



**To:** MAYOR & COUNCIL

**Agenda Item #:** VIII. E.

**From:** Debra Mangen  
City Clerk

**Action**

**Discussion**

**Date:** December 2, 2014

**Information**

**Subject:** Ordinance No. 2014-22 Amending Chapters 4 & 24 Concerning Alcoholic Beverages And Conduct In Parks, Streets, Sidewalks and Publicly Owned Property

### **Action Requested:**

Motion granting first reading and waiving second reading, adopting proposed Ordinance No. 2014-22 concerning alcoholic beverages and conduct in parks, streets, sidewalks and publicly owned property.

### **Information / Background:**

Staff recently became aware of a some “housekeeping” changes that were needed in current city code. The first involves the Art Fair in June. The 50<sup>th</sup> & France Business Association would like to host a beer garden featuring craft beer at the Art Fair. Since the Edina Grill has a Minnesota State Alcohol caterer’s license issued by the Commissioner of Public Safety, the Association would like to have the Edina Grill cater the beer garden. In order to allow such service on public property, the following needs to be added to Edina’s Code:

“e. Alcoholic beverages may be consumed on premises holding a temporary on-sale 3.2 percent malt liquor license or a temporary on-sale intoxicating liquor license issued pursuant to chapter 4, [or a caterer’s permit issued by the commissioner of public safety](#) and which are authorized by a permit issued pursuant to section 24-346.” And

“Sec. 24-346. Special permits [for temporary liquor licenses](#).

[The city council may issue a special permit to the holder of a](#) temporary on-sale 3.2 percent malt liquor license or a temporary on-sale intoxicating liquor license issued pursuant to chapter 4 [or a caterer’s permit issued by the commissioner of public safety](#) for the purpose of occupying a park, street, sidewalk or publicly owned property with a licensed premises. Applications for a special permit shall be made on forms supplied by the clerk and shall include a plan drawn to scale which illustrates the exact location of the licensed premises and all proposed signs, including signs attached to vehicles, that will be used to identify the licensed premises or to promote the sale of alcoholic beverages. The application shall be accompanied by the fee set forth in section 2-724. In addition to the requirements of article II of chapter 12, no permit shall be issued pursuant to this section unless the following requirements are met:”

Also subsection 24-254 has been modified to read Fred Richards which makes no change except to acknowledge that Fred Richards is no longer a golf course.

Finally in order to allow the Tin Fish to obtain an intoxicating liquor license subsections 4-34 (d) and (e) need to be amended as shown below:

“ Section 4-34, subsection (d) of the Edina City Code is amended to read as follows:

(d) Wine licenses. In addition to the requirements of subsection (a) of this section, no wine license shall be granted to any establishment other than a restaurant located in the PCD-1, PCD-2, PCD-3 subdistricts, the mixed development district, the planned office district, ~~or~~ the planned office district or for a restaurant on a golf course.

Section 4-34, subsection (e) of the Edina City Code is amended to read as follows:

(e) On-sale intoxicating liquor licenses. In addition to the requirements of subsection (a) of this section, no on-sale intoxicating liquor license shall be granted to any establishment other than a restaurant or hotel located in the PCD-2, PCD-3, POD-2 subdistricts, ~~or~~ the mixed development district ~~as established by chapter 36, or on a golf course.~~”

A draft of Ordinance No. 2014-22 showing the proposed changes is attached for review.

**ORDINANCE NO. 2014-22**  
**AN ORDINANCE AMENDING CHAPTERS 4 AND 24**  
**OF THE EDINA CITY CODE CONCERNING ALCOHOLIC BEVERAGES**  
**AND CONDUCT IN PARKS, STREET, SIDEWALKS, AND**  
**PUBLICLY OWNED PROPERTY**

**THE CITY COUNCIL OF EDINA ORDAINS:**

**Section I.** Section 4-34, subsection (c) of the Edina City Code is amended to read as follows:

(c) On-sale 3.2 percent malt liquor licenses. In addition to the requirements of subsection (a) of this section, no on-sale 3.2 percent malt liquor license shall be granted for establishments other than:

(1) ~~P~~private clubs which have been incorporated for more than ten years and which own and operate clubhouses for their members in which the serving of such liquor is incidental to and not the major purpose of such club:

(2) ~~R~~Restaurants;

(3) ~~G~~Golf courses;

(4) ~~T~~The Edina Golf Dome;

(5) ~~B~~Bowling centers; and

(6) ~~H~~Hotels.

The provisions of this subsection do not apply to temporary on-sale 3.2 percent malt liquor licenses.

