

**CHAPTER 4 ALCOHOLIC BEVERAGES**

**Section 400 - Intoxicating Liquor**

**400.01 Provisions of State Law Adopted.** The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this Section as if set out in full.

**400.02 License Required.**

**Subd. 1 General Requirement.** No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in this Section. Liquor licenses shall be of four kinds: "on-sale," "on-sale wine," club licenses, and special Sunday liquor licenses.

**Subd. 2 On-sale Intoxicating Licenses.** "On-sale" licenses shall be issued only to hotels, clubs, and restaurants and shall permit the sale of liquor only for consumption on the licensed premises.

- A. "Restaurant" means any building, structure, or area used as, maintained as, advertised as, or held out to the public for food and beverage service, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. (Ord. 2013-04; 12/11/13)

**Subd. 3 On-sale Wine Licenses.** "On-sale wine" licenses shall be issued only to restaurants meeting the qualifications of Minn. Stat. 340A.404, Subd. 5, and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on licensed premises only, in conjunction with the sale of food.

- A. The holder of an on-sale wine license who is also the holder of an on-sale 3.2 percent malt liquor license whose gross receipts are at least sixty percent (60%) attributable to the sale of food, may sell intoxicating malt liquor without an additional on-sale intoxicating liquor license meeting the qualifications of Minn. Stat. 340A.404, Subd. 5b.

**Subd. 4 Special Club Licenses.** Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years and shall permit the sale of intoxicating liquor only to members and bonafide guests for consumption on the licensed premises only.

**Subd. 5 Special Sunday Liquor License.** Special license for Sunday sales shall be issued only to establishments holding an on-sale intoxicating liquor license, a wine license, or a brewpub license as provided by Subds. 2, 3 and 6. The Sunday license shall be effective only if food is served in conjunction with the service of alcoholic beverages and the establishment provides for seating for a minimum of 30 guests. The permitted hours of sale shall be 8:00 a.m. to 12:00 o'clock midnight.

- A. A special license authorizing sales on Sunday may be issued to a license holder of an On-Sale Brewer Taproom license for the operation of a taproom on Sundays in compliance with state law. The permitted hours of Sunday on-sale shall be 8:00 a.m. to 12:00 o'clock midnight.

**Subd. 6 Brewpub License.** Brewpub licenses shall be granted only to a brewery licensed under Minn. Stat. § 340A.301, Subdivision 6, clause (d). A brewpub license authorizes on-sale of intoxicating liquor or beer for a restaurant operated in the place of manufacture.

#### 400.03 Application for License.

**Subd. 1 Form.** Every application for a license to sell liquor shall state the name of the applicant, his or her age, representations as to his or her character, with such references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the liquor control director and shall be verified and filed with the City Administrator. No person shall make a false statement in an application.

**Subd. 2 Approval of Security.** The security offered under Subd. 3 shall be approved by the City Council and in the case of applicants for “on-sale wine” licenses by the State liquor control director. Liability insurance policies shall be approved as to form by the City attorney. Operation of a licensed business without having a file with the City at all times effective security as required by Subd. 3 shall be cause for revocation or suspension of the license.

**Subd. 3 Liability Insurance.** Prior to the issuance of a liquor license, the applicant shall file with the City Administrator a liability insurance policy in the minimum amount of \$100,000 coverage for one person and \$300,000 coverage for more than one person and shall comply with the provisions of Minn. Stat. 340A.409 relating to liability insurance policies.

#### 400.04 License Fees.

##### Subd. 1 Fees.

- A. The annual fee for a liquor licenses shall be as set in the fee schedule adopted from time to time by the Council.
- B. The applicant shall pay an investigation fee as set in the fee schedule adopted from time to time by the Council.

**Subd. 2 Payment.** Each application for a license shall be accompanied by a receipt from the City treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid.

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

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

#### **400.05 Granting of Licenses.**

**Subd. 1 Investigation and Issuance.** The City Council shall investigate all facts set out in the application and as otherwise required by State law. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, has been approved by the liquor control director or other authority as required by State law or this Code.

**Subd. 2 Person and Premises Licensed; Transfer.** Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee resulting in a change in the controlling interest of a corporation, or a transfer of fifty-one percent or more of the corporate stock shall be deemed a transfer of the license and such transfer of stock without prior Council approval shall be a ground for revocation of the license.

