and residents. There were no comments.

Motion by Ayers, seconded by Bloudek to Close the Public Hearing on the Annexation Agreement with Waconia Township. All present voted aye. **MOTION CARRIED.**

Motion by Erickson, seconded by Ayers to Adopt Resolution No. 2016-63, Joint Resolution for Orderly Annexation between the Town of Waconia and the City of Waconia. All present voted aye. **MOTION CARRIED.**

**CITY OF WACONIA**  
**March 21, 2016**

**COUNCIL BUSINESS**

**ANNEXATION BETWEEN THE CITY OF WACONIA AND LAKETOWN TOWNSHIP:** Lane Braaten presented stating that the City of Waconia and Laketown Township desire to enter into a joint resolution for orderly annexation of a portion of old Airport Road. The agreement, upon approval by the township and City, may be reviewed by the State Municipal Boundary Adjustments, but shall within 30 days, be required to order the annexation of the described property in accordance with the terms of the joint resolution. The Joint Resolution has been reviewed by City staff and the City Attorney's office and approval is recommended. This joint resolution was considered and approved by the Laketown Township Board at their regular meeting on Monday, March 14<sup>th</sup>, 2015.

Braaten explained that the procedure for approving orderly annexation requests within the Orderly Annexation Area (OAA) has been agreed upon by the City of Waconia and Laketown Township.

1. No public hearing is required.
2. A letter or petition is submitted to the City by the owner of the property requesting annexation into the City.
3. The City accepts the letter or petition and adopts a joint resolution with the township approving annexation.
4. The joint resolution is forwarded to the State Municipal Boundary Adjustment.
5. The property owner complies with the tax reimbursement agreement to the Township. This is a payment to the township from the property owner equivalent to \$300.00 per acre (in 2006) with a 3% increase annually from the 2006 date.

This request is not typical as there is no underlying property owner requesting the property be annexed into the City. Further, the City and Township have agreed that no reimbursement is necessary as the property in question is a section of Airport Road.

Motion by Bloudek, seconded by Erickson to Adopt Resolution 2016-64, Approving the Joint Resolution for Orderly annexation between the City of Waconia and Laketown Township for a Segment of Old Airport Road. All present voted aye.

**MOTION CARRIED.**

**INTERLAKEN 8<sup>TH</sup>/STONEGATE PRELIMINARY PLAT, ZONING AMENDMENT, VARIANCE**

**APPLICATIONS:** Lane Braaten stated that the City had received three land use applications from Hartman Communities, LLC for the property located at 1150 Somerwood Drive. The applications included the following:

1. Zoning Map Amendment to amend the City of Waconia Zoning Map and rezone the subject property to PUD, Planned Unit Development District from the current zoning of R-3, Medium Density Residential District
2. Variance Application to reduce the building and parking setback from any exterior PUD property line or abutting street to a minimum of 20 ft., versus the 40 ft. minimum required per Ordinance,
3. Preliminary Plat Application for the subject parcel. The Preliminary Plat, titled Interlaken 8<sup>th</sup> Addition/Stonegate, is proposed to include fifty-one (51) small lot, single-family parcels and two (2) outlots.

Braaten explained that the Planning Commission and staff would recommend the approvals with the following conditions:

1. The Interlaken 8<sup>th</sup> Addition/Stonegate Preliminary Plat shall be completed as approved and as conditionally revised by the Planning Commission and the City Council.
2. All applicable permits are applied for by the applicant with all supporting documentation and issued prior to the start of construction.

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3. The applicant shall obtain Carver County Watershed Management Organization (CCWMO) approval and permitting for erosion control and stormwater management. A copy of any approvals or permits shall be submitted prior to any land disturbing activities.
4. The applicant shall obtain a General Construction Stormwater Permit (NPDES) from the Minnesota Pollution Control Agency and submit a copy to the City prior to any land disturbing activities.
5. All indirect costs related to the permitting, review, and plans associated with engineering and administrative costs shall be paid by the applicant/owner.
6. The City shall provide the necessary street signage. The applicant shall provide the necessary escrow funds to cover all street signage and installation costs.
7. The applicant shall provide a copy of the approved Carver County Trail Permit.
8. The plans shall conform to the staff review memo dated February 16<sup>th</sup>, 2016 and the Bolton and Menk memo dated February 26<sup>th</sup>, 2016.
9. The watermain, sanitary sewer, grading, and stormwater issues shall be resolved to the satisfaction of the City Engineer and Public Services Director prior to the issuance of the building permit for the Interlaken 8<sup>th</sup> Addition/Stonegate development.
10. Compliance with applicable items contained in Chapter 1000 of the City of Waconia Subdivision Ordinance.
11. Execution of a Developer's Agreement for the Final Plat.
12. The applicant shall file an application of final plat approval within six (6) months following the approval of the Interlaken 8<sup>th</sup> Addition/Stonegate Preliminary Plat, unless an extension of time is requested in writing by the subdivider and granted by the Council prior to the six (6) month expiration date.

Terry Hartman of Hartman Communities, LLC came forward and gave an overview of the project.

Motion by Ayers, seconded by Erickson to Adopt Resolution No. 2016-66, Approving the Proposed Zoning Map Amendment to rezone the subject parcel from R-3, Medium Density Residential District to PUD, Planned Unit Development District. All present voted aye. **MOTION CARRIED.**

Motion by Erickson, seconded by Bloudek to Adopt Resolution No. 2016-67, Approving the proposed Variance Application to the PUD Development Standards to allow building and parking to be setback a minimum of 20 ft. from any exterior PUD property line or abutting street versus the 40 ft. minimum required by Ordinance. All present voted aye. **MOTION CARRIED.**

Motion by Bloudek, seconded by Ayers to Adopt Resolution No. 2016-68, Approving the proposed Interlaken 8<sup>th</sup> Addition/Stonegate Preliminary Plat Application for the development of 51 small lot, single family parcels for the property located at 1150 Somerwood Drive. All present voted aye. **MOTION CARRIED.**

**AWARD OF CONSTRUCTION CONTRACT WITH GMH ASPHALT CORPORATION FOR THE 2016 INFRASTRUCTURE IMPROVEMENT:**

Craig Eldred gave a brief overview of the improvements which consist of , but are not limited to, the reconstruction of portions of Maple Street, Fifth Street, Cherry Street, Interlaken Crossing(Old Airport Road Gravel) including sanitary sewer, water main, and storm systems within the entire roadway right of way, and roadway surfaces. Additional work consists of Street Overlays of Cherry Street, Industrial Boulevard, Wildhurst Road, Deerfield Road, Sunset Boulevard, and Airport Road. Including but not limited to Hilks Lake Park improvements, CSAH 10 Trail improvements, First Street Storm Water Reuse, and Amenities.

Staff received bids on March 15, 2016 at 10:00 a.m. at City Hall. GMH Asphalt Corporation came in with the low bid at \$3,209,603.93.

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Motion by Erickson, seconded by Ayers to Adopt Resolution No. 2016-69, Authorize and Award Construction Contract with GMH Asphalt Corporation for the 2016 Infrastructure Improvement Project in the amount of \$3,209,604.00 and Staff Purchasing Allocations of \$70,000.00. All present voted aye. **MOTION CARRIED.**

**AWARD CONSTRUCTION CONTRACT TO MINGER CONSTRUCTION FOR PHEASANT RIDGE LIFT STATION IMPROVEMENT PROJECT AND STORM WATER REUSE PUMPING SYSTEM INSTALLATION:** Craig Eldred stated that bids were received March 15, 2016 at 11:00 a.m. with Minger Construction coming in with the low bid of \$207,722.70. Eldred asked the Council to authorize allowing for a construction contract to be drafted allowing improvements to occur based upon the bids and City supplied materials. The Contract would be awarded to Minger Construction for Pheasant Ridge Lift Station Improvement Project; CIP Project 19 and storm water reuse pumping system installation for 10<sup>th</sup> Street/TH 5 storm water improvement; Project 415 in the amount of \$207,722.70 and staff allocations of \$92,350.00 for supplies and materials to be provided.

Motion by Bloudek, seconded by Erickson to Adopt Resolution No. 2016-70, Authorizing Award of Construction Contract to Minger Construction for Pheasant Ridge Lift Station Improvement Project and Storm water Reuse Pumping System Installation for 10<sup>th</sup> Street/TH 5 Storm Water Improvement. All present voted aye. **MOTION CARRIED.**

**SALE OF GENERAL OBLIGATION BONDS, SERIES 2016A – 2016 INFRASTRUCTURE IMPROVEMENT PROJECTS & EQUIPMENT CERTIFICATES:** Nicole Lueck presented stating that staff has been working with Ehler’s on the issuance of bonds to fund the 2016 infrastructure projects. The City budgeted to issue General Obligation 429 improvement bonds, revenue bonds, and equipment certificates to fund the project costs included in the feasibility study and quotes accepted for replacement capital equipment. She gave a breakdown of the 2016 infrastructure projects and equipment along with the identified funding sources.

<b>2016 Infrastructure Breakdown</b>	<b>Feasibility Study Costs</b>	<b>Low Bid with Contingency and Engineering</b>	<b>Funding Source Identified</b>
Street/Utility Reconstruction	\$ 3,110,400	\$ 2,514,606	GO 429 Bond/115 Sewer Revenue/444 Water & Storm Water Revenue
Interlaken Crossing/Airport Road	\$ 813,400	\$ 846,903	GO 429 Bond
Bituminous Overlays	\$ 674,400	\$ 543,696	GO 429 Bond
CSAH 10 Trail	\$ 92,600	\$ 92,139	GO 429 Bond
Hilks Lake Park	\$ 36,800	\$ 14,660	GO 429 Bond
2016/2017 Dump Truck & Loader	\$ -	\$ 715,000	Equipment Certificates
<b>Total:</b>	<b>\$ 4,727,600</b>	<b>\$ 4,727,005</b>	

Lueck said that the City has issued General Obligation 429 bonds in the past for public improvement projects. The City has the authority to issue these types of bonds for projects related to street reconstruction and infrastructure improvements. To issue 429 bonds, a portion of the bond must be paid with special assessments related to the project area that was improved. The City has budgeted to pay future fees not covered by special assessments with a special debt levy. Staff has been working with Ehler’s to ensure the City meets the 20% threshold using the lowest of the calculation for special assessments based on the current financial policy or appraisal. The total for all special assessments related to the 2016 infrastructure improvement project is estimated at \$1,300,000.

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General Obligation 115 bonds are bonds that can be issued only for sanitary sewer projects. Under Minnesota Statute 115.46, the City may issue these bonds to aid in financing sewer projects and repay the debt using special assessments, revenue, or a special debt levy if needed. At this time, the City plans to pay these bonds with revenues and special assessments in the sanitary sewer fund. Also, the City will be issue 444 revenue bonds for those portions of the projects related to water and storm water. These are revenue bonds that must be repaid with revenues in the enterprise funds from sales or special assessments paid by the City's customer base.

The City has issued equipment certificates in the past for larger equipment needs. This year, the City budgeted to issue equipment certificates for both a front end loader and replacement dump truck. These purchases total approximately \$457,000. In addition to these two items, staff is recommending the Council consider issuing bonds for the dump truck replacement project budgeted for in 2017. This will allow staff to order the truck and start making purchases for it in 2016. These types of trucks can take almost a year to be fully put into service. Doing this now will allow the truck to be in service the winter of 2017 when it is most needed.

Todd Hagen from Ehler's presented the pre-sale report for the Council's consideration stating that he would be back for the Council meeting on April 18<sup>th</sup> with the bids.

Motion by Erickson, seconded by Ayers to Adopt Resolution No. 2016-73, Providing for the Sale of General Obligation Bonds, Series 2016A – 2016 Infrastructure Improvement Projects & Equipment Certificates. All present voted aye. **MOTION CARRIED.**

**ITEMS REMOVED FROM CONSENT AGENDA:** None

**STAFF REPORTS:** Craig Eldred stated that water meter replacement will be starting soon. Residents will get a letter with information on who to contact, phone numbers and an e-mail link to Ferguson Water Works.

On Saturday, April 16<sup>th</sup> (9-11:30 a.m.) there will be a Waconia Waters Forum where residents can find out the health status of Lake Waconia, the surrounding Lakes and Receiving Streams. And what can be done to assist in protecting the Lake.

Arbor Day , April 21 at 6:00 are invited to help plant trees in Waterford Park and join in spring cleaning of the department's Adopt-A-Trail section of the Dakota Rail Regional Trail.

Public Services open house will be held on Saturday, May 7<sup>th</sup>. Staff will be on hand to show residents how things are run. The water tower will also be open.

**BOARD REPORTS:**

Councilmember Erickson – Attended the Waconia Township Board Meeting discussing annexation.

Councilmember Bloudek – Attended the Park Board Meeting where Hilks Lake playground equipment was chosen.

Councilmember Carrier – Absent

Councilmember Ayers – No Report

Mayor Sanborn – Attended the Planning Commission Meeting.

**ANNOUNCEMENTS:** Fire Department Pancake Breakfast, Sunday April 10, 2016

**ADJOURN:**

Motion by Bloudek, seconded by Erickson to adjourn the meeting at 7:35 p.m. All present voted aye. MOTION CARRIED

**CITY OF WACONIA**  
**March 21, 2016**

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James P Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Ann Meyerhoff, Office Assistant

I have reviewed the list of claims for council approval and recommend payment.