**Section 2.** Section 4-34, subsection (d) of the Edina City Code is amended to read as follows:

(d) Wine licenses. In addition to the requirements of subsection (a) of this section, no wine license shall be granted to any establishment other than a restaurant located in the PCD-1, PCD-2, PCD-3 subdistricts, the mixed development district, the planned office district, ~~or~~ the planned office district or for a restaurant on a golf course.

**Section 3.** Section 4-34, subsection (e) of the Edina City Code is amended to read as follows:

(e) On-sale intoxicating liquor licenses. In addition to the requirements of subsection (a) of this section, no on-sale intoxicating liquor license shall be granted to any establishment other than a restaurant or hotel located in the PCD-2, PCD-3, POD-2 subdistricts, ~~or~~ the mixed development district ~~as established by chapter 36.,~~ or on a golf-course.

**Section 4.** Section 24-254 of the Edina City Code is amended to provide as follows:

Sec. 24-254. Conduct in parks, streets, sidewalks, and publicly owned property.

No person, in any park, street, sidewalk or publicly owned property shall:

- (1) Cut, break, scratch, mark or in any way injure or deface or remove any building, fence, post, pump, lamp, flagpole, construction work, improvement, facility or any other structure or property.
- (2) Post, paste, fasten, paint or affix any placard, bill, notice or sign upon any motor vehicle, structure, pole, tree, stone, fence, thing or enclosure, unless first authorized in writing by the city.

- (3) Pick or cut any wild or cultivated flower, or cut, break or in any way injure or deface any tree, shrub or plant, provided that a property owner may prune trees and shrubs on the street right-of-way adjoining his property subject to the permission of the park director.
- (4) Remove any wild flower, tree, shrub, plant, branch or portion thereof, or any soil or other material without the approval of the park director.
- (5) Go on foot or otherwise upon grass or turf where a prohibitory sign is posted.
- (6) Throw or cast any stone or other object, or aim or discharge any air gun, sling shot or other weapon except according to the rules of a game or recreation permitted in writing by the city.
- (7) Deposit, place or leave any paper, rubbish, waste, cans, bottles or refuse of any kind except in receptacles provided for the collection of waste.
- (8) Deposit, place or leave in publicly owned waste receptacles refuse generated from normal household or business activities.
- (9) Start or maintain any fire except small fires made by picnic parties in those locations in parks designated for that purpose by the city.
- (10) Abandon any fire made pursuant to subsection (9) of this section without completely extinguishing the fire and depositing the ashes or coals from such fire, after they have cooled sufficiently, in receptacles provided for waste.
- (11) Perform acts prohibited by article II of chapter 22.
- (12) Set, lay or prepare or use any trap, snare, artificial light, net bird line, ferret, hawk or any contrivance or device whatever for the purpose of catching, taking or killing any bird or wild creature. The prohibition in this subsection shall not apply to trapping by any means or methods

done by the city, or done under its direction, or done by any other governmental agency or department with the written permission of the city manager, or done by any person with a valid trapping license issued by the state and with the written permission of the city manager. All trapping shall be done in accordance with state law.

(13) Start or land an airplane, helicopter, balloon or other aircraft without the written permission of the manager.

(14) Consume intoxicating or nonintoxicating malt liquor, wine or intoxicating liquor, as defined in chapter 4, except that:

a. 3.2 percent malt liquor, intoxicating malt liquor and wine which is dispensed by the city or by an authorized agent of the city may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the park director pursuant to section 24-258 in the following places:

1. Inside the clubhouse building or on decks, patios and other outdoor dining areas which are adjacent to the clubhouse building at Braemar Golf Course and at Fred Richards [Golf Course](#).

2. Inside the Edinborough Park building, the Centennial Lakes Park Centrum building, the building at Arneson Acres Park, the Edina Art Center Building, the Edina Senior Center and on decks, patios and other outdoor dining areas which are adjacent to such buildings.

b. 3.2 percent malt liquor which is dispensed by the city or by an agent of the city pursuant to a temporary on-sale 3.2 percent malt liquor license issued in accordance with chapter 4 may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the park director pursuant to section 24-258 within the confines of the ball field complex at Van Valkenburg Park.

c. 3.2 percent malt liquor, wine and intoxicating malt liquor which is dispensed by the city or by an agent of the city at an on-sale dispensary authorized pursuant to section 4-2

may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the park director pursuant to section 24-258 on the grounds of Braemar Golf Course. 3.2 percent malt liquor which is dispensed by the city or by an agent of the city at an on-sale dispensary authorized pursuant to section 4-2 may be consumed subject to other applicable provisions of this Code and subject to the rules and regulations of the park director pursuant to section 24-258 on the grounds of Fred Richards ~~golf~~ course.

d. 3.2 percent malt liquor, intoxicating malt liquor and wine may be consumed at sidewalk cafes which are licensed in accordance with chapter 4 and which are authorized by a permit issued pursuant to section 24-313.

e. Alcoholic beverages may be consumed on premises holding a temporary on-sale 3.2 percent malt liquor license or a temporary on-sale intoxicating liquor license issued pursuant to chapter 4, or a caterer's permit issued by the commissioner of public safety and which are authorized by a permit issued pursuant to section 24-346.

