

A regular meeting of the City Council for the City of Canby, Minnesota was held on September 3<sup>rd</sup>, 2013 at 7:00 P.M. in the City Council Chambers.

Members: Gene Bies, Nancy Bormann, Frank Maas, Denise Hanson, Nate Oellien

Absent: None

Visitors: Nicholas Johnson, City Administrator  
Gerald Boulton, City Attorney  
Melissa Denelsbeck, Canby News  
Zhenya Ward, Administrator's Intern  
Jody Olson

The Pledge of Allegiance was recited.

The meeting was called to order.

A public hearing to receive comment on the proposed TIF 1-25 district was opened. There were no attendees for the public hearing. A motion was made by Hanson and seconded by Nancy Bormann to close the public hearing. All voted in favor. None voted against. The motion was carried.

Resolution 2013-9-3-2, a resolution adopting the TIF plan and creating the district for TIF 1-25, was reviewed. A motion was made by Bormann and seconded by Maas to adopt the resolution. Bies, Bormann, Hanson, and Maas voted in favor. None voted against. Oellien abstained due to conflict of interest. The motion was carried.

## **CITY OF CANBY**

### **RESOLUTION 2013-9-3-2**

#### **RESOLUTION ADOPTING THE TAX INCREMENT FINANCING PLAN FOR AND THE CREATION OF TAX INCREMENT FINANCING DISTRICT NO. 1-25**

BE IT RESOLVED By the City Council (the Council) of the City of Canby, Minnesota (the City) as follows:

##### Section 1. Recitals.

1.01. On June 17, 1985, the Council adopted a Development Program for Development District No. 1, pursuant to and in accordance with Minnesota Statutes Sections 469.124 through 469.134 (previously Chapter 472A).

1.02. It has been proposed that the City create a Plan for Tax Increment Financing District No. 1-25.

1.03. The Council has investigated the facts and has caused to create the Tax Increment Financing Plan (Plan) for Tax Increment Financing District No. 1-25.

1.04. The City has performed all actions required by law to be performed prior to the adoption of the Plan, including, but not limited to, notification of Yellow Medicine County and the Independent School District and holding a public hearing regarding the Plan upon such notice as is required by law.

1.05. The Plan is contained in a document entitled "Tax Increment Financing Plan, for Tax Increment Financing District No. 1-25, City of Canby" dated September 3, 2013, on file at city hall.

1.07. The City Council has fully reviewed the contents of the Plan and has on this date conducted a public hearing thereon at which the views of all interested persons were heard.

## Section 2. Findings Relating to the Plan for Tax Increment Financing District No. 1-25.

2.01. It is found and determined that it is necessary and desirable for the sound and orderly development of the District and the City as a whole, and for the protection and preservation of the public health, safety, and general welfare, that the authority of the TIF Act be exercised by the City to create the Plan for Tax Increment Financing District No. 1-25.

2.02. It is further found and determined, and it is the reasoned opinion of the City, that the actions proposed in the Plan for Tax Increment Financing District No. 1-25, could not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that therefore the use of tax increment financing is necessary to assist the project.

2.03. The expenditures proposed to be financed through tax increment financing are necessary to permit the City to realize the full potential of the District in terms of development intensity and tax base.

2.04. The creation of the Plan for Tax Increment Financing District No. 1-25 will afford maximum opportunity, consistent with the sound needs of the City as a whole, for the development of the tax increment financing district by private enterprise.

2.05. The Plan conforms to the plans for development of the City as a whole.

2.06. The City Council has relied upon the opinions and recommendations of its advisor and the personal knowledge of the members of the council in reaching its conclusions regarding the creation of the Plan.

2.07. Tax Increment Financing District No. 1-25 is a economic development tax increment financing district within the meaning of Minnesota Statutes Section 469.174, Subd. 12.

## Section 3. Approval of the Tax Increment Financing Plan.

3.01. The Plan for Tax Increment Financing District No. 1-25 is hereby adopted and the district is hereby created.

3.02. The advisor is authorized and directed to file a copy of the Plan for Tax Increment Financing District No. 1-25 with the Minnesota Department of Revenue and the State Auditor Office.