*Nicole Lueck*  
 Nicole Lueck, Finance Director

3/30/2016  
 Date

**CITY OF WACONIA**  
**Council List-Expenditures**  
**Meeting: April 04, 2016**

Vendor Name	Description	Amount	Fund/Department
A1 JANITORIAL SUPPLY	Powdered Drain Sewer Opener	\$131.93	Sewer
AVTEX SOLUTIONS, LLC	IT Consulting-Router/Interface	\$300.00	Technology
BOLTON & MENK, INC	Crosswinds 2nd Addition	\$78.00	Bill Back Receivable
BOLTON & MENK, INC	Good Sam Parking Lot	\$83.50	PIR Escrow
BOLTON & MENK, INC	RMC Expansion	\$83.50	PIR Escrow
BOLTON & MENK, INC	2015 Sanitary Sewer CIPP	\$156.00	Sewer
BOLTON & MENK, INC	Interlaken 8th Addition	\$188.50	PIR Escrow
BOLTON & MENK, INC	Cartegraph	\$372.00	Streets
BOLTON & MENK, INC	TH 284/10th St Reconstruction	\$616.00	Split: PIR, Storm Water, Sewer, Water
BOLTON & MENK, INC	2014 Infrastructure Project	\$858.50	Split: PIR, Storm Water, Sewer, Water, Park Dedication
BOLTON & MENK, INC	MSA System Management	\$889.00	Streets
BOLTON & MENK, INC	Met Council I & I Surcharge	\$961.15	Sewer
BOLTON & MENK, INC	Crosswinds	\$962.00	Bill Back Receivable
BOLTON & MENK, INC	Interlaken Woods	\$1,120.00	Bill Back Receivable
BOLTON & MENK, INC	2015 Infrastructure Recon	\$1,495.30	Split: PIR, Storm Water, Sewer, Water, Park Dedication
BOLTON & MENK, INC	Pheasant Ridge Lift Station	\$1,712.50	Sewer
BOLTON & MENK, INC	Waterford Property ALTA	\$2,874.00	PIR
BOLTON & MENK, INC	Cedar Point Park Drainage Imp	\$3,306.00	Storm Water
BOLTON & MENK, INC	Miscellaneous Engineering	\$4,098.50	Split: Storm Water, Streets, Parks, Sewer, Planning, PIR Escrow, Administration
BOLTON & MENK, INC	TH 5 Stormwater Reuse	\$4,680.91	Storm Water
BOLTON & MENK, INC	School District #110 Expansion	\$6,841.50	PIR Escrow
BOLTON & MENK, INC	Community Dr & 94th St	\$10,422.00	PIR Escrow
BOLTON & MENK, INC	2016 Infrastructure Recon	\$78,992.50	Split: PIR, Water, Sewer, Storm Water
BOLTON & MENK, INC	TH 5 Corridor Improvements	\$90,911.25	Split: PIR, Storm Water, Sewer, Water
BRYAN ROCK PRODUCTS, INC	Rip Rap - Stormwater Project	\$125.49	Storm Water
COLOGNE ACADEMY	Refund SI Room Rental	\$15.00	Safari Island
FRAMING IMAGES	Fire Dept Photo Framing	\$95.00	Fire
GRIMM, TED	Hotel Reimbursement - I&I Work	\$87.89	Sewer
HAUSER HOMES INC	Return Tree Escrow - 812 Beach	\$400.00	PIR Escrow
HEALTH PARTNERS	EAP Fees 03/2016	\$102.00	Administration
JOHNPATRICK LLC	Return Tree Escrow - 815 Beach	\$400.00	PIR Escrow
NORDIC MECHANICAL SERVICES	FS Thermostat Replacement	\$920.00	Central Facilities
NORTHLAND LINING	I & I Reduction Program	\$33,659.00	Sewer
OPG-3, INC.	LF Workflow Reprocessing	\$185.00	Technology
OPG-3, INC.	LF P-Card Workflow	\$370.00	Technology
QUALITY FORKLIFT SALES & SERVICE, INC.	Forklift Operation Manuals	\$390.93	Capital Equipment
SIMPLEX GRINNELL	WTP Extinguisher Contract Service	\$260.00	Water
SIMPLEX GRINNELL	CH/Library Extinguisher Contract	\$535.00	Central Facilities
SVL SERVICE CORPORATION	Dectron Repairs	\$1,068.00	Safari Island
SWINGE VENTURES, LLC	Return Tree Escrow - 807 Beach	\$400.00	PIR Escrow
WATSON CO INC	SI Merchandise for Resale	\$218.43	Safari Island
ZELLER & ASSOCIATES	Refund Remaining Escrow Funds	\$441.68	PIR Escrow
		<u>\$251,807.96</u>	

The above bills have been approved for payment at the regular City Council Meeting on April 04, 2016.  
 Authorized and ordered for payment:

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Administrator



## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016
<b>Item Name:</b>	Call for Annual Storm Water Pollution Prevention Program Meeting
<b>Originating Department:</b>	Administration
<b>Presented by:</b>	Craig Eldred, Public Services Director

**Previous Council Action (if any):**

<b>Item Type (X only one):</b>	Consent	X	Regular Session	Discussion Session	
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**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** *(Include motion in proper format.)*

Motion Calling for Annual Storm Water Pollution Prevention Program Meeting

**EXPLANATION OF AGENDA ITEM** *(Include a description of background, benefits, and recommendations.)*

The City of Waconia holds a National Pollutant Discharge Elimination System (NPDES) Phase II permit from the MN Pollution Control Agency (MPCA) with the goal of reducing pollutant concentrations to surface waters. As required, the City has prepared a Storm Water Pollution Prevention Plan (SWPPP) and annually solicits public input on the Plan. Citizens are invited to participate in this year's annual meeting and to report general concerns regarding the SWPPP or specific information on illicit discharges within the community. Citizens have the opportunity to come to the meeting and express concerns orally or submit concerns in writing prior to the meeting. The City must consider citizen input and make appropriate adjustments to the SWPPP prior to submitting its annual report to the MPCA.

The meeting will be held as part of a regularly scheduled council meeting at 6:00 PM, Monday, May 16th, 2016. The public is encouraged to submit written comments/concerns on the SWPPP by May 6th, 2016 to City Hall.

<p><b>FINANCIAL IMPLICATIONS:</b></p> <p>Funding Sources &amp; Uses:</p> <p>Budget Information:</p> <p>_____ Budgeted</p> <p>_____ Non Budgeted</p> <p>_____ Amendment Required</p>	<p><b>ADVISORY BOARD RECOMMENDATIONS:</b></p> <p>Planning Commission</p> <p>Parks and Recreation Board</p> <p>Safari Island Advisory Board</p> <p>Other</p>
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<b>Approved</b>	<b>Denied</b>	<b>Tabled</b>	<b>Other</b>
<b>Resolution No.</b> _____	_____	<b>Ordinance No.</b> _____	_____



## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016
<b>Item Name:</b>	Annual Lake Waconia Triathlon Event; Use of Streets Request for June 26 <sup>th</sup> , 2016
<b>Originating Department:</b>	Public Services & Parks
<b>Presented by:</b>	Craig Eldred, Public Services Director

**Previous Council Action** (if any):

<b>Item Type (X only one):</b>	Consent	X	Regular Session	Discussion Session
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**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** (Include motion in proper format.)

Authorize use of Streets for Lake Waconia Triathlon Event; Use of Streets Request for June 26<sup>th</sup>, 2016

**EXPLANATION OF AGENDA ITEM** (Include a description of background, benefits, and recommendations.)

Mr. Mark Bongers of Final Stretch has requested the use of streets for annual Lake Waconia Triathlon event to be held June 26<sup>th</sup>, 2016.

Event Happening:	Start Times
• <b>Start</b>	<b>8:30 am</b>
• <b>Completion</b>	<b>12:30 pm</b>

Attached City Council Members will find overviews of the run and bike course routes

No Parking has been requested for the following streets:

1. **Old Beach from Main Street to Cul-de-sac**
2. **Main Street from Old Beach to Elm Street**
3. **Main Street from Maple to Walnut Street**
4. **Walnut Street from Lake to Third Street**
5. **Third Street from Walnut to Partridge Circle**

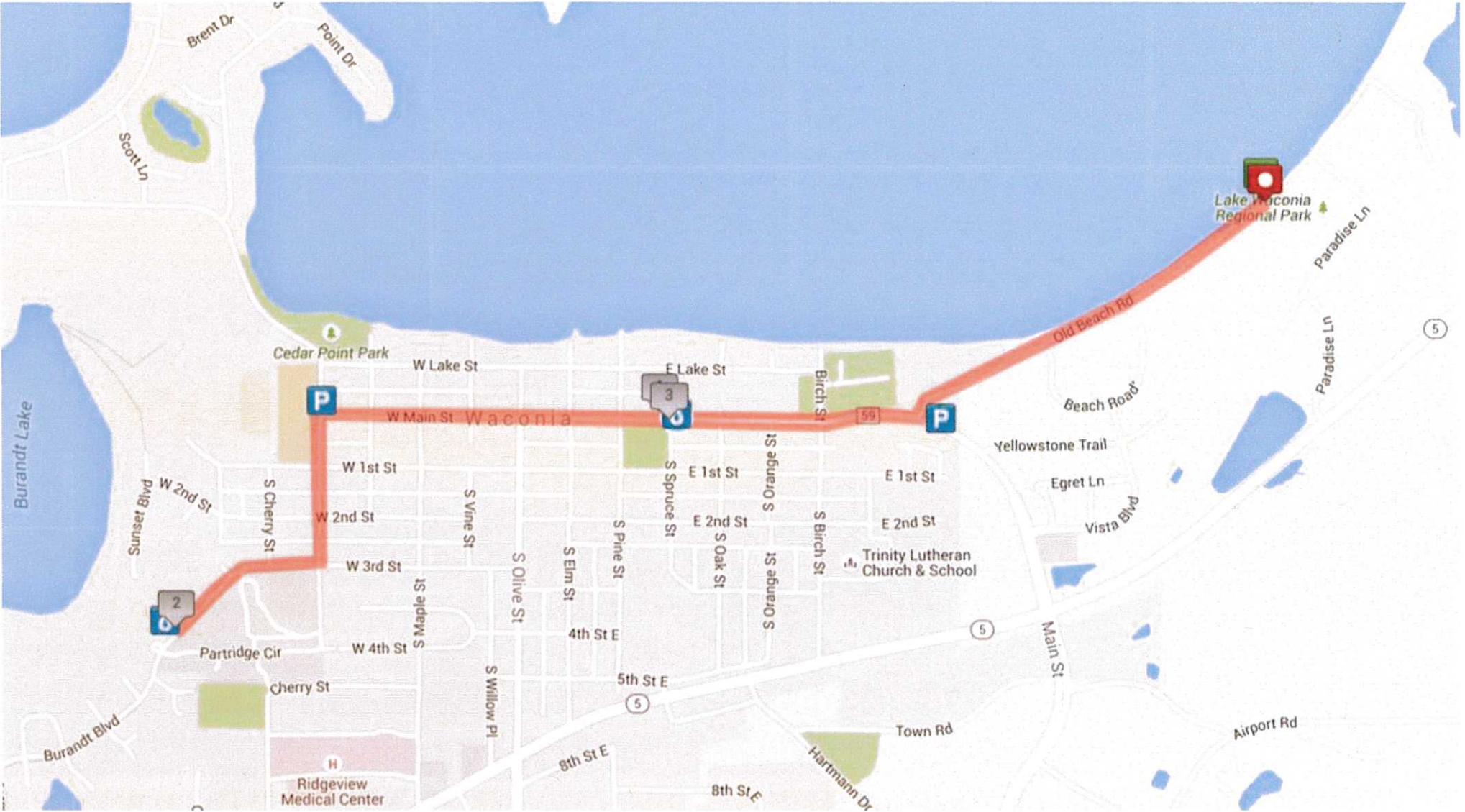
Event organizers will be notifying the Waconia Fire Department, Carver County Dispatch, Carver County Sheriff's Department, and Ridgeview Ambulance.

Previous years events have been very successful and have brought many individuals to the Waconia community.

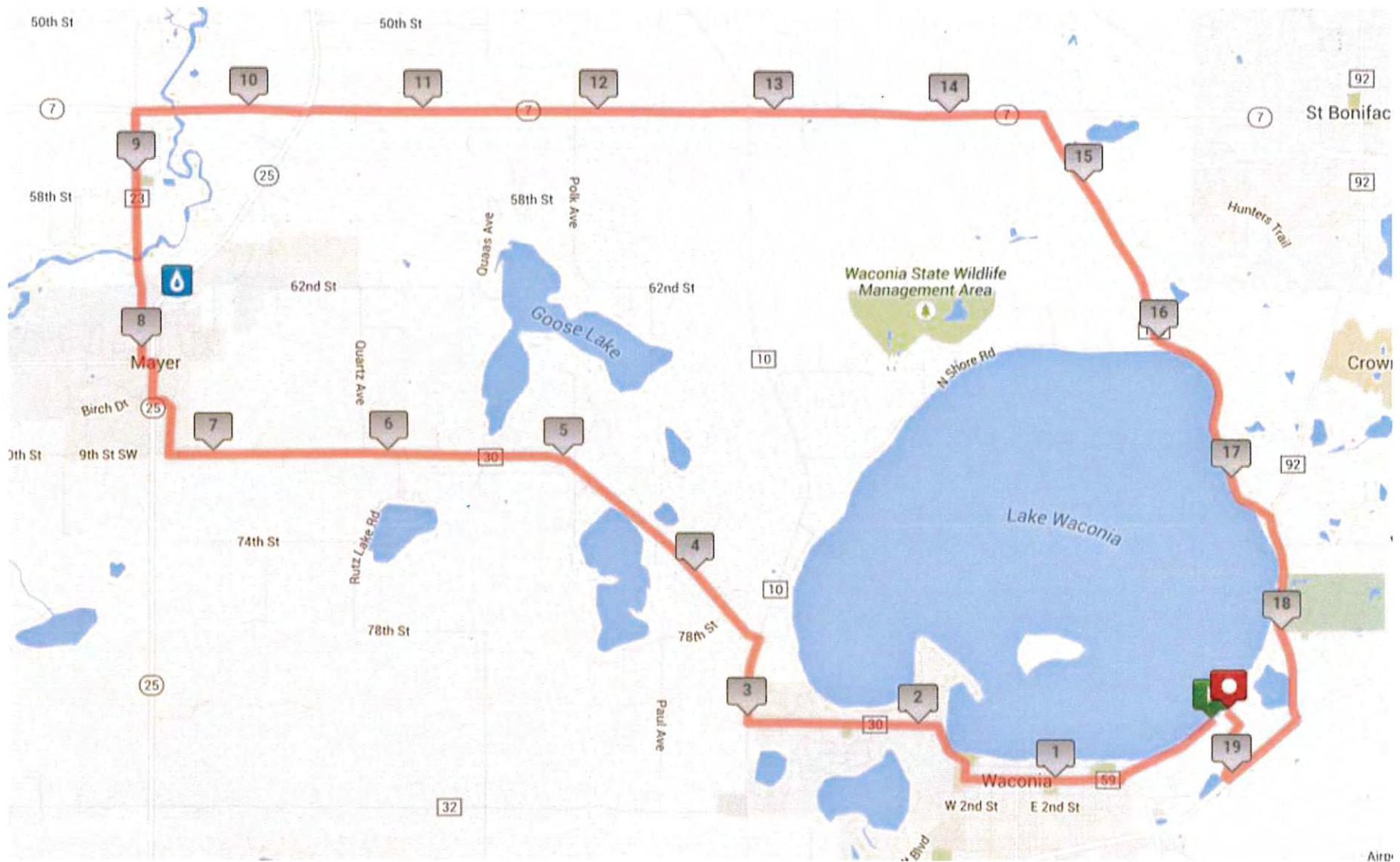
Staff recommends authorizing the use of streets for the Lake Waconia Triathlon event on June 26<sup>th</sup>, 2016.