(15) Destroy, injure or tamper with any sewer, storm sewer, water main, culvert or any part thereof, including manhole covers, tanks or valves.

(16) Hitch any animal to a lamp post, hydrant, drinking fountain, tree or other structure or picket an animal to the ground.

(17) Park or occupy a vehicle or occupy a street or sidewalk to sell any farm produce or any other product or property, or for conducting any business or selling of services, except as provided in section 24-259.

(18) Place any vehicle to display the vehicle for sale or exchange.

(19) Work, grease, repair, change oil or maintain in any way a vehicle, except as necessitated by an emergency.

- (20) Use a skateboard, roller skates, in-line roller skates or blades, or similar devices
- a. In a municipal parking facility;
  - b. On or across a sidewalk within or adjoining property in the PC-1, PC-2 or PC-3 districts, as defined by chapter 36; or
  - c. Upon the traveled portion of a street.

Notwithstanding this subsection (20), roller skates or in-line roller skates or blades may be used on the traveled portion of streets, if no adjoining sidewalk is present.

- (21) Feed any wild animal or bird, or deposit a food source for wild animals or birds.

**Section 5.** Section 24-346 of the Edina City Code is amended to provide as follows:

Sec. 24-346. Special permits ~~for temporary liquor licenses~~.

The city council may issue a special permit to the holder of a temporary on-sale 3.2 percent malt liquor license or a temporary on-sale intoxicating liquor license issued pursuant to chapter 4 or a caterer's permit issued by the commissioner of public safety for the purpose of occupying a park, street, sidewalk or publicly owned property with a licensed premises. Applications for a special permit shall be made on forms supplied by the clerk and shall include a plan drawn to scale which illustrates the exact location of the licensed premises and all proposed signs, including signs attached to vehicles, that will be used to identify the licensed premises or to promote the sale of alcoholic beverages. The application shall be accompanied by the fee set forth in section 2-724. In addition to the requirements of article II of chapter 12, no permit shall be issued pursuant to this section unless the following requirements are met:

- (1) The city council shall find that the issuance of the permit:

- a. Will not be detrimental to or endanger the public health, safety, morals and general welfare;
  - b. Will not cause undue traffic hazards, congestion or parking shortages; and
  - c. Will not be injurious to the use and enjoyment, or decrease the value of other property in the vicinity, and will not be a nuisance.
- (2) No signs or symbols of any kind shall be used to identify the licensed premises or product dispensed therein other than those specifically approved by the city council.
- (3) The permit holder shall indemnify and hold the city harmless from any loss, cost, damage and expense arising out of the holder's use, design, operation or maintenance of the property. The indemnity shall be on forms provided by the clerk.
- (4) The permit holder shall furnish to the clerk evidence that public liability insurance has been procured for any death or personal injury arising from the ownership, use, operation or maintenance of the property in the amounts of not less than:
- a. \$100,000.00 for injury to or death of one person;
  - b. \$300,000.00 for any one incident; and
  - c. \$50,000.00 for damage to property arising from any one incident.

The permit holder shall maintain such insurance in effect at all times during the term of the permit. The city shall be named as an additional named insured in the policy providing such insurance.

(5) The permit holder shall furnish a surety bond, letter of credit or cash deposit in an amount determined by the city council but not less than \$5,000.00 to be used by the city for the purpose of replacing or repairing any damage to public property caused by the permit holder's use. A surety bond shall be from a corporate surety authorized to do business in the state. The surety bond, letter of credit or cash deposit shall be released by the city upon completion of the repair or replacement of any damage to public property.

(6) The city council may impose other requirements and conditions necessary to promote public safety.

**Section 6.** This ordinance is effective upon adoption.

First Reading: December 2, 2014

Second Reading: Waived

Published: December 11, 2014

Attest:

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Debra A. Mangen, City Clerk

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James B. Hovland, Mayor

Please publish in the Edina Sun Current on: December 11, 2014

Send two affidavits of publication

Bill to Edina City Clerk