**400.06 Hours.** No establishment which has been issued an on-sale intoxicating liquor license may be open or transact business between the hours of 1:00 a.m. and 8:00 a.m. the following morning, Monday through Saturday, and between 1:00 a.m. to midnight on Sunday unless a Sunday license has also been issued and except when the Sunday is New Year's Eve, in which case the establishment may be open or transact business until 1:00 a.m. on the Monday following New Year's Eve.

**400.07 Persons Ineligible for License.** No license shall be granted to any person made ineligible for a license by State law. No license shall be issued to an individual who is not a resident of the City or does not have a registered business address therein. No license shall be granted to or held by any person who has, within five years prior to the application for the license, been convicted of a felony, or of violating any law of this State or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a licensee.

#### **400.08 Places Ineligible for License.**

**Subd. 1 General Prohibition.** No license shall be issued for any place or any business ineligible for a license under State law.

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

**400.09 Conditions of License.**

**Subd. 1 In General.** Every license is subject to the conditions in the following Subdivisions and all other provisions of this Section and of any other applicable Code provision, ordinance, State law or regulation.

**Subd. 2 Licensee's Responsibility.** Every licensee is responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Section and the law equally with the employee.

**Subd. 3 Inspections.** Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

**Subd. 4 Display During Prohibited Hours.** No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

**Subd. 5 Federal Stamps.** No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

**Subd. 6 Sales to Minors or Intoxicated Persons.** No intoxicating liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.

**Subd. 7 Consumption by Minors.** No person under 21 years of age shall be permitted to consume intoxicating liquor on the licensed premises.

**Subd. 8 Employment of Minors.** No minor shall be employed on the premises of a intoxicating liquor store except as authorized by State law.

**Subd. 9 Gambling.** No gambling or any gambling device shall be permitted on any licensed premises, except as permitted by State law.

**400.10 Suspension and Revocation.** The Council may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing Pursuant to Minn. Stat.  14.57 to 14.69.

**400.11 Restrictions on Purchase and Consumption.** No person shall consume liquor in a public park, on a public street, or in any public place other than the dispensary or in an establishment where the consumption and display of liquor is lawfully permitted.

**Section 410 - Municipal Liquor Dispensary**

**410.01 Provisions of State Law Adopted.** The provisions of Minnesota Statutes, Chapter 340A 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 in or by a municipal liquor dispensary are adopted and made a part of this Section as if set out in full.

**410.02 Dispensary Established.** There is hereby continued a municipal liquor dispensary for the off-sale of intoxicating liquor. No liquor may be sold at retail elsewhere in the City or by anyone not employed in the dispensary.

**410.03 Location and Operation.**

**Subd. 1 Location.** The dispensary shall be located at such suitable place in the City as the Council determines, but no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for dispensary purposes.

**Subd. 2 Manager.** The dispensary shall be in the immediate charge of a liquor store manager selected by the Council and paid the compensation as is fixed by the Council. He or she shall furnish a surety bond to the municipality, conditioned upon the faithful discharge of his or her duties, in such sum as the Council specifies. The bond premium shall be paid by the City. The manager shall operate the dispensary under the Council's direction and shall perform any duties in connection with the dispensary as may be imposed upon him or her by the Council. He or she shall be responsible to the Council for the conduct of the dispensary in full compliance with this Section and with the laws relating to the sale of liquor and beer.

**Subd. 3 Other Employees.** The Council shall also appoint such additional employees as may be required for the dispensary and shall fix their compensation. All employees, including the manager, shall hold their positions at the pleasure of the Council. In the discretion of the Council the employees may be required to furnish surety bonds conditioned for the faithful discharge of their duties, in such suits as the Council may specify. The premium on the bonds shall be paid by the City.

**410.04 Dispensary Funds.**

**Subd. 1 Fund Established.** A municipal liquor dispensary fund is hereby continued in which all revenues received from the operation of the dispensary shall be deposited and from which all ordinary operating expenses shall be paid. Any amounts it may be necessary to borrow from the general fund of the City for initial costs of rent, fixtures and stock or for operating expenses shall be reimbursed to that fund out of the first available moneys coming into the dispensary fund thereafter. Surpluses accumulating in the dispensary fund may be transferred to the general fund or to any other appropriate fund of the City by resolution of the Council and expanded for any municipal purpose.

**Subd. 2 Receipts and Disbursements.** The handling of municipal liquor dispensary receipts and disbursements shall comply with the procedure prescribed by law for the receipts and disbursements of the City funds generally.

**410.05 Prohibited Business.** No business other than the sale of liquor shall be carried on in the dispensary except the retail sale of cigars, cigarettes, all forms of tobacco, food, ice, soft drinks and beer.