<p><b>FINANCIAL IMPLICATIONS:</b></p> <p>Funding Sources &amp; Uses:</p>	<p><b>ADVISORY BOARD RECOMMENDATIONS:</b></p>
<p>Budget Information:</p> <p>_____ Budgeted</p> <p>_____ Non Budgeted</p> <p>_____ Amendment Required</p>	<p>Planning Commission</p> <p>Parks and Recreation Board</p> <p>Safari Island Advisory Board</p> <p>Other</p>

# Lake Waconia Run Course



# Lake Waconia Bike Course





## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016
<b>Item Name:</b>	Approve Temporary On-Sale 3.2% Malt Liquor Licenses
<b>Originating Department:</b>	Administration
<b>Presented by:</b>	Susan MH Arntz, City Administrator

<b>Previous Council Action</b> (if any):						
<b>Item Type (X only one):</b>	Consent	X	Regular Session		Discussion Session	

**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** *(Include motion in proper format.)*

Adopt Resolution No. 2016-76. Approving Temporary On-Sale 3.2% Malt Liquor License for Waconia Lions Club (Carver County Fairgrounds)

Adopt Resolution No. 2016-77, Approving Temporary On-Sale 3.2% Malt Liquor License for Waconia Lions Club (Hometown Bank)

**EXPLANATION OF AGENDA ITEM** *(Include a description of background, benefits, and recommendations.)*

The Waconia Lions Club has applied for two Temporary On-Sale 3.2% Malt Liquor Licenses.

The first is for PRCA/Extreme Events/Waconia Rodeo to be held June 24, 2016– June 25, 2016, at the Carver County Fairgrounds, Grandstand/Concessions Area.

The second is for an event to be held at Hometown Bank, 641 Marketplace Drive.

All 3.2% malt liquor beverage containers must be completely opened upon sale.

<p><b>FINANCIAL IMPLICATIONS:</b></p> <p>Funding Sources &amp; Uses:</p> <p>Budget Information:</p> <p>_____ Budgeted</p> <p>_____ Non Budgeted</p> <p>_____ Amendment Required</p>	<p><b>ADVISORY BOARD RECOMMENDATIONS:</b></p>
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**CITY OF WACONIA  
RESOLUTION NO. 2016-76**

**RESOLUTION APPROVING TEMPORARY ON-SALE  
3.2% MALT LIQUOR LICENSE**

**WHEREAS,** The Waconia Lions Club has submitted an application for a Temporary On-Sale 3.2% Malt Liquor License for sale at Carver County Fairgrounds; and

**WHEREAS,** Sales and consumption of 3.2% malt liquor beverages will be limited to the designated Grandstand/Concessions Area at the Carver County Fairgrounds. All 3.2% malt liquor beverage containers must be completely opened upon sale.

**NOW, THEREFORE, BE IT RESOLVED** That the City Council of the City of Waconia hereby approves a Temporary On-Sale 3.2 Percent Malt Liquor License for the Waconia Lions for July 24 – July 25, 2016:

1. 3.2% malt liquor beverage containers must be completely opened upon sale

Adopted by the City Council of the City of Waconia this 4<sup>th</sup> day of April, 2016.

\_\_\_\_\_  
Jim Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Susan MH Arntz, City Administrator

M/ _____	Carrier	_____
	Ayers	_____
S/ _____	Bloudek	_____
	Erickson	_____
	Sanborn	_____

**CITY OF WACONIA  
RESOLUTION NO. 2016-77**

**RESOLUTION APPROVING TEMPORARY ON-SALE  
3.2% MALT LIQUOR LICENSE**

**WHEREAS,** The Waconia Lions Club has submitted an application for a Temporary On-Sale 3.2% Malt Liquor License for sale at Hometown Bank, 641 Marketplace Dr., Waconia; and

**WHEREAS,** Sales and consumption of 3.2% malt liquor beverages will be limited to the designated area in the building and parking lot. All 3.2% malt liquor beverage containers must be completely opened upon sale.

**NOW, THEREFORE, BE IT RESOLVED** That the City Council of the City of Waconia hereby approves a Temporary On-Sale 3.2 Percent Malt Liquor License for the Waconia Lions for June 17, 2016 with the following requirement:

1. 3.2% malt liquor beverage containers must be completely opened upon sale

Adopted by the City Council of the City of Waconia this 4<sup>th</sup> day of April, 2016.

\_\_\_\_\_  
James P Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Susan MH Arntz, City Administrator

M/ _____	Carrier	_____
	Ayers	_____
S/ _____	Bloudek	_____
	Erickson	_____
	Sanborn	_____



## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016				
<b>Item Name:</b>	Resolution Accepting Employee Resignation and Authorize Recruitment				
<b>Originating Department:</b>	Administration				
<b>Presented by:</b>	Angel Smith, Assistant City Administrator				
<b>Previous Council Action (if any):</b>					
<b>Item Type (X only one):</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Consent</td> <td style="width: 25%; text-align: center;">X</td> <td style="width: 25%;">Regular Session</td> <td style="width: 25%;">Discussion Session</td> </tr> </table>	Consent	X	Regular Session	Discussion Session
Consent	X	Regular Session	Discussion Session		

***RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)***

Adopt Resolution 2016-78, Accepting Voluntary Resignation of Brian Vos, Maintenance Worker-Utilities, and Authorizing Recruitment.

***EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)***

Brian Vos, Maintenance Worker-Utilities, has submitted his voluntary resignation from employment with the City of Waconia to be effective April 15, 2016. Brian has worked with us for over seven years. We wish Brian well in his new endeavors.

Staff requests authorization to open the position, accept applications, and recommend appointment to the position. The Personnel Committee is recommending approval.

***FINANCIAL IMPLICATIONS:***

Funding Sources & Uses:

Budget Information:

Budgeted

Non Budgeted

Amendment Required

***ADVISORY BOARD RECOMMENDATIONS:***

Planning Commission

Parks and Recreation Board

Safari Island Advisory Board

Other

**Personnel Committee  
Recommendation**

**CITY OF WACONIA  
RESOLUTION NO. 2016-78**

**RESOLUTION ACCEPTING  
RESIGNATION AND AUTHORIZING RECRUITMENT**

**WHEREAS**, The City has received the voluntary resignation of Brian Vos, Maintenance Worker-Utilities; and

**WHEREAS**, the City has received the notice in accordance with its personnel policies to be effective April 15, 2016; and

**NOW, THEREFORE, BE IT RESOLVED**, that, the City Council hereby accepts the voluntary resignation of Brian Vos, and considers it to be in good standing and authorizes recruitment and replacement of this position.

Adopted by the City Council of the City of Waconia this 4th day of April, 2016.

\_\_\_\_\_  
James P. Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Susan MH Arntz, City Administrator

M/	_____	Carrier	_____
		Ayers	_____
S/	_____	Erickson	_____
		Bloudek	_____
		Sanborn	_____



## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016				
<b>Item Name:</b>	Approve Temporary Liquor License for St Joseph Church				
<b>Originating Department:</b>	Administration				
<b>Presented by:</b>	Susan Arntz				
<b>Previous Council Action (if any):</b>	None				
<b>Item Type (X only one):</b>	Consent	<input checked="" type="checkbox"/>	Regular Session	<input type="checkbox"/>	Discussion Session

**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** *(Include motion in proper format.)*

Adopt Resolution 2016-79, Approving Temporary On-Sale Liquor License Application for St. Joseph Church

**EXPLANATION OF AGENDA ITEM** *(Include a description of background, benefits, and recommendations.)*

The Office of City Administrator received an application for a temporary on-sale liquor license from St. Joseph Church for a fundraising event to be held on Saturday, April 16, 2016.

Sale and consumption of alcoholic beverages will be limited to the Gymnasium and Commons area of the Education Center.

Staff recommends approval of this request.

<p><b>FINANCIAL IMPLICATIONS:</b></p> <p>Funding Sources &amp; Uses:</p>	<p><b>ADVISORY BOARD RECOMMENDATIONS:</b></p>
<p>Budget Information:</p> <p>_____ Budgeted</p> <p>_____ Non Budgeted</p> <p>_____ Amendment Required</p>	<p>Planning Commission</p> <p>Parks and Recreation Board</p> <p>Safari Island Advisory Board</p> <p>Other</p>

**CITY OF WACONIA  
RESOLUTION NO. 2016-79**

**RESOLUTION APPROVING TEMPORARY  
ON-SALE LIQUOR LICENSE APPLICATION**

**WHEREAS,** An application for a temporary on-sale liquor license has been received in the Office of the City Administrator from the Church of St. Joseph for a fundraising event to be held on Saturday, April 16, 2016, at Church of St. Joseph, 41 East First Street, Waconia, MN., and

**WHEREAS,** Sale and consumption of alcoholic beverages will be limited to the Gymnasium and Commons area of Education Center.

**NOW, THEREFORE, BE IT RESOLVED,** That the City Council of the City of Waconia hereby approves the temporary on-sale liquor license application of Church of St. Joseph for February 20, 2015, contingent upon completion of all forms, payment of fees, receipt of certificates of insurance, and proof of compliance with state and local requirements.

Adopted by the City Council of the City of Waconia this 4<sup>th</sup> day of April, 2016.

\_\_\_\_\_  
James P. Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Susan MH Arntz, City Administrator

M/ _____	Erickson	_____
	Bloudek	_____
S/ _____	Carrier	_____
	Ayers	_____
	Sanborn	_____



## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4 <sup>th</sup> , 2016
<b>Item Name:</b>	Petition for Vacation of Public Drainage & Utility Easement – Outlot A, Cherry Street Development Plat
<b>Originating Department:</b>	Planning Department
<b>Presented by:</b>	Lane L. Braaten

**Previous Council Action** (if any):

<b>Item Type (X only one):</b>	Consent	<input checked="" type="checkbox"/>	Regular Session	<input type="checkbox"/>	Discussion Session	<input type="checkbox"/>
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**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** (Include motion in proper format.)

**Adopt Resolution No. 2016-80 accepting a Petition for Vacation of a Public Drainage and Utility Easement in the City of Waconia and Setting a Public Hearing date of May 2<sup>nd</sup>, 2016 to consider the Vacation Request.**

**EXPLANATION OF AGENDA ITEM** (Include a description of background, benefits, and recommendations.)

The City has received a Petition for Vacation of a public drainage and utility easement submitted by Auburn Meadows, LLC and Moravian Care Housing Care Corporation (the “Applicants”). The applicants have requested that the public drainage and utility easement lying within Outlot A of the Cherry Street Development Plat be vacated as Outlot A has been replatted as part of the plat for Auburn Meadows and new easements were dedicated in connection with said plat. Therefore, any utilities lying within the above described Outlot A easement have been relocated and such easement is no longer needed for drainage and utility purposes.

Staff requests the City Council receive the Petition for Vacation and set a public hearing date of May 2<sup>nd</sup>, 2016 for consideration of this request. Upon approval of the attached resolution City staff will cause the required public hearing notices to be mailed, posted and advertised per City Ordinance and Minnesota Statute requirements.

**ATTACHMENTS:**

1. Draft Resolution Accepting Petition to Vacate and Setting a Public Hearing

<p><b>FINANCIAL IMPLICATIONS:</b></p> <p>Funding Sources &amp; Uses:</p> <hr/> <p>Budget Information:</p> <p><input type="checkbox"/> Budgeted</p> <p><input type="checkbox"/> Non Budgeted</p> <p><input type="checkbox"/> Amendment Required</p>	<p><b>ADVISORY BOARD RECOMMENDATIONS:</b></p> <p>Planning Commission <span style="float: right;">N/A</span></p> <p>Parks and Recreation Board</p> <p>Safari Island Advisory Board</p> <p>Other</p>
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**CITY OF WACONIA**  
**RESOLUTION NO. 2016-80**

**RESOLUTION ACCEPTING A PETITION FOR VACATION OF A  
PUBLIC DRAINAGE AND UTILITY EASEMENT IN THE CITY OF WACONIA  
AND SETTING A PUBLIC HEARING TO CONSIDER THE VACATION**

**WHEREAS**, a petition pursuant to Minnesota Statutes §412.851 and §462.358 (the “**Petition**”) has been submitted to the City Council of the City of Waconia (the “**City**”) requesting that the City Council vacate a public drainage and utility easement in the City described as follows:

The public drainage and utility easement lying within Outlot A, Cherry Street Development, according to the recorded plat thereof, Carver County, Minnesota, as dedicated in such plat of Cherry Street Development

(the “**Subject Easement**”); and

**WHEREAS**, a copy of the Petition is attached to this resolution as Exhibit A, and a diagram of the Subject Easement is included with the Petition; and

**WHEREAS**, the Petition was received by the Waconia City Clerk on April 4<sup>th</sup>, 2016, and

**WHEREAS**, the Petition was signed by a majority of the property owners adjacent to and abutting the Subject Easement and the Petition appears otherwise legal and proper;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Waconia, Carver County, Minnesota:

1. That the City Council finds it appropriate to consider the Petition for the proposed vacation of the Subject Easement
2. That the Petition is hereby accepted and directed to be filed with the City Clerk.
3. That a public hearing on the proposed vacation will be held before the City Council on Monday, May 2<sup>nd</sup>, 2016, at 6:00 p.m. in the Council Chambers of the Waconia City Hall, 201 Vine Street South, Waconia, Minnesota. At such time and place the City Council will consider the vacation and hear all persons present who are affected by the vacation.
4. The City Clerk is directed to give published, posted and mailed notice of the hearing as required by law.

Passed and adopted by the City Council this 4<sup>th</sup> day of April, 2016.

\_\_\_\_\_  
James P. Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Susan MH Arntz, City Administrator

M/ \_\_\_\_\_

S/ \_\_\_\_\_

Ayers	_____
Bloudek	_____
Carrier	_____
Erickson	_____
Sanborn	_____

**EXHIBIT A**  
**Petition to Vacate Easement**

[https://mhs law.sharepoint.com/sites/clients/1/13302/rows and easements/vacated/auburn meadows/draftdocs/resolution accepting petition and setting hearing.docx](https://mhs law.sharepoint.com/sites/clients/1/13302/rows_and_easements/vacated/auburn_meadows/draftdocs/resolution_accepting_petition_and_setting_hearing.docx)



## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016				
<b>Item Name: Use of Streets</b>	Use of Streets Request: Terra Waconia for Community Dinner				
<b>Originating Department:</b>	Administration				
<b>Presented by:</b>	Susan Arntz, City Administrator				
<b>Previous Council Action</b> (if any):					
<b>Item Type (X only one):</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black;">Consent <input checked="" type="checkbox"/></td> <td style="width: 25%; border: 1px solid black;">Regular Session <input type="checkbox"/></td> <td style="width: 25%; border: 1px solid black;">Discussion Session <input type="checkbox"/></td> <td style="width: 25%; border: 1px solid black;"></td> </tr> </table>	Consent <input checked="" type="checkbox"/>	Regular Session <input type="checkbox"/>	Discussion Session <input type="checkbox"/>	
Consent <input checked="" type="checkbox"/>	Regular Session <input type="checkbox"/>	Discussion Session <input type="checkbox"/>			

**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** *(Include motion in proper format.)*

Authorization of Use of Streets for Community Dinner

**EXPLANATION OF AGENDA ITEM** *(Include a description of background, benefits, and recommendations.)*

Terra Waconia, organizers of the Waconia Farmer’s Market, desire to organize a Community Dinner as a fundraiser for the Farmer’s Market.