Dated: September 3, 2013.

Attest:

\_\_\_\_\_  
Mayor

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

The minutes of August 20<sup>th</sup>, 2013 were reviewed. A motion was made by Hanson and seconded by Bormann to approve the minutes. All voted in favor. None voted against. The motion was carried.

Ordinance 317, an ordinance regulating liquor within city limits, was reviewed. A motion was made by Hanson and seconded by Maas to adopt the ordinance. All voted in favor. None voted against. The motion was carried.

### **Ordinance 317**

#### **An Ordinance Regulating The Possession, Sale, and Consumption of Intoxicating and 3.2 Percent Malt Liquor Within The City of Canby, Minnesota**

The City Council of the City of Canby, Minnesota does hereby ordain:

#### **SECTION 1. ADOPTION OF STATE LAW BY REFERENCE.**

The provisions of Minn. Stat. Ch. § 340A as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the City Council that all future amendments to Minn. Stat. Ch. § 340A are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance is adopted.

#### **SECTION 2. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.**

The Council is authorized by the provisions of Minn. Stat. § 340A.509 as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions

on the sale and possession of alcoholic beverages within its limits beyond those contained in Minn. Stat. Ch. 340A as it may be amended from time to time.

### SECTION 3. DEFINITIONS.

In addition to the definitions contained in Minn. Stat. § 340A.101 as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

Liquor. As used in this ordinance, without modification by the words, an “intoxicating” or a “3.2 percent malt” includes both intoxicating liquor and 3.2 percent malt liquor.

Restaurant. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by Minn. Stat. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in Minn. Stat. § 157.16, subd. 3(d), as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this ordinance unless it meets the definitions of a “small establishment”, “medium establishment” or “large establishment”.

### SECTION 4. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

- A. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this ordinance. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this ordinance, as set forth in this section, reflects the prevailing community standards of the city.
- B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the

licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

- C. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 22(B).

#### SECTION 5. CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance, or where the consumption and display of liquor is lawfully permitted, except as lawfully permitted by the City Council.

#### SECTION 6. TERM AND EXPIRATION OF LICENSES.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

#### SECTION 7. KINDS OF LIQUOR LICENSES.

The following kinds of licenses are available for application:

- A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- B. 3.2 percent malt liquor off-sale license.
- C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
- D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section 8 shall not exceed \$240 or a greater amount which may be permitted by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.
- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by Minn. Stat. § 340A.101, as it may be amended from time to time, and this ordinance: hotels, restaurants, bowling centers, theaters, clubs or congressionally

chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 8 of this ordinance shall not exceed the amounts provided for in Minn. Stat. § 340A.408, subd. 2(b) as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of Minn. Stat. § 340A.404, subd. 4(b) as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of Minn. Stat. § 340A.404, subd. 4(a) as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

- F. Combination on-sale/off-sale intoxicating liquor licenses.
- G. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.
- H. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minn. Stat. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in Section 3; to licensed bed and breakfast facilities which meet the criteria in Minn. Stat. § 340A.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of Minn. Stat. § 340A.404(b) as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 8 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- I. One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

- J. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 8 of this ordinance shall not exceed \$300, or the maximum amount permitted by Minn. Stat. § 340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
- K. Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.
- L. Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 8.
- M. Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at Minn. Stat. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 7 (N) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.
- N. Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 7 (M) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at Minn. Stat. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by Minn. Stat. § 340A.301, subd. 7 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a

license under Section 7 (M) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

- O. Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

#### SECTION 8. LICENSE FEES; PRO RATA.

- A. No license or other fee established by the city shall exceed any limit established by Minn. Stat. Ch. 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish from time to time in a resolution establishing fees for the City the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this ordinance. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis.
- D. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- E. A refund of a pro rata share of an annual license fee may occur only if authorized by Minn. Stat. § 340A.408, subd. 5, as it may be amended from time to time.
- F. Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. § 340A.408 if at the time of initial application or renewal they:
  - a. Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
  - b. Post a policy requiring identification checks for all persons appearing to be 30 years old or less;
  - c. Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

- d. Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to Section 21 of this ordinance.

