

CHAPTER 4. ALCOHOLIC BEVERAGES

Section 400 – General

400.01 State Statutes Adopted. The provisions of Minn. Stat. Chapter 340A regarding definitions, licensing, restrictions, and conditions of the sale of alcoholic beverages are hereby adopted by reference and made a part of this Chapter as if set out here in full.

400.02 Definitions. For the purpose of this Chapter, the following terms shall have the definitions provided:

Subd. 1 Alcoholic Beverage. “Alcoholic Beverage” shall mean any beverage containing more than one-half of one percent of alcohol by volume.

Subd. 2 Club. “Club” shall mean an incorporated organization organized under the laws of this State for civic, fraternal, social or business purposes or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran’s organization, which has more than 50 members, has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members, and is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.

Subd. 3 Intoxicating Liquor. “Intoxicating Liquor”, or “Liquor” shall mean and include ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd.4 Malt Liquor. “Malt Liquor” shall mean any beer, ale, or other beverage made from malt fermentation, and containing not less than one-half of one percent alcohol by volume.

Subd. 5 3.2 Malt Liquor. “3.2 Malt Liquor” shall mean any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. 3.2 Malt liquor may commonly be referred to as beer.

Subd. 6 On-sale. “On-sale” shall mean the sale of alcohol beverages for consumption on the licensed premises only.

Subd. 7 Off-sale. “Off-sale” shall mean the sale of alcoholic beverages in original packages or containers in retail stores for the consumption off the licensed premises only.

Subd. 8 Package. “Package” or “Original Package” shall mean any sealed or corked container of alcoholic beverages.

Subd. 9 Person. “Person” shall include persons, corporations, partnerships and other unincorporated associations.

Subd. 10 Sale, Sell. “Sale” or “Sell” shall mean and include all barters, and all manners or means of furnishing intoxicating liquor or liquors as above described in violation or evasion of law.

Subd. 11 Wine. “Wine” shall mean the product made from normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape mush, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine shall not include distilled spirits as defined in Minn. Stat. § 340A.101, Subd. 9.

400.03 License Non-Transferable. No license issued under this Chapter shall be transferable either as to licensee or premises without the approval of the City Council, and in the case of “off-sale” licenses, also the Liquor Control Commissioner.

400.04 General Conditions of License. All licenses granted under this Chapter shall be granted subject to all other Code provisions or ordinances of the City applicable thereto, the laws of the State, all regulations of the liquor control commissioner applicable thereto, all conditions of this Chapter and also to the following conditions:

- A. Every licensee shall be responsible for the conduct of his or her place of business, his or her employees, and the conditions of sobriety and order within the licensed premises.
- B. No “on-sale” dealer shall sell alcoholic beverages for removal from the premises.
- C. No dealer licensed for “off-sale” only shall permit the consumption of any alcoholic beverage on such licensed premises.
- D. No alcoholic beverages shall be sold to any person under the age of twenty-one (21) years. No license shall be granted to any person under the age of twenty-one (21) years and no person under the age of twenty-one (21) years shall be employed in any rooms constituting the place in which alcoholic beverages are sold, except as permitted under Minnesota Statutes Chapter 340A.
- E. A license shall be issued only to a person who is a citizen or legal alien of the United States and who shall be of good moral character and repute.
- F. A license shall not be issued to any person convicted of any violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacturer, sale, distribution or possession for sale or distribution of alcoholic beverages, nor to any person whose license under these regulations shall be revoked for any willful violation of any such laws or regulations.
- G. The licensee shall maintain and provide evidence of liability insurance in at least the minimum amounts required by Minnesota Statutes Chapter 340A.
- H. All premises where any license under this Chapter shall be granted shall be open to inspection by any police or health officer or other properly designated officer or employee of the City at any time during which the place is licensed shall be open to the public for business.

- I. Every licensee shall be responsible for any violation of Section 400.07 and 400.08 at his or her place of business.

400.05 License to be Posted. All licensed premises shall have the license posted in a conspicuous place therein at all times.