The event will take place on Thursday, May 12. Set up would start at 4:00 p.m. and the dinner would take place from 6:30 p.m. to 8:30 p.m. Take down would be completed by 10:00 p.m.

They desire to use Frist Street between Olive Street and Elm Street. They will need to secure barricades from Public Services for use for the event.

Terra Waconia has notified nearly all of the businesses. They will need to notify two remaining businesses of the event. They are intending to work with Pangea and Who’s On First with this event.

<p><b>FINANCIAL IMPLICATIONS:</b></p> <p>Funding Sources &amp; Uses:</p> <hr/> <p>Budget Information:</p> <p style="padding-left: 20px;">Budgeted _____</p> <p style="padding-left: 20px;">Non Budgeted _____</p> <p style="padding-left: 20px;">Amendment Required _____</p>	<p><b>ADVISORY BOARD RECOMMENDATIONS:</b></p> <p>Planning Commission</p> <p>Parks and Recreation Board</p> <p>Safari Island Advisory Board</p> <p>Other _____</p>
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## REQUEST FOR CITY COUNCIL ACTION

<b>Meeting Date:</b>	April 4, 2016
<b>Item Name:</b>	Ordinance 692, Amending Chapter 580 Regarding Alcoholic Beverages
<b>Originating Department:</b>	Administration
<b>Presented by:</b>	Susan Arntz, City Administrator

<b>Previous Council Action (if any):</b>						
<b>Item Type (X only one):</b>	Consent		Regular Session	<input checked="" type="checkbox"/>	Discussion Session	

**RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED** *(Include motion in proper format.)*

Motion Adopting Ordinance 692, Amending Chapter 580 Regarding Alcoholic Beverages

**EXPLANATION OF AGENDA ITEM** *(Include a description of background, benefits, and recommendations.)*

Attached are proposed revisions to Ordinance 580, Alcoholic Beverages relating to the Council’s desire to expand the use of outside spaces relating to this section of City Code. Below is a list of those amendments by section:

- Section 580.04, Subd. 2 C, *Outdoor Areas*, recommend deletion of the words “Adjacent to Structure” and adding language to allow the definition to be within close proximity to a building.
- Section 580.04, Subd. 2 C, delete item 1. This removes the requirement that a business must provide evidence that they have a percentage of their gross sales from something other than food to qualify for an Outdoor Area to be used with their business.
- Section 580.04, Subd. 2 Section C, add new item 1. With language that says, “The outdoor area shall not be enclosed in such a manner that the space becomes an indoor area as defined by MN Statutes 144.413. This requirement is intended to comply with the Clean Indoor Air Act.
- Section 580.04, Subd. 2, Section C, item 3, add language stating that the outdoor area design and construction plan is required to be approved by the City Council.
- Section 580.04, Subd. 2, Section C, item 4, add language that requires the outdoor area to be clearly delineated by an approved fence that is at least 36 inches in height and some designated ingress/egress to prevent persons from entering and exiting from another space.
- Section 580.04, Subd. 2, Section C, item 6. Added language that indicates that the outdoor area shall have sufficient vehicle barriers to reduce vehicles from entering the area.
- Section 580.15, Requirements Applicable to Outdoor Areas Adjacent to a Structure, updated title to remove the Adjacent to Structure language. Updated the hours in the code for noise outside from 9:00 p.m. to 10:00 p.m. to be consistent with the City’s Noise Ordinance.

Attached is a clean version of the entire ordinance, a redlined version to highlight the changes, and a copy of the ordinance amendment. **These changes require a 4/5<sup>th</sup> vote of the City Council.**

<b>FINANCIAL IMPLICATIONS:</b>	<b>ADVISORY BOARD RECOMMENDATIONS:</b>
Budget Information:	Planning Commission
_____ Budgeted	Parks and Recreation Board
_____ Non Budgeted	Safari Island Advisory Board
_____ Amendment Required	Other

**CITY OF WACONIA  
ORDINANCE NO. 692**

**AN ORDINANCE AMENDING SECTION 580 REGARDING  
ALCOHOLIC BEVERAGES**

The City Council of the City of Waconia ordains:

**FINDINGS AND PURPOSE**

The City of Waconia (the “City”), in conjunction with the Minnesota Commissioner of Public Safety, licenses and regulates the retail sale of alcoholic beverages within its limits pursuant to Minnesota Statutes Chapter 340A. Minnesota Statutes §340A.509 provides the City, as the local authority, may impose restrictions and regulations on the sale and possession of alcoholic beverages within its limits in addition to those contained in the Minnesota Statutes. Chapter 580 of the Waconia City Code addresses the sale and possession of alcoholic beverages within the City, including the issuance of on-sale and off-sale licenses.

The City desires to make amendments to Chapter 580 and the City Council finds it is appropriate and in the best interest of its residents to amend Chapter 580 of the Waconia City Code as set forth in this ordinance. The purpose of the ordinance is to make the desired revisions to Chapter 580 of the Waconia City Code.

**AMENDMENTS**

Section 580.04, Subdivision 2, Section C of the Waconia City Code, is amended to remove the words “Adjacent to Structure” and is amended to read:

- C. Outdoor Areas. Outdoor Areas. Outdoor areas within close proximity or adjacent to a building or structure comprising the remainder of the licensed premises including, but not limited to, porches, decks and patios may be included as part of the licensed premises provided all of the following conditions are met:
  - 1. The outdoor area shall not be enclosed in such a manner that the space becomes an indoor area as defined by Minn. Stats. § 144.413.
  - 2. The licensee’s dram shop liability carrier shall have acknowledged, in writing, that the outdoor area is covered by dram shop insurance;
  - 3. The outdoor area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material and approved by the City Council;
  - 4. The outdoor area shall be clearly delineated by an approved fence at least 36 inches in height or some other approved structure or barrier that has designated openings for ingress or egress, to prevent the ingress or egress of persons to and from the patio except by way of the designated openings for ingress or egress. Such outdoor area shall be considered compact and contiguous. This requirement shall not apply to any licensed premises that is a restaurant or a hotel;

5. Any exterior stairway or ramp access to an outdoor area six (6) feet or more above grade must be gated so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises; provided, however, this requirement shall not apply to any licensed premises that is a restaurant or a hotel;
6. The outdoor area shall have sufficient vehicle barriers installed to reduce the entry of vehicles into the patio if it is in direct contact with or immediately adjacent to a vehicle parking area
7. If any portion of the outdoor area lies within 200 feet of a residential district, the outdoor area shall be screened in a manner approved by the City Council so as to prevent viewing of the outdoor area from the residential district and to dampen noise and/or deflect noise away from the residential district;
7. The outdoor area shall comply with all applicable laws, zoning district regulations and building codes, including but not limited to those relating to handicap accessibility;
8. Exterior lighting for the outdoor area shall be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no light is cast directly at any other property;
9. The outdoor area and surrounding landscaping shall be designed to complement the building or structure comprising the remainder of the licensed premises structure; and
10. The outdoor area shall meet all such other requirements as the City Council finds necessary or desirable to protect nearby properties and the public.

Section 580.04, Subd. 15, of the Waconia City Code, *Requirements of Outdoor Areas Adjacent to Structure*, is amended to remove the words “Adjacent to Structure”.

Section 580.04, Subd. 15, B and C, of the Waconia City Code, *Requirements of Outdoor Areas* is amended to 10:00 p.m.

## **SUMMARY**

The following official summary of Ordinance No. 692 has been approved by a four-fifths vote of the City Council of the City of Waconia as clearly informing the public of the intent and effect of the Ordinance:

*ORDINANCE 692 AMENDING CHAPTER 580 REGARDING ALCOHOLIC BEVERAGES* does the following: It adds provisions to Chapter 580 allowing for the redefinition of Outdoor Areas, removes percent of gross sales for items other than on-sale alcoholic beverages, adds language regarding fencing and vehicle barricade requirements for outdoor spaces, changes the noise provisions for outdoor areas from 9:00 p.m. to 10:00 p.m.

The full text of the ordinance is available for public inspection during regular office hours at the office of the City Clerk, 201 South Vine Street, Waconia, and at the Waconia Public

Services Building, 310 10th Street East, Waconia. Further, any person may request the City to send the full text of the ordinance via standard or electronic mail by calling City Hall at (952) 442-2184.

**EFFECTIVE DATE**

This ordinance is effective upon publication.

Passed and adopted by the City Council of the City of Waconia this 4<sup>th</sup> day of April, 2016.

\_\_\_\_\_  
James P. Sanborn, Mayor

ATTEST: \_\_\_\_\_  
Susan MH Arntz, City Administrator

M/ _____	Ayers	_____
	Bloudek	_____
S/ _____	Carrier	_____
	Erickson	_____
	Sanborn	_____

CHAPTER 580  
ALCOHOLIC BEVERAGES

Section

580.01	Definitions
580.02	Authority
580.03	General Provisions
580.04	License Applications
580.05	Requirements and Restrictions Regarding Licensees
580.06	Number and Types of Licenses Issued by the City
580.07	3.2 Bottle Clubs
580.08	Presumptive Civil Penalties
580.09	Hearings

580.01     Definitions.

The following terms, as used in this Chapter, shall have the meanings stated in this section:

“3.2 percent malt liquor” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

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

“Applicant” means a person making an application for a license under this Chapter 580.

“Application” means the form provided by the City that an applicant must complete as a prerequisite for license consideration.

“Bona fide association of owners and operators of wineries” means an association of more than ten wineries that has been in existence for more than two years at the time an application is made.

“Brewer” means a person who manufactures malt liquor for sale.

“Brew pub” means a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by Minn. Stat. §340A.24.

“Clean Indoor Air Act” means, collectively, Minnesota’s Clean Indoor Air Act, as amended, and the rules implementing such act, as amended.

“Club” means an incorporated organization organized under the laws of the State of Minnesota for civic, fraternal, social, or business purposes, or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran’s organization, which: i) has more than thirty (30) members; ii) has owned or rented a building or space in building for more than one (1) year that is

suitable and adequate for the accommodation of its members; and iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees receive any profit from the distribution or sale of beverages to the members of the club, or to their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

“Chapter 580” means this Chapter 580 of the Waconia City Code, as amended.

“Commissioner” means the Minnesota Commissioner of Public Safety.

“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.

“Exclusive liquor store” means an establishment used exclusively for the sale of: alcoholic beverages; tobacco products; ice; beverages, either liquid or powder, specifically designed for mixing with intoxicating liquor; soft drinks; liquor-filled candies; food products that contain more than one-half of one percent alcohol by volume; cork extraction devices; books and videos on the use of alcoholic beverages, magazines and other publications published primarily for information and education on alcoholic beverages; multiple use bags designed to carry purchased items; devices designed to ensure the safe storage and monitoring of alcohol in the home to prevent access by underage drinkers; home brewing equipment; and clothing marked with the specific name, brand or identifying logo of the exclusive liquor store and bearing no other name, brand or identifying logo.

“Farm winery” means 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.

“General food store” means a business primarily engaged in selling food and grocery supplies to the public for off-premise consumption.

“Growler” means a 64-ounce container packaged and labeled as required by Minn. Stat. §340A.285.

“Home brewing equipment” means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten (10) gallons or less and supplies and ingredients for home manufacture of malt liquor.

“Hotel” means an establishment where food and lodging are regularly furnished to transients and which has: i) a dining room serving the general public at tables and having facilities for seating at least thirty (30) guests at one time; and ii) ten (10) or more guest rooms.

“Intoxicating liquor” means ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

“License fee” means the sum of money paid to the City for the issuance of a license issued by the City to transact and carry on the business stated in the license, which fee shall be paid in full and prior to issuance of the license, unless installment payments are expressly allowed by this Chapter 580.

“License” means a license, permit or registration document issued to an applicant allowing the applicant to carry on and transact the business stated in such document.

“Licensee” means an applicant who applied for, received and holds a valid, current, unexpired, and unrevoked license for carrying on the business stated in such license.

“Licensed premises” means the compact and contiguous space specified in the license granted. In the case of a restaurant, club, or exclusive liquor store licensed for on-sale 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.

“Malt Liquor” means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

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

“Microdistillery” means a distillery operated within the State of Minnesota producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

“Minn. Stat. Chapter 340A” means Minn. Stat. Chapter 340A, as amended.

“Nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

“Off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

“On-sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

“Outdoor area” means any area that is not bounded by walls, doorways, and closeable windows covering one hundred percent (100%) of the combined surface area of the vertical planes constituting the perimeter of the area. A wall does not include any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

“Package” means a sealed or corked container of alcoholic beverage.

“Person” means any individual, partnership, unincorporated association, or entity.

“Restaurant” means any 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 seating capacity for twenty-five (25) or more guests at one time.

“Retail” means sale for consumption.

“Sale”, “sell”, and “sold” means furnishing merchandise to any person in exchange for money, as part of bartering, or as part of a business transaction,

“Small brewer” means a brewer that produces less than 3,500 barrels of malt liquor in a year.

“Smoking” means inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product and the act of carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment, tobacco or plant product intended for inhalation.

“Wholesaler” means a person who sells alcoholic beverages to persons to whom sale is permitted by Minn. Stat. 340A.310 from a stock maintained in a warehouse in the State of Minnesota.

“Wine” means 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, perry and sake, in each instance containing not less than one-half of one percent nor more than twenty-four percent (24%) alcohol by volume for nonindustrial use. Wine does not include distilled spirits.

580.02 Authority.

Subd. 1 Adoption of State Law by Reference. The provisions of Minn. Stat. Chapter 340A (pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor) are incorporated into this Chapter 580 by reference. Any term used in this Chapter 580 that is not defined in Section 580.01 above but is defined in Minn. Stat. Chapter 340A shall be given the meaning ascribed to it in Minn. Stat. Chapter 340A.

Subd. 2 City’s Authority. Pursuant to Minn. Stat. Chapter 340A, the City may impose additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those set forth in Minn. Stat. Chapter 340A.

580.03 General Provisions.

Subd. 1 Consumption in Public Places Prohibited. No person shall consume an alcoholic beverage in a public park, on any public street, sidewalk, parking lot or alley, or in any other public place, except as expressly allowed by this Chapter 580 or Minn. Stat. Chapter 340A.

Subd. 2 License Required for Sale. No person shall sell or offer for on-sale or off-sale any alcoholic beverage without a valid, current, unexpired, and unrevoked license therefor issued by the City or, if Minn. Stat. Chapter 340A so requires, the Commissioner.

Subd. 3 Prohibitions Regarding Persons Under Twenty-One (21) Years of Age.

- A. No licensee or any employee of a licensee shall sell or serve any alcoholic beverage to any person under twenty-one (21) years of age or permit any such person to consume any alcoholic beverage at a licensed premises unless such person under twenty-one (21) years of age is under the supervision of a responsible person over the age of twenty-one (21) for training, education, or research purposes. Prior notification to the City is required unless the supervised alcohol purchase attempt is for professional research conducted by post-secondary educational institutions or state, county, or local health departments.
- B. No person under twenty-one (21) years of age shall enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage. However, a person who is eighteen (18), nineteen (19), or twenty (20) years of age may enter such a premises to perform work for the establishment (including the serving of alcoholic beverages), to consume meals, or to attend social functions that are held in a portion of the establishment where liquor is not sold.