#### SECTION 9. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may 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 under this ordinance.

#### SECTION 10. APPLICATION FOR LICENSE.

- A. Form. Every application for a license issued under this ordinance shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.
- B. Financial Responsibility. Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as set by the City Council. This proof will be filed with the City and the Commissioner of Public Safety. Financial responsibility shall be shown by proof of liquor liability (dram shop) insurance in a minimum amount of \$1,000,000 per occurrence; \$1,000,000 annual aggregate. The City shall be named as additional insured. Operation of a business which is required to be licensed by this ordinance without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

#### SECTION 11. DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

#### SECTION 12. APPLICATIONS FOR RENEWAL.

At least 30 days before a license issued under this ordinance is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

### SECTION 13. TRANSFER OF LICENSE.

No license issued under this ordinance may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. 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 code applying to applications for a license shall apply.

### SECTION 14. INVESTIGATION.

- A. Preliminary background and financial investigation. On an initial application or transfer application of an on-sale intoxicating liquor license the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The city, at its discretion, may conduct a preliminary background and financial investigation for any other application under this ordinance. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
- B. Comprehensive background and financial investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

### SECTION 15. HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license

shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

#### SECTION 16. 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 license shall be directly or indirectly issued within the city to any one person.
- C. No license shall be granted or renewed for operation on 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 for any place or any business ineligible for a license under state law.
- E. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this ordinance or to the renewal of an existing license.

#### SECTION 17. CONDITIONS OF LICENSE.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
- B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.
- C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

- E. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.
- F. Failure by an off-sale intoxicating liquor license who has received a fee reduction pursuant to Section 8 (F) of this ordinance to abide with the provisions of Section 8 (F).

#### SECTION 18. HOURS AND DAYS OF SALE.

- A. The hours of operation and days of sale shall be those set by Minn. Stat. § 340A.504, as it may be amended from time to time. Except this ordinance restricts the hours where Minn. Stat. § 340A.504 specifies 2:00 a.m. to 1:00 a.m.
- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- E. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

#### SECTION 19. MINORS ON PREMISES.

- A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
- B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

#### SECTION 20. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under

the provisions of Minn. Stat. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

## SECTION 21. SUSPENSION AND REVOCATION.

- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this ordinance relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.
- B. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this ordinance or Minn. Stat. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:
  - a. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of Section 4, the license shall be revoked.
  - b. The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this ordinance for at least the minimum periods as follows:
    - i. For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
    - ii. For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
    - iii. For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
    - iv. For a fourth violation within any three-year period, the license shall be revoked.

- c. The Council shall select the day or days during which the license will be suspended.
- C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the city administrator, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this ordinance have again been met.
- D. The provisions of Section 22 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

#### SECTION 22. PENALTIES.

- A. Any person violating the provisions of this ordinance or Minn. Stat. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- B. The Council shall impose a civil penalty of up to \$2,000 for each violation of Minn. Stat. Ch. 340A, as it may be amended from time to time, and of this ordinance. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:
  - a. For the first violation within any three-year period, \$500.
  - b. For the second violation within any three-year period, \$1,000.
  - c. For the third and subsequent violations within any three-year period, \$2,000.
- C. The term “violation” as used in Section 23 includes any and all violations of the provisions in this section, or of Minn. Stat. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to

time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

SECTION 23. EFFECTIVE DATE.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

SECTION 24. SUMMARY APPROVED.

The Council hereby determines that the text of the summary of this ordinance marked "Official Summary of Ordinance No. 313," and a copy of which is attached to this ordinance, clearly informs the public of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The City Administrator shall file a copy of this ordinance and the summary in the City's office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the council designates.

SECTION 25. REPEALING PRIOR AND INCONSISTENT ORDINANCES.

Ordinances 164, 181, 211, 233, 236, 236.1, 238, 277, 278.1, and any other ordinances inconsistent with this ordinance are hereby repealed.