400.06 Suspension and Revocation. Any license granted under this Chapter may be suspended or revoked by the City Council with notice to the grantee and a hearing shall first be held by the City Council and the suspension or revocation then made for cause. Any violation of any provision or condition of this Chapter or the State liquor licensing law, or any falsification of any statement in the application shall be grounds for suspension or revocation. Any license shall be revoked upon the conviction of the licensee of a felony. A license may be immediately suspended upon notice that the licensee's liability insurance has lapsed. No portion of the license fee paid into the City treasury shall be returned upon suspension or revocation.

400.07 Vacating Premises. It shall be unlawful for any person, other than the licensee or his or her employees in the performance of their duties, to remain on any premise licensed for any type of on-sale, including wine licenses, under this Chapter after 2:30 a.m. There shall be no consumption of any alcoholic beverage on such a licensed premises after 2:30 a.m. Customers shall vacate the licensed premises by 2:30 a.m. and shall not return earlier than the time of the next lawful sale. The requirements of this Subsection shall not apply to any restaurant or bowling center open after 2:30 a.m. provided no alcoholic beverage is served or consumed after 2:30 a.m.

(Amended by Ord. 178, 5/22/2006)

400.08 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.

400.09 Mandatory License Training Seminars. As a condition to obtaining or renewing a License, each Licensee shall attend license-training seminars as required by the City. At least one representative of each Licensee must attend all mandatory license training seminars conducted by the City in conjunction with the Sheriff's Department. The representative need not be the same person each time, but must hold a position of responsibility in either the ownership or management of the licensee. Failure to attend such training seminars without reasonable justification shall result in the imposition of penalties as set forth in Section 450.01.

(Amended by Ord. 178, 5/22/2006)

Section 410 – Intoxicating Liquor

410.01 License Required. No person shall, directly or indirectly, upon any pretense or by any device, manufacture, import, sell, exchange, barter, dispose of or keep for sale, any intoxicating liquor, without first having obtained a license provided in this Section. Licenses shall be of four kinds: "on-sale", "off-sale", "wine", and "temporary on-sale." In addition, holders of on-sale licenses may be eligible for Sunday sales licenses pursuant to this Chapter. An Extended Hours 2: a.m. Liquor License may be

obtained by any on-sale intoxicating liquor, beer or wine licensee upon the approval from the Liquor Control Commissioner and payment of all fees as established by the City Council and required by the State of Minnesota.

(Amended by Ord. 178, 5/22/2006)

410.02 Application for License. Every person desiring a license under this Section shall file a verified application for the license in writing with the City Administrator in the form prescribed by the Liquor Commissioner and with such additional information as the Council may require.

410.03 Fees. All applications for licenses shall be accompanied by a receipt from the City Administrator for the required annual fee and any investigation fee for the respective license as set in the fee schedule adopted from time to time by the Council. All such 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 and the bond of the applicant shall be returned to him or her.

410.04 Granting of Licenses.

Subd. 1 Investigation of Application. The City Council shall cause an investigation to be made of all the representations set forth in the application. For the purpose of “on-sale” licenses, the investigation shall be conducted in compliance with Minn. Stat. § 340A.412, subd. 2.

Subd. 2 Hearing. Opportunity shall be given at a regular or special meeting of the Council to any person to be heard for or against the granting of any license.

Subd. 3 Council Action. After such investigation, the City Council shall grant or refuse the license in its discretion, provide that no “off-sale”, “wine” or “temporary” license shall become effective until it has the approval of the Liquor Control Commissioner.

410.05 Hours of Operation.

Subd. 1 On-sale Hours. Intoxicating liquor shall not be sold by any “on-sale” licensee upon the premises described in the license granted under this Section during the following hours:

- A. After 2:00 a.m. on Sunday, except where authorized under the Sunday Liquor Law and Subsection 410.06 of this Code,
- B. Any other day between the hours of 2:00 a.m. and 8:00 a.m.;

Sales during all other times shall be permitted.

(Amended by Ord. 178, 5/22/2006)

Subd. 2 Off-sale Hours.

- A. Intoxicating liquor may be sold by any “off-sale” licensee during the following hours:

Monday through Saturday from 8:00 a.m. to 10:00 p.m.:

B. Intoxicating liquor may not be sold by any “off-sale” licensee at the following times:

All Sundays of the year; Thanksgiving Day; after 8:00 p.m. on Christmas Eve, December 24; Christmas Day, December 25;

410.06 Sunday Sales. Any regular on-sale intoxicating liquor license holder may apply for a Sunday on-sale intoxicating liquor license by submitting to the City Administrator an application form provided by the City.