**410.06 Enforcement.** It shall be the duty of all police officers of the City to enforce the provisions of this Section, to search premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this Section; and to prepare the necessary processes and papers therefor.

**Section 420 - Beer Licensing**

**420.01 Provisions of State Law Adopted.** The provisions of Minnesota Statutes Chapter 340A relating to the definition of terms, licensing, sales, consumption, conditions or bonds of licenses, hours of sales and all other matters pertaining to the retail sale, distribution, and consumption of beer or malt liquor are hereby adopted and made a part of this Section as if set out in full.

**420.02 Definition of Terms.**

**Subd. 1 Beer or Malt Liquor.** As used in this Section, "beer" or "malt liquor" shall mean any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight. Exceptions to this would be beer and or malt liquor product produced under Section 420.03, Subd. 5, 6, 7, and 8 which would allow the production and sale of "strong" beer and or malt liquor as defined by state law.

**Subd. 2 Beer Store.** "Beer store" shall mean an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

**420.03 License Required.**

**Subd. 1 Licenses.** No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the City without first having received a license as provided in this Section. Licenses shall be of the following kinds: (1) Regular "on-sale"; (2) Temporary "on-sale"; (3) "Off-sale.", (4) Brewpubs, (5) Brewpub "Off-sale", (6) Taproom, and (7) Small Brewer "Off-sale".

**Subd. 2 Regular On-sale.** Regular "on-sale" licenses shall be granted only to bona fide clubs, beer stores, exclusive "on-sale" liquor stores, and restaurants and hotels where food is prepared and served for consumption on the premises. "On-sale" licenses shall permit the sale of beer for consumption on the premises only.

**Subd. 3 Temporary "On-sale".** Temporary "on-sale" licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of beer for consumption on the premises only.

**Subd. 4 "Off-sale".** "Off-sale" licenses shall permit the sale of beer at retail, in the original container or package for consumption off the premises only.

**Subd. 5 Brewpub License.** Brewpub licenses shall be granted only to a brewery licensed under Minn. Stat. § 340A.301, Subdivision 6, clause (d). A brewpub license authorizes on-sale of intoxicating liquor or beer for a restaurant operated in the place of manufacture.

**Subd. 6 Brewpub Off-sale Beer License.** A brewpub off-sale beer license may be issued, with the approval of the commissioner, to a brewer holding a brewpub license. A brewpub off-sale beer license authorizes off-sale of malt liquor pursuant to the conditions imposed by Minn. Stat. § 340A.301, subdivision 7, clause (b).



**Subd. 7 Taproom License.** Taproom licenses shall be granted only to a brewery licensed under Minn. Stat. § 340A.301, subdivision 6, clause (c), (i) or (j) for on-sale of beer produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer.

**Subd. 8 Small Brewer Off-sale License.** A Small Brewer off-sale license, with the approval of the commissioner, may be issued to a brewer holding a Taproom License. A Small Brewer off-sale license authorizes off-sale of malt liquor pursuant to the conditions imposed by Minn. Stat. § 340A.301, subdivision 6d.

- A. The holder of an off-sale Small Brewer License and a Sunday on-sale Taproom License is allowed to sell growlers and 750 ml bottles produced and packaged by the brewer, on Sundays pursuant to Minnesota Statutes Section 340A.301, subdivisions 6d and 7. The permitted hours of Sunday off-sale shall be 10:00 a.m. to 12:00 o'clock midnight.

**420.04 License Applications.** Every application for a license to sell beer shall be made to the City Administrator on a form supplied by the City and containing such information as the City Administrator or the City Council may require. It shall be unlawful to make any false statement in an application.

**420.05 License Fees.**

**Subd. 1 Payment Required.** Each application for a license shall be accompanied by a receipt from the City treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the treasurer shall refund the amount paid.

**Subd. 2 Expiration; Pro rata Fees.** Every license except a temporary license shall expire on the last day of March in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

**Subd. 3 Fees.**

- A. The annual fee for licenses issued under this Section shall be as set in the fee schedule adopted from time to time by the Council.
- B. The applicant shall pay an investigation fee as set in the fee schedule adopted from time to time by the Council.

**Subd. 4 Refunds.** No part of the fee paid for any license issued under this Section shall be refunded except in the following instances upon application to the Council within 10 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- A. destruction or damage of the licensed premises by fire or other catastrophe.
- B. the licensee's illness.
- C. the licensee's death.
- D. a change in the legal status of the municipality making it unlawful for the licensed business to continue.