Adopted by the City Council this 3<sup>rd</sup> day of September, 2013.

Attest:

\_\_\_\_\_  
Mayor

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

A motion was made by Bormann and seconded by Maas to approve the official summary of ordinance 317. All voted in favor. None voted against. The motion was carried.

OFFICIAL SUMMARY OF ORDINANCE 317,  
AN ORDINANCE REGULATING THE POSSESSION, SALE AND CONSUMPTION  
OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR  
WITHIN THE CITY OF CANBY, MINNESOTA

The following is the official summary of Ordinance 317, which was passed by the City Council on September 3<sup>rd</sup>, 2013.

A printed copy of this ordinance is available for inspection by any person at the office of the City Administrator during normal business hours.

The ordinance regulating the possession, sale and consumption of intoxicating and 3.2 percent malt liquor within this city contains the following provisions.

Section 1 adopts Minn. Stat. Ch. 340A, as it may be amended from time to time, by reference.

Section 2 permits the city to be more restrictive than state law concerning the sale and possession of alcoholic beverages.

Section 3 defines "liquor" and "restaurant" as those terms are used in the ordinance.

Section 4 makes it is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of Section 29(B) of this ordinance.

Section 5 provides that no person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Section 6 establishes the term and expiration dates for licenses.

Section 7 establishes the kinds of licenses which may be issued as follows:

3.2 On-Sale "Beer", 3.2 Off-Sale "Beer", On-Sale Intoxicating Liquor, Off-Sale Intoxicating Liquor, Combination On-Sale/Off-Sale Intoxicating Liquor, On-Sale Wine, Consumption and Display, Culinary Class Limited On-Sale Intoxicating Liquor, Brew Pub On-Sale Intoxicating or 3.2 On-Sale "Beer", Brewer Off-Sale Intoxicating Liquor, Temporary 3.2 On-Sale "Beer", Temporary On-Sale Intoxicating Liquor, One Day Consumption and Display, Temporary Off-Sale Wine, Temporary Brewer On-Sale Intoxicating Liquor

Section 8 authorizes the establishment of license fees by ordinance or resolution.

Section 9 permits the Council, in its sound discretion, to grant or deny applications for licenses, or for the transfer or renewal of any license.

Section 10 describes the information required in an application for a license.

Section 11 requires a specific description of the premises to be licensed.

Section 12 provides that applications for renewal of licenses must be filed at least 30 days before the date of expiration, and permits the council in its sound discretion to renew or not renew a license.

Section 13 prohibits the transfer of a license without Council approval.

Section 14 requires background and financial investigations of applicants for a license, renewal of a license or transfer of a license.

Section 15 provides for a hearing on the issuance of a license.

Section 16 establishes restrictions on the issuance of a license.

Section 17 establishes the conditions of a liquor license that a licensee must follow to avoid suspension or revocation. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

1. Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training of the servers shall be provided by the licensee.
2. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.
3. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
4. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
5. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

Section 18 establishes the hours and days of sale which are consistent with those established by state law; except that this ordinance restricts the hours where state law specifics 2:00 a.m. to 1:00 a.m. In addition, the ordinance provides that:

1. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
2. No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
3. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
4. Any violation of any condition may be grounds for revocation or suspension of the license.

Section 19 prohibits minors and underage persons on licensed premises except under certain conditions:

1. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
2. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

Section 20 prohibits persons from mixing or preparing liquor for consumption in any public place of business unless it has a license or permit.

Section 21 establishes the circumstances and procedures for suspension and revocation of a license. The Council is required to either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this ordinance relating to liquor. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. A schedule of minimum periods of suspension and for revocation is established.

Section 22 provides for penalties for violating this ordinance, including a schedule of civil penalties.

Section 23 establishes the effective date of the ordinance which is the date of the publication of this summary of the ordinance.

Section 24 approves this summary of the ordinance.

Section 25 repeals prior and inconsistent ordinances.

This summary was approved by the City Council of Canby, Minnesota, on September 3<sup>rd</sup>, 2013.