- C. No person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of obtaining any alcoholic beverage.
- D. No person under twenty-one (21) years of age shall consume or have in his or her possession any alcoholic beverage, with the intent to consume the same at a place other than the household of his or her parent or legal guardian. Possession of any alcoholic beverage by a person under twenty-one (21) years of age at a place other than the household of his or her parent or legal guardian shall be prima facie evidence of his or her intent to consume same at a place other than the household of his or her parent or legal guardian.

580.04 License Applications.

Subd. 1 Forms. Each application for a license issued pursuant to this Chapter 580 shall be made at the office of the City Clerk using the forms prescribed by the Commissioner, together with such additional information as the City Council may require, from time to time. All questions asked or information required by such application form shall be answered fully and completely by each applicant. Upon completion of such application form and the provision of all required information, the application form shall be referred to the City Clerk for examination and verification.

Subd. 2 Description of Premises. The application shall specifically describe the compact and contiguous premises within which alcoholic beverages may be dispensed and consumed and no license shall be effective or valid beyond the licensed premises. No license shall describe any outdoor area as part of the licensed premises except as follows:

- A. Golf Courses. In the case of a restaurant, club or exclusive liquor store licensed for on-sale of alcoholic beverages and located on a golf course, the licensed premises shall include the entire golf course except for areas where motor vehicles are regularly parked or operated.
- B. Temporary Licenses. The following temporary licenses may describe an outdoor area as the licensed premises:
  - 1. A temporary on-sale intoxicating liquor license issued pursuant to Section 580.06, Subd. 4;
  - 2. A temporary 3.2 percent malt liquor license issued pursuant to Section 580.06, Subd. 7 ;
  - 3. A temporary license for a farm winery to sell intoxicating liquor at a county fair issued pursuant to Section 580.06, Subd. 9; and
  - 4. A temporary license for a bona fide association of owners and operators of wineries to showcase wines produced by members of such association issued pursuant to Section 580.06, Subd. 10.
- C. Outdoor Areas. Outdoor areas within close proximity or adjacent to a building or structure comprising the remainder of the licensed premises including, but not limited to, porches, decks and patios may be included as part of the licensed premises provided all of the following conditions are met:

1. The outdoor area shall not be enclosed in such a manner that the space becomes an indoor area as defined by Minn. Stats. § 144.413.
2. The licensee's dram shop liability carrier shall have acknowledged, in writing, that the outdoor area is covered by dram shop insurance;
3. The outdoor area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material and approved by the City Council;
4. The outdoor area shall be clearly delineated by an approved fence at least 36 inches in height or some other approved structure or barrier that has designated openings for ingress or egress, to prevent the ingress or egress of persons to and from the patio except by way of the designated openings for ingress or egress. Such outdoor area shall be considered compact and contiguous. This requirement shall not apply to any licensed premises that is a restaurant or a hotel;
5. Any exterior stairway or ramp access to an outdoor area six (6) feet or more above grade must be gated so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises; provided, however, this requirement shall not apply to any licensed premises that is a restaurant or a hotel;
6. The outdoor area shall have sufficient vehicle barriers installed to reduce the entry of vehicles into the patio if it is in direct contact with or immediately adjacent to a vehicle parking area
7. If any portion of the outdoor area lies within 200 feet of a residential district, the outdoor area shall be screened in a manner approved by the City Council so as to prevent viewing of the outdoor area from the residential district and to dampen noise and/or deflect noise away from the residential district;
7. The outdoor area shall comply with all applicable laws, zoning district regulations and building codes, including but not limited to those relating to handicap accessibility;
8. Exterior lighting for the outdoor area shall be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no light is cast directly at any other property;
9. The outdoor area and surrounding landscaping shall be designed to complement the building or structure comprising the remainder of the licensed premises structure; and
10. The outdoor area shall meet all such other requirements as the City Council finds necessary or desirable to protect nearby properties and the public.

Subd. 3 **Financial Responsibility.** Each applicant shall demonstrate to the City Clerk, as a condition of issuance or renewal of a license: i) proof of financial responsibility as required by Minn. Stat. §340A.409 with regard to liability under Minn. Stat. §340A.409; ii) exemption from such requirements in conformance with Minn. Stat. §340A.409, Subd. 4; or iii) that the Minnesota Statutes expressly state that Minn. Stat. §340A.409 does not apply to the type of license at issue.

In all cases where Minn. Stat. §340A.409 applies, the City will file the required proof or affidavit of exemption with the Commissioner. Any liability insurance policy, bond, proof of deposit, or affidavit filed as proof of financial responsibility under this section shall conform to Minn. Stat. §340A.409. Operation of a business that is required to be licensed by this Chapter 580 without current proof of financial responsibility or an exemption on file with the City is a cause for revocation of the license for all licenses to which Minn. Stat. §340A.409 applies.

Subd. 4 False Statements and Omissions. If any applicant intentionally makes a false statement or material omission on any application form, the false statement or material omission shall constitute cause for denial of the application or, if a license has been issued, revocation of the license.

Subd. 5 Investigation. The City shall investigate each applicant applying for an initial or renewal license to determine whether the applicant is qualified to hold the license applied for in the initial or renewal application. No license provided for herein shall be issued less than thirty-five (35) days after completion and filing of the application form with the City Clerk; provided, however, that such restriction may be waived by the City Council in any case where the applicant has recovered possession of the premises previously licensed by such applicant through mortgage foreclosure, contract for deed cancellation, or through any other type of involuntary reversion, or in the event all necessary investigations have been completed prior to the expiration of such thirty-five (35) day period.

Subd. 6 Licenses are Granted or Denied in the City Council's Discretion; Approval of Commissioner. The City Council may, in its sound discretion, either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license. Further, if Minn. Stat. Chapter 340A requires the Commissioner to approve a license, the granting of the license is conditioned on such approval being obtained.

Subd. 7 Conditions. The City Council may attach any special conditions to a license as it deems appropriate given the nature of the business, the location of the premises, and verified complaints, if any, to protect the health, safety, welfare and quietude of the community and ensure harmony within the location where the premises is located. Violation of any of the conditions shall be grounds for revocation of the license.

Subd. 8 Restrictions on Issuance.

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one (1) license shall be directly or indirectly issued within the City to any one (1) person.
- C. No license shall be issued regarding any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.
- D. No license shall be issued to a person under twenty-one (21) years of age.
- E. No license shall be issued to a person who has had, within five (5) years of the date of the application, an intoxicating liquor or 3.2 percent malt liquor license revoked.
- F. No license shall be issued to a person who, within five (5) years of the date of the application, has been convicted of a felony or a willful violation of any federal or state

law regarding the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

- G. No license shall be issued to any entity if a controlling interest in such entity is held by a person that would be ineligible for a license under the standards set forth in subsections D, E, or F above.
- H. No license shall be issued for any premises or for any business ineligible for a license under federal law or Minnesota law.

Subd. 9 License Period. The City Council may approve any application for license as provided herein for the period of the remainder of the then current calendar year or for the entire ensuing license year, which, for the purposes of this Chapter 580, shall be from February 1 to January 31. All applications including proposed license periods must be consistent with this section.

Subd. 10 Fees.

- A. Investigation Fee. Except as provided below, each applicant for a license shall pay the investigation fee listed in Chapter 1100 of the Code when the application is submitted to the City. An application for which an investigation fee is required will not be considered until the fee is paid in full. No investigation fee is required for temporary licenses.
- B. Payment of License Fee. The fee for each type of license available under this Chapter 580 is listed in Chapter 1100 of the Code. Each applicant shall pay, on or before the day the license is issued, the full, annual fee for the type of license issued unless either of the below sections apply:
  - 1. Partial License Years. Unless expressly provided herein to the contrary, the license fee for any partial license year shall be pro-rated and paid, in advance, on the basis of one-twelfth (1/12) of the total license fee for each calendar month, or part thereof, remaining in the then current license year.
  - 2. Option to Pay On-Sale Liquor License Fee in Installments. An applicant for an on-sale liquor license may elect to pay the license fee listed in Chapter 1100 for “Liquor, On-Sale” in two (2) equal installments, subject to the following conditions:
    - a. The first installment payment shall be paid, in advance, before the license is issued.
    - b. Together with the first installment payment, the applicant shall also pay the “Installment Option Fee” listed in Chapter 1100 or installment payments will not be allowed.
    - c. The second installment payment shall be paid on or before the close of business on July 1st of the then current license year. If July 1st is a Saturday or Sunday, payment must be made by the close of business on the last business day prior to July 1st. Failure to pay such installment payment on or before the date due shall constitute a violation of this Chapter. Further, no renewal license or new license shall be granted to a person that owes the City a past due installment payment or any fine

associated with a past due installment payment.

- d. The entire license fee shall be paid even if the license holder ceases operations before the second installment payment becomes due. As such, the obligation to pay the second installment payment may not be waived unless relief is granted pursuant to this Chapter 580.
  - e. The installment payment option may only be elected for full license years and is not available for partial license years, limited licenses, or temporary licenses.
- C. Refunds. The City Council, in its discretion, may refund a pro rata share of an annual license fee to a licensee, or to the licensee's estate, if:
- 1. The business ceases to operate because of destruction or damage; or
  - 2. The licensee is an individual and the licensee dies.

Subd. 11 Issuance. If an application is approved and the required fee is paid (or the first installment payment is made, if applicable), the Mayor and the City Clerk shall, upon payment of the appropriate license fee, promptly issue a license in the form prescribed by the City and by the Commissioner. A license shall be valid only for the licensed premises described in the application for the license.

Subd. 12 Duplicate License. The City Clerk may issue a duplicate of an original license without action by the City Council if the licensee produces a sworn affidavit that the original license has been lost and pays the fee for issuance of a duplicate license as listed in Section 1100 of this Code. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 13 Transfer. No license may be transferred between persons or locations without prior approval of the City Council. If a controlling interest in any entity with a license is transferred, the transfer of the controlling interest shall be deemed to be a transfer of the license. The City Council may revoke any license transferred without its prior approval. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this Chapter 580 regarding a new license application shall apply.

#### 580.05 Requirements and Restrictions Regarding Licensees.

Subd. 1 Posting. Each person holding a license shall post the license at the premises described in the license, except that a temporary license shall be posted at the premises where alcoholic beverages may be sold, as defined in the license. All licenses shall be posted in full view of the public.

Subd. 2 Hours and Days of Sale. Each licensee shall strictly comply with the hour and day limitations found in Minn. Stat. §340A.504 for each type of license held by the licensee. In addition, the following provisions apply to Sunday sales:

- A. On-Sale of Intoxicating Liquor. Except as provided in Subd. 2, B, below, the on-sale of intoxicating liquor on a Sunday requires a Sunday license issued pursuant to Code Section 580.06, Subd. 5.

- B. On-Sale Brewer Taproom. The holder of a brewer taproom license may open the taproom and conduct on-sale business on Sundays between the hours of 8:00 a.m. and 11:59 p.m. without the need for a separate Sunday license.
- C. Off-Sale Growlers. A small brewer may sell malt liquor in growlers at its licensed premises as allowed by Minn. Stat. Chapter 340A during the hours of 8:00 a.m. and 11:59 p.m. on Sundays without the need for a separate Sunday license.

Subd. 3 Hours of Business.

- A. No person or customer, other than the licensee or his or her bona fide employees, shall remain on any licensed premises more than thirty (30) minutes after closing hour. There shall be no consumption of any alcoholic beverage by any person, including the licensee and his or her bona fide employees, more than thirty (30) minutes after closing hour. It shall be the duty of the licensee to enforce compliance with this section at the licensed premises.
- B. Total evacuation of the licensed premises shall occur not later than one (1) hour after closing hour, unless prior notification is provided to the Carver County Sheriff's Department and approval is obtained therefrom. It shall be the duty of the licensee to enforce compliance with this section at the licensed premises.

Subd. 4 Sales to Intoxicated Persons Prohibited. No person shall sell 3.2 percent malt liquor, intoxicating liquor or wine to any person who is obviously or visibly in an intoxicated condition.

Subd. 5 Line of Sight Requirements.

- A. All licensed sales of any alcoholic beverage shall be made in full view of the public.
- B. For security purposes, the front door or entrance of each licensed premises shall contain an unobstructed clear glass window that shall provide a clear view of the interior of such licensed premises.
- C. Any room or rooms where any alcoholic beverage is sold shall be arranged such that an unobstructed view of any part of such room shall be visible to at least one (1) employee of the licensee.

Subd. 6 Responsibility of Licensee.

- A. Every licensee shall maintain sobriety and order at the licensed premises and all parking areas, outdoor areas or other property adjacent to the licensed premises owned or controlled by the licensee.
- B. The act of any employee on the licensed premises authorized to sell or serve any alcoholic beverage shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties equally with the employee.

Subd. 7 Employment of Felons Prohibited. No person who has been convicted of a felony shall serve or sell liquor in a retail intoxicating liquor establishment.

Subd. 8 Employment of Minors Prohibited. No person under the age of eighteen (18) years shall serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

Subd. 9 Removal of Alcoholic Beverages. No licensee shall permit any person to remove, and no person shall remove, from the space or building named in the on-sale license for which it was granted, any bottle or receptacle which contains any alcoholic beverage, which has been opened, or the seal broken, or the contents of which have been partially removed except a restaurant licensed to sell intoxicating liquor or wine at on-sale may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described herein is not an off-sale of intoxicating liquor and may be permitted without an additional license. Each licensee shall post, in a conspicuous location near each exit from the space or building named in the license for which it was granted, a sign advising the public of this prohibition. It shall be the duty of the licensee to enforce compliance with this section.

Subd. 10 Samples of Alcoholic Beverages. Samples of alcoholic beverages may be provided as allowed by Minn. Stat. 340A.510.

Subd. 11 Nudity at a Licensed Premises Prohibited. The City Council finds that it is in the best interests of the public health, safety and general welfare of residents of the City to prohibit the following:

- A. A licensee allowing a hostess, barmaid, waitress, waiter, bartender, independent contractor or any such other such person to perform services at the premises described in the licensee's license while the person is in a state of nudity.
- B. A licensee allowing any person to perform, whether by dancing, displaying lingerie or any other activities or entertainment services at the premises described in the licensee's license while the person is in a state of nudity.

Subd. 12 Gambling Prohibited. No retail establishment licensed to sell alcoholic beverages may keep, possess, operate or permit the keeping, possession or operation on the licensed premises of dice or any gambling device, or permit gambling, except as allowed by Minnesota law.

Subd. 13 Inspection.

- A. Any licensed premises may be inspected by a health officer at such time or times as is necessary or advisable to maintain clean and sanitary conditions.
- B. No licensee shall prevent any law enforcement officer from entering upon and inspecting the licensed premises regardless of whether or not the law enforcement officer has obtained a search and seizure warrant for such purpose. Such law enforcement officer shall be authorized to seize all alcoholic beverages found in such licensed premises for which the licensed premises do not have a license.