**420.06 Granting of License.**

**Subd. 1 Investigation and Hearing.** The City Council shall investigate all facts set out in the application and as otherwise required by State law. 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 grant or refuse the application at its discretion.

**Subd. 2 Transfers.** Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license shall be transferred to another place without the approval of the Council.

**420.07 Persons Ineligible for License.** No license shall be granted to or held by any person who:

- A. Is under 21 years of age;
- B. Has, within five years prior to the application for the license, been convicted of a felony, or of violating any law of this State or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a beer license;
- C. Is a manufacturer of beer or is interested in the control of any place where beer is manufactured;
- D. Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him or her a local license to sell intoxicating liquor at such place; or
- E. Is not the proprietor of the establishment for which the license is issued.

**420.08 Places Ineligible for License.**

**Subd. 1 Conviction or Revocation.** No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this Section, or of the State beer or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after the conviction or revocation.

**Subd. 2 Six Months Prior Eligibility.** No "on-sale" license shall be granted for a business or club which has not been in regular operation and eligible to receive a license for at least six months immediately preceding the application for a license.

**420.09 Conditions of License.**

**Subd. 1 General Conditions.** Every license shall be granted subject to the conditions in the following Subdivisions and all other provisions of this Section of the City or State law.

**Subd. 2 Sales to Minors or Intoxicated Persons.** No beer shall be sold or served to any intoxicated person or to any person under 21 years of age.

**Subd. 3 Consumption by Minors.** No person under 21 years of age shall be permitted to consume beer on the licensed premises.

**Subd. 4 Employment of Minors.** No minor shall be employed on the premises of a beer store except as authorized by State law.

**Subd. 5 Gambling.** No unlawful gambling or any unlawful gambling device shall be permitted on any licensed premises.

**Subd. 6 Interest of Manufacturers or Wholesalers.** No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes Chapter 340A. No retail licensee and manufacturer or wholesaler of beer shall be party to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler of beer shall confer any benefits contrary to law upon a retail licensee.

**Subd. 7 Federal Liquor Dealers' Stamp.** No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of Minnesota to sell intoxicating liquors.

**Subd. 8 Sales of Intoxicating Liquor.** No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this Section.

**Subd. 9 Searches and Seizures.** Any peace officer may enter and inspect the public areas of the premises of a licensee during business hours and may seize all intoxicating liquors found on the licensed premises in violation of Subd. 8.

**Subd. 10 Licensee Responsibility.** Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order. The act of any employee on the

licensed premises authorized to sell intoxicating liquor there shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Section and the law equally with the employee.

**Subd. 11 Banquet Rooms.** A regular "on-sale" license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 10 persons.

**420.10 Closing Hours.** No sale of beer shall be made on any day of the week between the hours of 1:00 a.m. and 8:00 a.m. or when otherwise prohibited by State law.

**420.11 Clubs.** No club shall sell beer except to members and to guests in the company of members.

**420.12 Revocation.** The violation of any provision or condition of this Section by a beer licensee or his or her agent shall be grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this Section may be revoked or suspended by the Council in accordance with the provisions of this Code.

**Section 430 - General Restrictions**

**430.01 Minors.**

**Subd. 1 Age Misrepresentation.** No minor shall misrepresent his or her age for the purpose of obtaining any alcoholic beverage.

**Subd. 2 Inducing Purchase.** No person shall induce a minor to purchase or procure any alcoholic beverage.

**Subd. 3 Procurement.** No person other than the parent or legal guardian shall procure any alcoholic beverage for any minor.

**Subd. 4 Possession.** No minor shall have any alcoholic beverage in his or her possession with the intent to consume it at a place other than the household of his or her parent or guardian.

**Subd. 5 Consumption.** No minor shall consume any alcoholic beverage unless in the company of his or her parent or guardian.

**430.02 Consumption Prohibited.** No alcoholic beverage shall be consumed in any theater, recreation hall or center, ball park, or other place of public gathering used for the purpose of entertainment, amusement or playing of games, unless properly licensed under this Chapter. City parks shall be exempt from the provisions of this subsection.

**430.03 Liquor Consumption and Display.** No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit as provided by State law.

**430.04 Nudity.** In order to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex, and to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault, and disorderly conduct, it shall be unlawful for any licensee to permit or allow any person from being upon a licensed premise when such person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It shall also be unlawful for any person to appear in a licensed establishment with such stated anatomical areas uncovered or covered only by a transparent material.