Attest:

\_\_\_\_\_  
Mayor

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

A motion was made by Bormann and seconded by Hanson to approve scheduling a public hearing to amend liquor license fee amounts on October 1<sup>st</sup>, 2013 at 7:00 P.M. All voted in favor. None voted against. The motion was carried.

Ordinance 318, an ordinance repealing ordinances, was reviewed. A motion was made by Oellien and seconded by Hanson to adopt the ordinance. All voted in favor. None voted against. The motion was carried.

### **Ordinance 318**

#### **An Ordinance Repealing Ordinances**

The City of Canby City Council does hereby ordain:

Section 1. That the following Ordinances are hereby repealed:

Ordinance 289 – An Ordinance Regulating and Controlling the Use of City Picnic Tables

Ordinance 290 – An Ordinance Regulating Lawful Gambling

Ordinance 291 – An Ordinance Regulating Commercial Amusements

Ordinance 292 – An Ordinance Regulating Boards, Committees, and Commissions

Adopted by the City Council this 3<sup>rd</sup> day of September, 2013.

Attest:

\_\_\_\_\_  
Mayor

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

Ordinance 319, an ordinance to rezone the Helena expansion site in the airport industrial park, was reviewed. A motion was made by Hanson and seconded by Bormann to introduce ordinance 319.

The preliminary 2014 budget was reviewed. A motion was made by Maas and seconded by Oellien to adopt the 2014 budget. All voted in favor. None voted against. The motion was carried.

Resolution 2013-9-3-1, a resolution adopting the 2014 preliminary levy, was reviewed. A motion was made by Oellien and seconded by Bormann to adopt the resolution. All voted in favor. None voted against. The motion was carried.

**Resolution 2013-9-3-1**

**City of Canby**

State of Minnesota  
County of Yellow Medicine  
City of Canby

**Resolution Adopting the 2014 Preliminary Levy**

Be it resolved by the council of the City of Canby, County of Yellow Medicine, Minnesota that the following sums of money be levied in 2014, upon the taxable property in the City of Canby, for the following purposes:

General Fund	\$508,641.00
Subway Abatement	\$3,200.00
Canby Inn & Suites Abatement	\$36,000.00
Farmer's Co-op Abatement	\$21,000.00
Fire Hall Inter-Fund Loan of 2014	\$10,629.00
Infrastructure Bond of 2010	\$150,000.00
Total Tax Levy	\$729,470.00

The City Administrator is hereby instructed to transmit a copy of this resolution to the auditor of Yellow Medicine County, Minnesota.

Attest:

\_\_\_\_\_  
Mayor

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

A motion was made by Maas and seconded by Hanson to set the Truth-in-Taxation Hearing date for December 3<sup>rd</sup>, 2013 at 7:00 P.M. All voted in favor. None voted against. The motion was carried.

Vendor transactions for August 2013 in the amount of \$658,014.87 were reviewed. A motion was made by Hanson and seconded by Oellien to approve the vendor transactions. All voted in favor. None voted against. The motion was carried.

The following licenses and permits were reviewed:

Temporary 3.2 On-Sale Licenses: St. Peter's Catholic Church for their Fall Festival on Sept. 8<sup>th</sup>, 2013; Pheasants Forever for their annual banquet; and the Wrestling Boosters for their annual benefit.

Temporary Consumption and Display Permit: Pheasants Forever for their annual banquet.

A motion was made by Maas and seconded by Oellien to approve the licenses and permits. All voted in favor. None voted against. The motion was carried.

The Council was updated on the progress of the Arts Council.

The Council was updated on the progress of the theater negotiations.

A motion was made to close the meeting Hanson and seconded by Oellien to approve going into close session to discuss land lease prices as part of a Farm Lease. All voted in favor. None voted against. The motion was carried.

The meeting was reopened.

The Farm Lease will be tabled until the next meeting.

A motion was made by Oellien and seconded by Maas to adjourn the meeting. All voted in favor. None voted against. The motion was carried.

Attest:

\_\_\_\_\_  
Mayor

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