Subd. 14 Exclusive Stores. No exclusive store shall sell food for on-premises consumption unless the City has specifically authorized such consumption in the license for the premises. An exclusive store may offer live or recorded entertainment provided it complies with all other provisions of the Waconia City Code in regard to such entertainment.

Subd. 15 Requirements Applicable to Outdoor Areas. If licensed premises includes an outdoor area adjacent to a structure as allowed by Section 580.04, Subd. 2, C, the licensee of such premises shall:

- A. Assign an employee to supervise the outdoor area at all times;

- B. Not use any device in the outdoor area after 10:00 p.m. that is designed, in whole or in part, to produce, reproduce or amplify sound including, but not limited to, loudspeakers, amplifiers, radio, televisions, or musical instruments (provided, however, the personal use of cellular phones, radio communication devices and devices solely emitting sound through headphones shall not be prohibited);
- C. Not serve any alcoholic beverages in the outdoor area after 10:00 p.m., provided, however, this restriction shall not apply to any licensed premises that is a restaurant or a hotel and shall not be construed to prohibit the consumption of alcoholic beverages in the outdoor area after 9:00 p.m.;
- D. Remove any person from the outdoor premises that becomes unruly or noisy;
- E. Maintain at least one (1) waste receptacle in the outdoor area;
- F. Maintain at least one (1) fire safe cigarette disposal receptacle in the outdoor area;
- G. Pick up trash and litter generated by the operation of the outdoor area within a reasonable distance from the outdoor area; and
- H. At all times maintain the outdoor area in full compliance with the requirements of Section 580.04, Subd. 2, C.

Subd. 16 Smoking in Outdoor Areas. If the licensed premises includes an outdoor area adjacent to a structure as allowed by Section 580.04, Subd. 2, C, the licensee of such premises may allow or prohibit smoking in the outdoor area (or divide the outdoor area into smoking and no smoking areas in such proportions as the licensee desires) subject to the following limitations and requirements:

- A. Smoking shall be prohibited in those portions of the outdoor area, if any, that are considered “indoor area” under the Clean Indoor Air Act.
- B. If the licensed premises is a restaurant or hotel, not less than twenty-five percent (25%) of the seats in the outdoor area shall be designated and signed by the licensee as a no smoking area, which seats shall be contiguous. The licensee shall treat such no smoking area as an area where smoking is not allowed under the Clean Indoor Air Act and shall take the actions set forth in the Clean Indoor Air Act to prevent smoking in such area.

Subd. 17 Mandatory License Training Seminars. Except as provided below, each licensee holding a license must either attend, or have a representative of licensee attend, the mandatory license training seminar offered by the City (in conjunction with the Carver County Sheriff’s Department) during the year or partial year that the license is in effect. Any representative attending on behalf of a licensee must hold a position of responsibility in either the ownership or management of the licensee. Failure to attend a required training seminar without reasonable justification, as determined by the City Council, shall result in the imposition of the penalties set forth in Section 580.08 below. If a person just holds a temporary license, the person shall not be required to attend the license training seminar.

580.06 Number and Types of Licenses Issued by the City.

Subd 1 Number of Licenses. Expect as otherwise provided in this Section 580.06 or Minn. Stat. Chapter 340A, there shall be no limit on the number of licenses that may be issued by the City Council.

Under no circumstance, however, shall the City Council issue more than 12 days of temporary licenses to any one applicant in one calendar year.

Subd. 2    Off-Sale Licenses.

- A.    Exclusive Liquor Store. The City Council may issue an off-sale intoxicating liquor license to an exclusive liquor store as allowed by Minn. State §340A.405.
- B.    Off-Sale 3.2 Percent Malt Liquor. The City Council may issue an off-sale 3.2 percent malt liquor license as allowed by Minn. Stat. §340A.403.
- C.    Small Brewer. The City Council may issue an off-sale malt liquor license to a small brewer as allowed by Minn. Stat. §§340A.28 and 340A.285.
- D.    Brew Pub. The City Council may issue an off-sale malt liquor license to a brew pub as allowed by Minn. Stat. §340A.24.
- E.    Microdistillery. The City Council may issue an off-sale intoxicating liquor license to a microdistillery as allowed by Minn. Stat. §340A.22.

Subd. 3    On-Sale Licenses.

- A.    Intoxicating Liquor. The City Council may issue intoxicating liquor licenses as allowed by Minn. Stat. §340A.404.
- B.    Wine. The City Council may issue an on-sale license to sell wine as allowed by Minn. Stat. §340A.404. The holder of an on-sale wine license issued pursuant to this section who also holds a license to sell 3.2 percent malt liquors on-sale may also sell intoxicating malt liquors on-sale without an additional license.
- C.    3.2 Percent Malt Liquor. The City Council may issue on-sale 3.2 percent malt liquor licenses as allowed by Minn. Stat. Chapter 340A.403.
- D.    Brew Pub. The City Council may issue a brew pub license as allowed by Minn. Stat. §340A.24.
- E.    Brewer Taproom. The City Council may issue a brewer taproom license as allowed by Minn. Stat. §340A.26.
- F.    Microdistillery Cocktail Room. The City Council may issue a microdistillery cocktail room license as allowed by Minn. Stat. §340A.22.
- G.    Culinary Classes. The City Council may issue a limited on-sale intoxicating liquor license to a business establishment for culinary classes as allowed by Minn. Stat. §340A.4041.

Subd. 4    Temporary Licenses.

- A.    Social Event Sponsored by a Club, Charity or Nonprofit. The City Council may issue a temporary on-sale license to sell intoxicating liquor to a club or to a charitable, religious, or nonprofit organization in connection with a social event sponsored by such organization as allowed by Minn. Stat. §340A.404.

- B. 3.2 Percent Malt Liquor Served by a Club, Charity or Nonprofit. The City Council may issue a temporary license to a club or to a charitable, religious, or non-profit organization for the on-sale of 3.2 percent malt liquor as allowed by Minn. Stat. §340A.403.
- C. Social Event Sponsored by a Small Brewer or Microdistillery. The City Council may issue a temporary on-sale intoxicating liquor license to a small brewer or microdistillery in connection with a social event sponsored by such entity as allowed by Minn. Stat. §340A.404.
- D. Farm Winery at a County Fair. The City Council may issue a temporary license to a farm winery for the on-sale of intoxicating liquor at a county fair as allowed by Minn. Stat. §340A.404.
- E. Wine Festival. The City Council may issue a temporary license for the on-sale and off-sale of wine at a festival as allowed by Minn. Stat. 340A.4175.
- F. Wine Auction. The City Council may issue a temporary license for the off-sale of wine at an auction as allowed by Minn. Stat. §340A.405.

Subd. 5 Sunday Licenses. The City Council may issue licenses to sell intoxicating liquor on-sale on Sundays to a hotel, restaurant, club or bowling center as allowed by Minn. Stat. §340A.504, Subd. 3.

580.07 3.2 Bottle Clubs.

A “bottle club” is a club that is not otherwise licensed for the sale of intoxicating liquor that permits its members to bring and keep a personal supply of liquor in lockers assigned to such members. No business establishment or club that does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner.

580.08 Presumptive Civil Penalties.

Subd. 1 Purpose. This section sets forth presumptive civil penalties for certain violations of this Chapter 580. Although the presumptive penalties are presumed to be appropriate for every case, the City Council may deviate and impose a different civil penalty in any individual case where the City Council finds substantial reasons make it appropriate to do so (e.g., a licensee’s efforts to cooperate with the City or the Commissioner to prevent further sales of alcohol to persons under twenty-one (21) years of age at the licensed premises). When deviating from the presumptive civil penalties, the City Council shall provide written findings that support the penalty imposed. Nothing herein shall be interpreted as preventing the City from also prosecuting any violation of this Chapter 580 as a criminal violation pursuant to Chapter 102 of the Code.

Subd. 2 Presumptive Civil Penalties for Violations. The presumptive penalties are as follows:

<i>Type I Violations</i>	<i>Penalty</i>
<p>Commission of a felony related to the licensed activity</p> <p>Sale of alcoholic beverages while license is under suspension</p> <p>Sale of intoxicating liquor where only license is for 3.2 percent malt liquor</p>	<p>License revoked</p>
<i>Type II Violations</i>	<i>Penalty</i>
<p><i>Failure to comply with Financial Responsibility</i></p>	<p>License suspended for three (3) days, unless the next penalty applies</p> <p>License revoked if a second Type II Violation occurs within twenty-four (24) months of a previous Type II Violation.</p>
<i>Type III Violations</i>	<i>Penalty</i>
<p><i>Refusal to allow City inspectors or the Carver County Sheriff's Department admission to inspect the premises</i></p>	<p>License suspended for five (5) days, unless the next penalty applies</p> <p>License suspended for fifteen (15) days if a second Type III Violation occurs within twenty-four (24) months of a previous Type III Violation, unless the next penalty applies</p> <p>License revoked if three Type III Violations occur within twenty-four (24) months of each other.</p>
<i>Type IV Violations</i>	<i>Penalty</i>
<p>Sale of alcoholic beverages to a person under twenty-one (21) years of age</p> <p>Sale of alcoholic beverages to obviously intoxicated person</p> <p>After hours sale of alcoholic beverages</p> <p>After hours display or consumption of alcoholic beverages</p> <p>Illegal gambling on premises</p> <p>Consumption of an alcoholic beverage by a patron of a licensee outside of the compact and contiguous premises</p>	<p>\$200.00 penalty, unless the next penalty applies</p> <p>\$500.00 penalty if a second Type IV Violation occurs within twenty-four (24) months of a previous Type IV Violation, unless the next penalty applies</p> <p>License suspended for three (3) days if three Type IV Violations occur within twenty-four (24) months of each other, unless the next penalty applies</p> <p>License revoked if four Type IV Violations occur within twenty-four (24) months of each</p>

described in the licensee's license Failure to attend mandatory license training seminars	other.
<i>Type V Violations</i>	<i>Penalty</i>
Failure to pay a license fee installment payment on or before the date it is due	Installment payments permanently prohibited

Subd. 3 Payment of Monetary Penalties. Any monetary penalty imposed shall be due and payable, in full, on the tenth (10<sup>th</sup>) day after it is imposed by the City Council. Failure to pay any monetary penalty on or before the date it is due shall constitute another violation of the same type.

580.09 Right to a Hearing.

Any applicant who has been denied the issuance of a license or any licensee upon whom a civil penalty has been imposed may, upon written request to the City Clerk promptly made after the denial or imposition has occurred, request a hearing before the City Council to present evidence and to appeal the decision. Further, no suspension or revocation of a license shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. §§14.57 to 14.70 of the Administrative Procedure Act, as amended.

12/01/95  
10/20/97 Ord. 481 Section 580.02, Add Subd. 6  
05/03/99 Ord. 497 Amend Chapter 580 in Entirety  
06/07/99 Ord. 500 Section 580.05, Subd. 1  
02/20/01 Ord. 527 Add Section 580.05, Subd. 11  
01/03/04 Ord. 504 Section 580.02, Delete Subd. 1b  
05/15/05 Ord. 562 Section 580.01 J; 580.03, 3; 580.04, 6  
06/19/2006 Ord. 580 Add 580.03, Subd. 4

12/10/07 Ord. 593, Section 580.04  
01/05/09 Ord. 613, Allow On-Sale Intoxicating Installment Payments  
11/30/09 Ord. 624, Sect. 580.04, Subd. 1 Hours of Sale  
08/01/2011 Ord. 651 adding farm winery  
01/07/13 Ord 667, Amend Chapter 580 in Entirety  
12/09/13 Ord. 674, Amend 580.04 C  
07/21/2014 Ord. 686, Amend 580.06 Subd 8, 11, 12

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CHAPTER 580  
ALCOHOLIC BEVERAGES

Section

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580.04	License Applications
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580.01 Definitions.

The following terms, as used in this Chapter, shall have the meanings stated in this section:

“3.2 percent malt liquor” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

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

“Applicant” means a person making an application for a license under this Chapter 580.

“Application” means the form provided by the City that an applicant must complete as a prerequisite for license consideration.

“Bona fide association of owners and operators of wineries” means an association of more than ten wineries that has been in existence for more than two years at the time an application is made.

“Brewer” means a person who manufactures malt liquor for sale.

“Brew pub” means a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by Minn. Stat. §340A.24.

“Clean Indoor Air Act” means, collectively, Minnesota’s Clean Indoor Air Act, as amended, and the rules implementing such act, as amended.

“Club” means an incorporated organization organized under the laws of the State of Minnesota for civic, fraternal, social, or business purposes, or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran’s organization, which: i) has more

than thirty (30) members; ii) has owned or rented a building or space in building for more than one (1) year that is suitable and adequate for the accommodation of its members; and iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees receive any profit from the distribution or sale of beverages to the members of the club, or to their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

“Chapter 580” means this Chapter 580 of the Waconia City Code, as amended.

“Commissioner” means the Minnesota Commissioner of Public Safety.

“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.

“Exclusive liquor store” means an establishment used exclusively for the sale of: alcoholic beverages; tobacco products; ice; beverages, either liquid or powder, specifically designed for mixing with intoxicating liquor; soft drinks; liquor-filled candies; food products that contain more than one-half of one percent alcohol by volume; cork extraction devices; books and videos on the use of alcoholic beverages, magazines and other publications published primarily for information and education on alcoholic beverages; multiple use bags designed to carry purchased items; devices designed to ensure the safe storage and monitoring of alcohol in the home to prevent access by underage drinkers; home brewing equipment; and clothing marked with the specific name, brand or identifying logo of the exclusive liquor store and bearing no other name, brand or identifying logo.

“Farm winery” means 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.

“General food store” means a business primarily engaged in selling food and grocery supplies to the public for off-premise consumption.

“Growler” means a 64-ounce container packaged and labeled as required by Minn. Stat. §340A.285.

“Home brewing equipment” means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten (10) gallons or less and supplies and ingredients for home manufacture of malt liquor.

“Hotel” means an establishment where food and lodging are regularly furnished to transients and which has: i) a dining room serving the general public at tables and having facilities for seating at least thirty (30) guests at one time; and ii) ten (10) or more guest rooms.

“Intoxicating liquor” means ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

“License fee” means the sum of money paid to the City for the issuance of a license issued by the City to transact and carry on the business stated in the license, which fee shall be paid in full and prior to issuance of the license, unless installment payments are expressly allowed by this Chapter

580.

“License” means a license, permit or registration document issued to an applicant allowing the applicant to carry on and transact the business stated in such document.

“Licensee” means an applicant who applied for, received and holds a valid, current, unexpired, and unrevoked license for carrying on the business stated in such license.

“Licensed premises” means the compact and contiguous space specified in the license granted. In the case of a restaurant, club, or exclusive liquor store licensed for on-sale 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.