Subd. 1 Hours. The sale of liquor on Sunday may occur between the hours 10:00 o’clock a.m. and two o’clock a.m. Monday morning.

(Amended by Ord. 178, 5/22/2006)

Subd. 2 Renewal. Any Sunday license issued under this Subsection shall be valid for a period of one year and shall be renewable each year at the same time as the holder applies for the renewal of his or her regular on-sale liquor license.

Subd. 3 Eligible Business. No Sunday license shall be issued to any person under this Chapter unless the person’s business establishment offers to its patrons grilled, baked, or cooked meals during reasonable Sunday business hours. Only restaurants, hotels, bowling centers, and clubs shall be eligible for a Sunday sales license.

410.07 Temporary Intoxicating Liquor License. A club or charitable, religious, or other non-profit organization, in existence for at least three years, or a political committee registered under Minn. Stat. 10A.14, shall qualify for a temporary on-sale intoxicating liquor license in connection with a social event sponsored by the organization.

Subd. 1 Conditions. A temporary license may be granted only if the applicant complies with the following conditions:

- A. An application for a temporary license shall state the exact dates and place of proposed temporary sale. The license shall not be valid for more than 4 consecutive days.
- B. No applicant shall qualify for a temporary license for more than a total of 12 days in any twelve month period.
- C. Only one Temporary License may be issued to any one organization identified in this Section, or for any one location, within a 30-day period.
- D. The City Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the City. Any such license may be conditioned, qualified, or restricted as the City Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in the sum determined by resolution of the City Council, naming the City as an insured during the license period.

410.08 Wine License. Any restaurant having facilities to seat at least twenty-five (25) guests, and any bed and breakfast establishment that qualifies under Minn. Stat. 340A.404, subd. 5(c) and not exempt from licensing requirements under Minn. Stat. 340A.4011, shall be eligible to apply for a wine license. A wine license shall authorize the licensee to sell wine of up to fourteen (14) percent alcohol by volume for consumption with the sale of food, or in the case of an eligible bed and breakfast establishment, for the consumption of registered guests of the facility. A wine license shall allow the sale of wine on any day of the week during the hours sales would be permitted for the on-sale of intoxicating liquor. The holder of a wine license who also holds a valid beer or 3.2 malt liquor license under Section 420, shall be allowed to sell beer or malt liquor with an alcohol content in excess of 3.2 percent by volume without obtaining an on-sale intoxicating liquor license.

Section 420 – Beer or 3.2 Malt Liquor

420.01 License Required. It shall be unlawful to sell beer or malt liquors at retail except when licensed as provided in this Section, except that no additional license shall be required if the person already holds a valid license issued under this Chapter for the sale of intoxicating liquor.

- A. “On-sale” Licenses shall permit the licensee for the sale of the beer or 3.2 malt liquors to sell such for the consumption on the premises. “On-sale” licenses shall be granted only to drugstores, restaurants, hotels, clubs and establishments for the sale of beer or 3.2 malt beverages with incidental sale of tobacco and soft drinks.
- B. “Off-sale” License shall be granted to permit the sale at retail of beer or 3.2 malt liquors in original packages for consumption off the licensed premises only. Off sale license shall be issued only to exclusive liquor stores or 3.2 malt liquor and beer stores.
- C. Application for License. All applications for any license to sell beer or 3.2 malt liquors shall be made on forms to be supplied by the City Administrator, setting forth the name of the person asking for the license, his or her age, representations as to his or her character, with such reference as may be required, his or her citizenship, the location where the business shall be carried on, whether the application is for “on-sale” or “off-sale”, the business in connection with which the proposed license shall operate, whether applicant is owner and operator of the business, the time the applicant has been in that business at that place, and such other information as the Council may require from time-to-time. It shall be unlawful to make any false statement in an application.

420.02 Fees. All applications for license shall be accompanied by a receipt from the City Administrator for the required fee for the respective license as set in the fee schedule adopted from time to time by the Council. All such fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the Administrator shall refund the amount paid.

420.03 Hours of Operation. No beer or 3.2 malt liquor shall be sold under this Section on Sunday between the hours of 2:00 a.m. and 12:00 noon; nor between the hours of 2:00 a.m. and 8:00 a.m. of any other day.