“Malt Liquor” means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

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

“Microdistillery” means a distillery operated within the State of Minnesota producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

“Minn. Stat. Chapter 340A” means Minn. Stat. Chapter 340A, as amended.

“Nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

“Off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

“On-sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

“Outdoor area” means any area that is not bounded by walls, doorways, and closeable windows covering one hundred percent (100%) of the combined surface area of the vertical planes constituting the perimeter of the area. A wall does not include any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

“Package” means a sealed or corked container of alcoholic beverage.

“Person” means any individual, partnership, unincorporated association, or entity.

“Restaurant” means any 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 seating capacity for twenty-five (25) or more guests at one time.

“Retail” means sale for consumption.

“Sale”, “sell”, and “sold” means furnishing merchandise to any person in exchange for money, as part of bartering, or as part of a business transaction,

“Small brewer” means a brewer that produces less than 3,500 barrels of malt liquor in a year.

“Smoking” means inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product and the act of carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment, tobacco or plant product intended for inhalation.

“Wholesaler” means a person who sells alcoholic beverages to persons to whom sale is permitted by Minn. Stat. 340A.310 from a stock maintained in a warehouse in the State of Minnesota.

“Wine” means 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, perry and sake, in each instance containing not less than one-half of one percent nor more than twenty-four percent (24%) alcohol by volume for nonindustrial use. Wine does not include distilled spirits.

#### 580.02 Authority.

Subd. 1 Adoption of State Law by Reference. The provisions of Minn. Stat. Chapter 340A (pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor) are incorporated into this Chapter 580 by reference. Any term used in this Chapter 580 that is not defined in Section 580.01 above but is defined in Minn. Stat. Chapter 340A shall be given the meaning ascribed to it in Minn. Stat. Chapter 340A.

Subd. 2 City’s Authority. Pursuant to Minn. Stat. Chapter 340A, the City may impose additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those set forth in Minn. Stat. Chapter 340A.

#### 580.03 General Provisions.

Subd. 1 Consumption in Public Places Prohibited. No person shall consume an alcoholic beverage in a public park, on any public street, sidewalk, parking lot or alley, or in any other public place, except as expressly allowed by this Chapter 580 or Minn. Stat. Chapter 340A.

Subd. 2 License Required for Sale. No person shall sell or offer for on-sale or off-sale any alcoholic beverage without a valid, current, unexpired, and unrevoked license therefor issued by the City or, if Minn. Stat. Chapter 340A so requires, the Commissioner.

Subd. 3 Prohibitions Regarding Persons Under Twenty-One (21) Years of Age.

- A. No licensee or any employee of a licensee shall sell or serve any alcoholic beverage to any person under twenty-one (21) years of age or permit any such person to consume any alcoholic beverage at a licensed premises unless such person under twenty-one (21) years of age is under the supervision of a responsible person over the age of twenty-one (21) for training, education, or research purposes. Prior notification to the City is required unless the supervised alcohol purchase attempt is for professional research conducted by post-secondary educational institutions or state, county, or local health departments.

- B. No person under twenty-one (21) years of age shall enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage. However, a person who is eighteen (18), nineteen (19), or twenty (20) years of age may enter such a premises to perform work for the establishment (including the serving of alcoholic beverages), to consume meals, or to attend social functions that are held in a portion of the establishment where liquor is not sold.
- C. No person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of obtaining any alcoholic beverage.
- D. No person under twenty-one (21) years of age shall consume or have in his or her possession any alcoholic beverage, with the intent to consume the same at a place other than the household of his or her parent or legal guardian. Possession of any alcoholic beverage by a person under twenty-one (21) years of age at a place other than the household of his or her parent or legal guardian shall be prima facie evidence of his or her intent to consume same at a place other than the household of his or her parent or legal guardian.

580.04 License Applications.

Subd. 1 Forms. Each application for a license issued pursuant to this Chapter 580 shall be made at the office of the City Clerk using the forms prescribed by the Commissioner, together with such additional information as the City Council may require, from time to time. All questions asked or information required by such application form shall be answered fully and completely by each applicant. Upon completion of such application form and the provision of all required information, the application form shall be referred to the City Clerk for examination and verification.

Subd. 2 Description of Premises. The application shall specifically describe the compact and contiguous premises within which alcoholic beverages may be dispensed and consumed and no license shall be effective or valid beyond the licensed premises. No license shall describe any outdoor area as part of the licensed premises except as follows:

- A. Golf Courses. In the case of a restaurant, club or exclusive liquor store licensed for on-sale of alcoholic beverages and located on a golf course, the licensed premises shall include the entire golf course except for areas where motor vehicles are regularly parked or operated.
- B. Temporary Licenses. The following temporary licenses may describe an outdoor area as the licensed premises:
  1. A temporary on-sale intoxicating liquor license issued pursuant to Section 580.06, Subd. 4;
  2. A temporary 3.2 percent malt liquor license issued pursuant to Section 580.06, Subd. 7 ;
  3. A temporary license for a farm winery to sell intoxicating liquor at a county fair issued pursuant to Section 580.06, Subd. 9; and

4. A temporary license for a bona fide association of owners and operators of wineries to showcase wines produced by members of such association issued pursuant to Section 580.06, Subd. 10.

C. ~~Outdoor Areas Adjacent to a Structure~~. Outdoor areas ~~immediately within close proximity or~~ adjacent to a building or structure comprising the remainder of the licensed premises including, but not limited to, porches, decks and patios may be included as part of the licensed premises provided all of the following conditions are met:

~~1. Not less than one third (1/3) of the licensee's gross sales shall be derived from the sale of food or other products other than on-sale alcoholic beverages;~~

12. The outdoor area shall not be enclosed in such a manner that the space becomes an indoor area as defined by Minn. Stats. § 144.413.

2. The licensee's dram shop liability carrier shall have acknowledged, in writing, that the outdoor area is covered by dram shop insurance;

3. The outdoor area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material and approved by the City Council;

4. The outdoor area shall be clearly delineated by an approved fence at least 36 inches in height or some other approved structure or barrier that has designated openings for ingress or egress, to prevent the ingress or egress of persons to and from the patio except by way of the designated openings for ingress or egress. Such ~~patios~~ outdoor area shall be considered compact and contiguous. Any portion of an outdoor area at grade or less than six (6) feet above grade shall be enclosed by an opaque fence at least six (6) feet high (with an emergency exit) so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises; provided, however, ~~†~~This requirement shall not apply to any licensed premises that is a restaurant or a hotel;

5. Any exterior stairway or ramp access to an outdoor area six (6) feet or more above grade must be gated so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises; provided, however, this requirement shall not apply to any licensed premises that is a restaurant or a hotel;

6. The outdoor area shall have sufficient vehicle barriers installed to reduce the entry of vehicles into the patio if it is in direct contact with or immediately adjacent to a vehicle parking area

7. If any portion of the outdoor area lies within 200 feet of a residential district, the outdoor area shall be screened in a manner approved by the City Council so as to prevent viewing of the outdoor area from the residential district and to dampen noise and/or deflect noise away from the residential district;

7. The outdoor area shall comply with all applicable laws, zoning district

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regulations and building codes, including but not limited to those relating to handicap accessibility;

8. Exterior lighting for the outdoor area shall be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no light is cast directly at any other property;
9. The outdoor area and surrounding landscaping shall be designed to complement the building or structure comprising the remainder of the licensed premises structure; and
10. The outdoor area shall meet all such other requirements as the City Council finds necessary or desirable to protect nearby properties and the public.

Subd. 3 Financial Responsibility. Each applicant shall demonstrate to the City Clerk, as a condition of issuance or renewal of a license: i) proof of financial responsibility as required by Minn. Stat. §340A.409 with regard to liability under Minn. Stat. §340A.409; ii) exemption from such requirements in conformance with Minn. Stat. §340A.409, Subd. 4; or iii) that the Minnesota Statutes expressly state that Minn. Stat. §340A.409 does not apply to the type of license at issue. In all cases where Minn. Stat. §340A.409 applies, the City will file the required proof or affidavit of exemption with the Commissioner. Any liability insurance policy, bond, proof of deposit, or affidavit filed as proof of financial responsibility under this section shall conform to Minn. Stat. §340A.409. Operation of a business that is required to be licensed by this Chapter 580 without current proof of financial responsibility or an exemption on file with the City is a cause for revocation of the license for all licenses to which Minn. Stat. §340A.409 applies.

Subd. 4 False Statements and Omissions. If any applicant intentionally makes a false statement or material omission on any application form, the false statement or material omission shall constitute cause for denial of the application or, if a license has been issued, revocation of the license.

Subd. 5 Investigation. The City shall investigate each applicant applying for an initial or renewal license to determine whether the applicant is qualified to hold the license applied for in the initial or renewal application. No license provided for herein shall be issued less than thirty-five (35) days after completion and filing of the application form with the City Clerk; provided, however, that such restriction may be waived by the City Council in any case where the applicant has recovered possession of the premises previously licensed by such applicant through mortgage foreclosure, contract for deed cancellation, or through any other type of involuntary reversion, or in the event all necessary investigations have been completed prior to the expiration of such thirty-five (35) day period.

Subd. 6 Licenses are Granted or Denied in the City Council's Discretion; Approval of Commissioner. The City Council may, in its sound discretion, either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license. Further, if Minn. Stat. Chapter 340A requires the Commissioner to approve a license, the granting of the license is conditioned on such approval being obtained.

Subd. 7 Conditions. The City Council may attach any special conditions to a license as it deems appropriate given the nature of the business, the location of the premises, and verified complaints, if any, to protect the health, safety, welfare and quietude of the community and

ensure harmony within the location where the premises is located. Violation of any of the conditions shall be grounds for revocation of the license.

Subd. 8 Restrictions on Issuance.

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one (1) license shall be directly or indirectly issued within the City to any one (1) person.
- C. No license shall be issued regarding any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.
- D. No license shall be issued to a person under twenty-one (21) years of age.
- E. No license shall be issued to a person who has had, within five (5) years of the date of the application, an intoxicating liquor or 3.2 percent malt liquor license revoked.
- F. No license shall be issued to a person who, within five (5) years of the date of the application, has been convicted of a felony or a willful violation of any federal or state law regarding the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.
- G. No license shall be issued to any entity if a controlling interest in such entity is held by a person that would be ineligible for a license under the standards set forth in subsections D, E, or F above.
- H. No license shall be issued for any premises or for any business ineligible for a license under federal law or Minnesota law.

Subd. 9 License Period. The City Council may approve any application for license as provided herein for the period of the remainder of the then current calendar year or for the entire ensuing license year, which, for the purposes of this Chapter 580, shall be from February 1 to January 31. All applications including proposed license periods must be consistent with this section.

Subd. 10 Fees.

- A. Investigation Fee. Except as provided below, each applicant for a license shall pay the investigation fee listed in Chapter 1100 of the Code when the application is submitted to the City. An application for which an investigation fee is required will not be considered until the fee is paid in full. No investigation fee is required for temporary licenses.
- B. Payment of License Fee. The fee for each type of license available under this Chapter 580 is listed in Chapter 1100 of the Code. Each applicant shall pay, on or before the day the license is issued, the full, annual fee for the type of license issued unless either of the below sections apply:
  - 1. Partial License Years. Unless expressly provided herein to the contrary, the

license fee for any partial license year shall be pro-rated and paid, in advance, on the basis of one-twelfth (1/12) of the total license fee for each calendar month, or part thereof, remaining in the then current license year.

2. Option to Pay On-Sale Liquor License Fee in Installments. An applicant for an on-sale liquor license may elect to pay the license fee listed in Chapter 1100 for “Liquor, On-Sale” in two (2) equal installments, subject to the following conditions:

- a. The first installment payment shall be paid, in advance, before the license is issued.
- b. Together with the first installment payment, the applicant shall also pay the “Installment Option Fee” listed in Chapter 1100 or installment payments will not be allowed.
- c. The second installment payment shall be paid on or before the close of business on July 1st of the then current license year. If July 1st is a Saturday or Sunday, payment must be made by the close of business on the last business day prior to July 1st. Failure to pay such installment payment on or before the date due shall constitute a violation of this Chapter. Further, no renewal license or new license shall be granted to a person that owes the City a past due installment payment or any fine associated with a past due installment payment.
- d. The entire license fee shall be paid even if the license holder ceases operations before the second installment payment becomes due. As such, the obligation to pay the second installment payment may not be waived unless relief is granted pursuant to this Chapter 580.
- e. The installment payment option may only be elected for full license years and is not available for partial license years, limited licenses, or temporary licenses.

C. Refunds. The City Council, in its discretion, may refund a pro rata share of an annual license fee to a licensee, or to the licensee’s estate, if:

1. The business ceases to operate because of destruction or damage; or
2. The licensee is an individual and the licensee dies.

Subd. 11 Issuance. If an application is approved and the required fee is paid (or the first installment payment is made, if applicable), the Mayor and the City Clerk shall, upon payment of the appropriate license fee, promptly issue a license in the form prescribed by the City and by the Commissioner. A license shall be valid only for the licensed premises described in the application for the license.

Subd. 12 Duplicate License. The City Clerk may issue a duplicate of an original license without action by the City Council if the licensee produces a sworn affidavit that the original license has been lost and pays the fee for issuance of a duplicate license as listed in Section 1100 of this Code. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 13 Transfer. No license may be transferred between persons or locations without prior approval of the City Council. If a controlling interest in any entity with a license is transferred, the transfer of the controlling interest shall be deemed to be a transfer of the license. The City Council may revoke any license transferred without its prior approval. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this Chapter 580 regarding a new license application shall apply.

580.05 Requirements and Restrictions Regarding Licensees.

Subd. 1 Posting. Each person holding a license shall post the license at the premises described in the license, except that a temporary license shall be posted at the premises where alcoholic beverages may be sold, as defined in the license. All licenses shall be posted in full view of the public.

Subd. 2 Hours and Days of Sale. Each licensee shall strictly comply with the hour and day limitations found in Minn. Stat. §340A.504 for each type of license held by the licensee. In addition, the following provisions apply to Sunday sales:

- A. On-Sale of Intoxicating Liquor. Except as provided in Subd. 2, B, below, the on-sale of intoxicating liquor on a Sunday requires a Sunday license issued pursuant to Code Section 580.06, Subd. 5.
- B. On-Sale Brewer Taproom. The holder of a brewer taproom license may open the taproom and conduct on-sale business on Sundays between the hours of 8:00 a.m. and 11:59 p.m. without the need for a separate Sunday license.
- C. Off-Sale Growlers. A small brewer may sell malt liquor in growlers at its licensed premises as allowed by Minn. Stat. Chapter 340A during the hours of 8:00 a.m. and 11:59 p.m. on Sundays without the need for a separate Sunday license.

Subd. 3 Hours of Business.

- A. No person or customer, other than the licensee or his or her bona fide employees, shall remain on any licensed premises more than thirty (30) minutes after closing hour. There shall be no consumption of any alcoholic beverage by any person, including the licensee and his or her bona fide employees, more than thirty (30) minutes after closing hour. It shall be the duty of the licensee to enforce compliance with this section at the licensed premises.
- B. Total evacuation of the licensed premises shall occur not later than one (1) hour after closing hour, unless prior notification is provided to the Carver County Sheriff's Department and approval is obtained therefrom. It shall be the duty of the licensee to enforce compliance with this section at the licensed premises.

Subd. 4 Sales to Intoxicated Persons Prohibited. No person shall sell 3.2 percent malt liquor, intoxicating liquor or wine to any person who is obviously or visibly in an intoxicated condition.

Subd. 5 Line of Sight Requirements.

- A. All licensed sales of any alcoholic beverage shall be made in full view of the public.

- B. For security purposes, the front door or entrance of each licensed premises shall contain an unobstructed clear glass window that shall provide a clear view of the interior of such licensed premises.
- C. Any room or rooms where any alcoholic beverage is sold shall be arranged such that an unobstructed view of any part of such room shall be visible to at least one (1) employee of the licensee.

Subd. 6    Responsibility of Licensee.

- A. Every licensee shall maintain sobriety and order at the licensed premises and all parking areas, outdoor areas or other property adjacent to the licensed premises owned or controlled by the licensee.
- B. The act of any employee on the licensed premises authorized to sell or serve any alcoholic beverage shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties equally with the employee.

Subd. 7    Employment of Felons Prohibited. No person who has been convicted of a felony shall serve or sell liquor in a retail intoxicating liquor establishment.

Subd. 8    Employment of Minors Prohibited. No person under the age of eighteen (18) years shall serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

Subd. 9    Removal of Alcoholic Beverages. No licensee shall permit any person to remove, and no person shall remove, from the space or building named in the on-sale license for which it was granted, any bottle or receptacle which contains any alcoholic beverage, which has been opened, or the seal broken, or the contents of which have been partially removed except a restaurant licensed to sell intoxicating liquor or wine at on-sale may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described herein is not an off-sale of intoxicating liquor and may be permitted without an additional license. Each licensee shall post, in a conspicuous location near each exit from the space or building named in the license for which it was granted, a sign advising the public of this prohibition. It shall be the duty of the licensee to enforce compliance with this section.

Subd. 10    Samples of Alcoholic Beverages. Samples of alcoholic beverages may be provided as allowed by Minn. Stat. 340A.510.

Subd. 11    Nudity at a Licensed Premises Prohibited. The City Council finds that it is in the best interests of the public health, safety and general welfare of residents of the City to prohibit the following:

- A. A licensee allowing a hostess, barmaid, waitress, waiter, bartender, independent contractor or any such other such person to perform services at the premises described in the licensee’s license while the person is in a state of nudity.
- B. A licensee allowing any person to perform, whether by dancing, displaying lingerie or any other activities or entertainment services at the premises described in the licensee’s license while the person is in a state of nudity.

Subd. 12 Gambling Prohibited. No retail establishment licensed to sell alcoholic beverages may keep, possess, operate or permit the keeping, possession or operation on the licensed premises of dice or any gambling device, or permit gambling, except as allowed by Minnesota law.

Subd. 13 Inspection.

- A. Any licensed premises may be inspected by a health officer at such time or times as is necessary or advisable to maintain clean and sanitary conditions.
- B. No licensee shall prevent any law enforcement officer from entering upon and inspecting the licensed premises regardless of whether or not the law enforcement officer has obtained a search and seizure warrant for such purpose. Such law enforcement officer shall be authorized to seize all alcoholic beverages found in such licensed premises for which the licensed premises do not have a license.

Subd. 14 Exclusive Stores. No exclusive store shall sell food for on-premises consumption unless the City has specifically authorized such consumption in the license for the premises. An exclusive store may offer live or recorded entertainment provided it complies with all other provisions of the Waconia City Code in regard to such entertainment.

Subd. 15 Requirements Applicable to Outdoor Areas ~~Adjacent to a Structure~~. If licensed premises includes an outdoor area adjacent to a structure as allowed by Section 580.04, Subd. 2, C, the licensee of such premises shall:

- A. Assign an employee to supervise the outdoor area at all times;
- B. Not use any device in the outdoor area after 9:00 p.m. that is designed, in whole or in part, to produce, reproduce or amplify sound including, but not limited to, loudspeakers, amplifiers, radio, televisions, or musical instruments (provided, however, the personal use of cellular phones, radio communication devices and devices solely emitting sound through headphones shall not be prohibited);
- C. Not serve any alcoholic beverages in the outdoor area after 10:00 p.m., provided, however, this restriction shall not apply to any licensed premises that is a restaurant or a hotel and shall not be construed to prohibit the consumption of alcoholic beverages in the outdoor area after 9:00 p.m.;
- D. Remove any person from the outdoor premises that becomes unruly or noisy;
- E. Maintain at least one (1) waste receptacle in the outdoor area;
- F. Maintain at least one (1) fire safe cigarette disposal receptacle in the outdoor area;
- G. Pick up trash and litter generated by the operation of the outdoor area within a reasonable distance from the outdoor area; and
- H. At all times maintain the outdoor area in full compliance with the requirements of Section 580.04, Subd. 2, C.

Subd. 16 Smoking in Outdoor Areas. If the licensed premises includes an outdoor area adjacent to a structure as allowed by Section 580.04, Subd. 2, C, the licensee of such premises may allow

or prohibit smoking in the outdoor area (or divide the outdoor area into smoking and no smoking areas in such proportions as the licensee desires) subject to the following limitations and requirements:

- A. Smoking shall be prohibited in those portions of the outdoor area, if any, that are considered "indoor area" under the Clean Indoor Air Act.
- B. If the licensed premises is a restaurant or hotel, not less than twenty-five percent (25%) of the seats in the outdoor area shall be designated and signed by the licensee as a no smoking area, which seats shall be contiguous. The licensee shall treat such no smoking area as an area where smoking is not allowed under the Clean Indoor Air Act and shall take the actions set forth in the Clean Indoor Air Act to prevent smoking in such area.

Subd. 17 Mandatory License Training Seminars. Except as provided below, each licensee holding a license must either attend, or have a representative of licensee attend, the mandatory license training seminar offered by the City (in conjunction with the Carver County Sheriff's Department) during the year or partial year that the license is in effect. Any representative attending on behalf of a licensee must hold a position of responsibility in either the ownership or management of the licensee. Failure to attend a required training seminar without reasonable justification, as determined by the City Council, shall result in the imposition of the penalties set forth in Section 580.08 below. If a person just holds a temporary license, the person shall not be required to attend the license training seminar.

580.06 Number and Types of Licenses Issued by the City.

Subd. 1 Number of Licenses. Except as otherwise provided in this Section 580.06 or Minn. Stat. Chapter 340A, there shall be no limit on the number of licenses that may be issued by the City Council. Under no circumstance, however, shall the City Council issue more than 12 days of temporary licenses to any one applicant in one calendar year.

Subd. 2 Off-Sale Licenses.

- A. Exclusive Liquor Store. The City Council may issue an off-sale intoxicating liquor license to an exclusive liquor store as allowed by Minn. State §340A.405.
- B. Off-Sale 3.2 Percent Malt Liquor. The City Council may issue an off-sale 3.2 percent malt liquor license as allowed by Minn. Stat. §340A.403.
- C. Small Brewer. The City Council may issue an off-sale malt liquor license to a small brewer as allowed by Minn. Stat. §§340A.28 and 340A.285.
- D. Brew Pub. The City Council may issue an off-sale malt liquor license to a brew pub as allowed by Minn. Stat. §340A.24.
- E. Microdistillery. The City Council may issue an off-sale intoxicating liquor license to a microdistillery as allowed by Minn. Stat. §340A.22.

Subd. 3 On-Sale Licenses.

- A. Intoxicating Liquor. The City Council may issue intoxicating liquor licenses as allowed by Minn. Stat. §340A.404.

- B. Wine. The City Council may issue an on-sale license to sell wine as allowed by Minn. Stat. §340A.404. The holder of an on-sale wine license issued pursuant to this section who also holds a license to sell 3.2 percent malt liquors on-sale may also sell intoxicating malt liquors on-sale without an additional license.
- C. 3.2 Percent Malt Liquor. The City Council may issue on-sale 3.2 percent malt liquor licenses as allowed by Minn. Stat. Chapter 340A.403.
- D. Brew Pub. The City Council may issue a brew pub license as allowed by Minn. Stat. §340A.24.
- E. Brewer Taproom. The City Council may issue a brewer taproom license as allowed by Minn. Stat. §340A.26.
- F. Microdistillery Cocktail Room. The City Council may issue a microdistillery cocktail room license as allowed by Minn. Stat. §340A.22.
- G. Culinary Classes. The City Council may issue a limited on-sale intoxicating liquor license to a business establishment for culinary classes as allowed by Minn. Stat. §340A.4041.

Subd. 4 Temporary Licenses.

- A. Social Event Sponsored by a Club, Charity or Nonprofit. The City Council may issue a temporary on-sale license to sell intoxicating liquor to a club or to a charitable, religious, or nonprofit organization in connection with a social event sponsored by such organization as allowed by Minn. Stat. §340A.404.
- B. 3.2 Percent Malt Liquor Served by a Club, Charity or Nonprofit. The City Council may issue a temporary license to a club or to a charitable, religious, or non-profit organization for the on-sale of 3.2 percent malt liquor as allowed by Minn. Stat. §340A.403.
- C. Social Event Sponsored by a Small Brewer or Microdistillery. The City Council may issue a temporary on-sale intoxicating liquor license to a small brewer or microdistillery in connection with a social event sponsored by such entity as allowed by Minn. Stat. §340A.404.
- D. Farm Winery at a County Fair. The City Council may issue a temporary license to a farm winery for the on-sale of intoxicating liquor at a county fair as allowed by Minn. Stat. §340A.404.
- E. Wine Festival. The City Council may issue a temporary license for the on-sale and off-sale of wine at a festival as allowed by Minn. Stat. 340A.4175.
- F. Wine Auction. The City Council may issue a temporary license for the off-sale of wine at an auction as allowed by Minn. Stat. §340A.405.

Subd. 5 Sunday Licenses. The City Council may issue licenses to sell intoxicating liquor on-sale on Sundays to a hotel, restaurant, club or bowling center as allowed by Minn. Stat. §340A.504, Subd. 3.

580.07 3.2 Bottle Clubs.

A “bottle club” is a club that is not otherwise licensed for the sale of intoxicating liquor that permits its members to bring and keep a personal supply of liquor in lockers assigned to such members. No business establishment or club that does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner.

580.08 Presumptive Civil Penalties.

Subd. 1 Purpose. This section sets forth presumptive civil penalties for certain violations of this Chapter 580. Although the presumptive penalties are presumed to be appropriate for every case, the City Council may deviate and impose a different civil penalty in any individual case where the City Council finds substantial reasons make it appropriate to do so (e.g., a licensee’s efforts to cooperate with the City or the Commissioner to prevent further sales of alcohol to persons under twenty-one (21) years of age at the licensed premises). When deviating from the presumptive civil penalties, the City Council shall provide written findings that support the penalty imposed. Nothing herein shall be interpreted as preventing the City from also prosecuting any violation of this Chapter 580 as a criminal violation pursuant to Chapter 102 of the Code.

Subd. 2 Presumptive Civil Penalties for Violations. The presumptive penalties are as follows:

<i>Type I Violations</i>	<i>Penalty</i>
Commission of a felony related to the licensed activity Sale of alcoholic beverages while license is under suspension Sale of intoxicating liquor where only license is for 3.2 percent malt liquor	License revoked
<i>Type II Violations</i>	<i>Penalty</i>
<i>Failure to comply with Financial Responsibility</i>	License suspended for three (3) days, unless the next penalty applies  License revoked if a second Type II Violation occurs within twenty-four (24) months of a previous Type II Violation.
<i>Type III Violations</i>	<i>Penalty</i>
<i>Refusal to allow City inspectors or the Carver County Sheriff's Department admission to inspect the premises</i>	License suspended for five (5) days, unless the next penalty applies  License suspended for fifteen (15) days if a second Type III Violation occurs within twenty-four (24) months of a previous Type III Violation, unless the next penalty applies  License revoked if three Type III Violations occur within twenty-four (24) months of each other.
<i>Type IV Violations</i>	<i>Penalty</i>
Sale of alcoholic beverages to a person under twenty-one (21) years of age Sale of alcoholic beverages to obviously intoxicated person After hours sale of alcoholic beverages After hours display or consumption of alcoholic beverages Illegal gambling on premises Consumption of an alcoholic beverage by a patron of a licensee outside of the	\$200.00 penalty, unless the next penalty applies  \$500.00 penalty if a second Type IV Violation occurs within twenty-four (24) months of a previous Type IV Violation, unless the next penalty applies  License suspended for three (3) days if three Type IV Violations occur within twenty-four (24) months of each other, unless the next penalty applies  License revoked if four Type IV Violations

compact and contiguous premises described in the licensee's license Failure to attend mandatory license training seminars	occur within twenty-four (24) months of each other.
<i>Type V Violations</i>	<i>Penalty</i>
Failure to pay a license fee installment payment on or before the date it is due	Installment payments permanently prohibited

Subd. 3 Payment of Monetary Penalties. Any monetary penalty imposed shall be due and payable, in full, on the tenth (10<sup>th</sup>) day after it is imposed by the City Council. Failure to pay any monetary penalty on or before the date it is due shall constitute another violation of the same type.

580.09 Right to a Hearing.

Any applicant who has been denied the issuance of a license or any licensee upon whom a civil penalty has been imposed may, upon written request to the City Clerk promptly made after the denial or imposition has occurred, request a hearing before the City Council to present evidence and to appeal the decision. Further, no suspension or revocation of a license shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. §§14.57 to 14.70 of the Administrative Procedure Act, as amended.

12/01/95  
10/20/97 Ord. 481 Section 580.02, Add Subd. 6  
05/03/99 Ord. 497 Amend Chapter 580 in Entirety  
05/07/99 Ord. 500 Section 580.05, Subd. 1  
02/20/01 Ord. 527 Add Section 580.05, Subd. 11  
01/03/04 Ord. 504 Section 580.02, Delete Subd. 1b  
05/15/05 Ord. 562 Section 580.01 J; 580.03, 3; 580.04, 6  
06/19/2006 Ord. 580 Add 580.03, Subd. 4

12/10/07 Ord. 593, Section 580.04  
01/05/09 Ord. 613, Allow On-Sale Intoxicating Installment Payments  
11/30/09 Ord. 624, Sect. 580.04, Subd. 1 Hours of Sale  
08/01/2011 Ord. 651 adding farm winery  
01/07/13 Ord 667, Amend Chapter 580 in Entirety  
12/09/13 Ord. 674, Amend 580.04 C  
07/21/2014 Ord. 686, Amend 580.06 Subd 8, 11, 12

06/16/03 Ord. 542 2 a.m. Closing Option

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