(Amended by Ord. 178, 5/22/2006)

420.04 Temporary On-sale License. A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the temporary sale of beer or 3.2 malt liquor in conjunction with a

social activity sponsored by the organization. An application for a temporary license shall be submitted at least three days prior to the next regularly scheduled Council meeting at which the application shall be reviewed and either approved or denied by the Council. A temporary license may be granted only if the applicant complies with the following conditions:

- A. An application for a temporary license shall state the exact dates and place of proposed temporary sale. The license shall not be valid for more than 4 consecutive days.
- B. No applicant shall qualify for a temporary license for more than a total of 12 days in any twelve month period.
- C. Only one Temporary License may be issued to any one organization identified in this Section, or for any one location, within a 30-day period.

Section 430 – Liquor Display and Consumption

430.01 Permit Required. It shall be unlawful for any club, or business establishment directly or indirectly, or upon any pretense or by any device to allow the consumption or display of intoxicating liquor, or the serving of any liquid for the purpose of mixing with intoxicating liquor without first securing a permit from the Liquor Control Commissioner and paying the annual fee as set by the Council.

430.02 Application for Permit. Every private club or public place desiring to allow the consumption or display of intoxicating liquor shall on or before July 1 of each year pay to the City Administrator the annual permit fee and shall be issued a written receipt therefore. If a portion of the year has elapsed when payment is made, a pro rata fee shall be paid; but no such pro rata fee shall be accepted from any private club or public place which has violated Subsection 430.01. In computing the fee, an unexpired fraction of a month shall be counted as one month. The written receipt shall be posted in some conspicuous place upon the premises alongside the permit issued by the Liquor Control Commissioner and shall be kept posted at all times.

430.03 State Statutes Incorporated by Reference. The regulatory provision of Minnesota Statutes § 340A.414 shall be hereby incorporated and made a part of this Section as completely as if set out here in full.

430.04 Exception. This Section shall not apply to any premises licensed for the sale of intoxicating liquor.

Section 440 – Outdoor Sales

440.01 Licensed Required. Unless specifically permitted on the face of the license, no sale of alcoholic beverages shall be allowed outside of the fixed, permanent structure the licensee occupies, existing at the time of the issuance of the license. The licensee shall not allow consumption of on-sale alcoholic beverages purchased from the licensee outside of the fixed, permanent structure.

440.02 Special License Requirements. The licensee of an on-sale license issued under this Chapter, with the approval of the Council and with appropriate endorsement on the license, may allow the sale

and consumption outside of the interior of the fixed, permanent structure occupied by the licensee. The following requirements shall be met before outside sales shall be permitted.

Subd. 1 Floor Surface. Outdoor sales shall only occur in an area with a finished floor surface which does not exceed 1,200 square feet and which shall be constructed of poured cement, asphalt, or treated wood decking.

Subd. 2 Enclosed Area. The area for outside sales shall be enclosed by an oblique eight (8) foot tall fence with continuous sides and which shall not allow for any object greater than three (3) inches in diameter to pass through any opening in the fence. The fence shall not have more than three (3) inches of clearance above the ground.

Subd. 3 Access. Access of ingress to the outside serving area shall only be permitted through a doorway directly to the interior of the building occupied by the licensee. The number of egress points from the outside serving area shall be determined by the Fire Inspector or Code Official, based on the occupancy of the serving area. At least one point of egress shall be made from the outside serving area directly outside. Any points of egress from the outside serving area to the outside shall be by doors that do not allow ingress into the serving area from the outside.

(Amended by Ord. 191, 4/23/2007)

Subd. 4 Set Back and Zoning. The outside serving area shall be constructed in conformance with all applicable set-back and zoning regulations.

Subd. 5 Live Music. No live music shall be played in the outside serving area.

Subd. 6 Noise Level. At no time shall the noise level measured at twenty-five (25) feet from any exterior point of the perimeter of the outside serving area exceed 85 decibels.

Subd. 7 Plan Approval. Prior to the commencement of construction of the improvements constituting the outside serving area, sketch plans shall be submitted to the City for review and approval by the City Building Inspector.

Section 450 – Penalty and Violation

450.01 Penalty. Any person and/or licensee violating any provision of this Chapter shall be guilty of a misdemeanor and shall also be subject to civil penalties as provided by law.