

CHAPTER 4. ALCOHOLIC BEVERAGES

SECTIONS:

400 Intoxicating Liquor, Beer, and Wine

SECTION 400 – INTOXICATING LIQUOR, BEER, AND WINE

Sec. 400.01 Provisions of State Law Adopted. The provisions of MN Statute Chapter 340A, with reference to the definition of terms, application for license, granting of license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor, beer or wine shall be hereby adopted and made a part of this Chapter as if fully set out in this Section, except as hereinafter modified or changed.

Sec. 400.02 License Required. No person, except wholesalers or manufacturers to the extent authorized under State license, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor, beer or wine without first having received a license to do so as provided in this Chapter. Licenses shall be of two kinds: "on sale" and "off sale".

Sec. 400.03 Eligibility for License. "On Sale" licenses shall be issued to hotels, clubs, restaurants and exclusive liquor or beer stores only, as provided by law.

"Off Sale" licenses shall be issued to exclusive liquor or beer stores only. No "off sale" license shall be issued to a holder of any other license which authorizes the sale of liquor, whether "off sale" or "on sale" except as allowed by State law.

Sec. 400.04 Application for License.

A. Every application for a license to sell liquor, beer, or wine shall be verified and filed with the Clerk. It shall state the name of the applicant, his or her age, representations as to his or her character with such references as may be required, his or her citizenship, whether the application is for "on sale" or "off sale", the business in connection with which the proposed license shall operate and its location, whether 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, each application for a license shall be in the form required by the liquor control commissioner. No person shall make a false statement in an application.

B. At the time of each original application for a license, the applicant shall pay in full an investigating fee. For a single natural person, the investigating fee shall be \$75.00. For a partnership, the investigating fee shall be \$150.00. For a corporation or other association, the investigating fee shall be \$300.00. No investigating fee shall be refunded.

C. At any time that an additional investigation is required because of a change in the ownership or control of a corporation, the licensee shall pay an additional investigating fee in the amount of \$50.00.

Sec. 400.05 Insurance Required. Each application for a license shall be accompanied by a liability insurance policy as provided for in MN Statute Annotated Section 340.409 the limits of which shall be the maximum as provided for in both sections. Non-intoxicating malt liquor license and on-sale wine licensees with annual sales of less than \$10,000.00 shall not be required to have liability insurance as provided above.

All insurance policies shall be approved by the Council, after approval by the City attorney as to form. Liability insurance policies required by this Section cannot be canceled without first giving ten days written notice to the City, as required by State law.

The operation of any liquor business without having on file at all times with the City the liability insurance policy, all as shall be required by this Section and State law, shall be grounds for immediate revocation of the license. Any hearing required by MN Statutes 340.304 and 340.405 shall be held before the liability insurance shall be terminated,

Sec. 400.06 License Fee and Expiration. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment of the required fee for the license, as set forth in this Section. 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.

All licenses shall expire on the 31st day of December of each year. Each license shall be issued for a period of one year except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rate fee. In computing the fee, an unexpired fraction of a month shall be counted as one month.

The license fee for an “on sale” license shall be \$1,000.00 per year.

The license fee for an off sale” license shall be \$100.00 per year.

No refund of any fee shall be permitted except as authorized under MN Statute Section 340.408.

Sec. 400.07 Investigation and Hearing on Application for License. All applications for a license shall be referred to the contracted police service, and to the contracted fire service for verification and investigation of the facts set forth in the application. The chief of police shall cause to be made the investigation of the information requested in Subsection 400.04 as shall be necessary and shall make a written recommendation and report to the Council. The Council may order and conduct the additional investigation as it shall deem necessary. Opportunity shall be given to any person to be heard for or against the granting of the license.

Sec. 400.08 Granting of License. After such investigation and hearing as required in Subsection 400.07, the Council shall grant or refuse the application at its discretion. This same procedure, with the exception of the investigation fee, shall apply to the renewal of licenses.

Each license shall be issued to the applicant only, except:

- A. Partnerships, where all partners shall be named on the license.
- B. Corporations, where the manager who shall have the direct control and supervision of the premises shall also be named on the license.

Sec. 400.09 Transfer of License. No license granted under this Section shall be transferable from person-to-person or from place-to-place without the consent of the City Council which consent shall be evidenced by resolution passed by the City Council. No license granted for a specified part of any particular premises shall permit sales of the liquor on a part of the premises not specified in the license; provided, however, that the Council may, by resolution, grant the right to use such other portion of the premises for the sales.

The transfer of ten percent (10%) or more of stock in any corporate licensee or any change in controlling interest, shall be deemed a transfer within the meaning of this Section, and no transfer of such stock shall be made without the consent of the City Council. It shall be hereby made the duty of the officers of any corporation holding a license issued under the authority of this Section to notify the City Council of any proposed sale or transfer of any such amounts of stock in the corporation, and no sale or transfer shall be effective without the consent of the Council given in the manner above set forth. The transfer of ten percent (10%) or more of stock or a change in controlling interest, without the knowledge and consent of the City Council shall be deemed sufficient cause for revocation by the Council of any license granted to the corporation under the authority of this Section.

The corporate officers shall also notify the City Council whenever any change is made in the officers of any such corporation, and the failure to so notify the Council shall likewise be sufficient cause for revocation of any liquor license granted to the corporation.

Sec. 400.10 Persons Ineligible for License. No license shall be granted to or held by any person:

- A. Who is ineligible under MN Statute Chapter 340A.
- B. Who has been convicted within 5 years prior to the application of the license, of any willful violation of any law of the United States, the State of Minnesota, or any other state or territory, or of any local ordinance regarding the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor, or whose beer, or wine license has been revoked for any willful violation of any law or ordinance.
- C. Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of this Section.
- D. Who, in the judgment of the Council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

Sec. 400.11 Places Ineligible for License. No license shall be granted, or renewed, for operation on any premises on which taxes, assessments or other financial claims of the City, school district, County or the State are delinquent and unpaid.

Sec. 400.12 Conditions of License. Every license shall be granted subject to the following subparagraphs and all other requirements of this Chapter and of any other applicable law of the City or State:

- A. Any police officer, building inspector, or any properly designated officer or employee of the City shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a warrant.
- B. No licensee shall sell, offer for sale, or keep for sale, alcoholic beverages in any original package which has been refilled or partly refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package, Possession on the premises by the licensee of any alcoholic beverages in the original package differing in composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.
- C. No "on sale" establishment shall display intoxicating liquor to the public during hours when the sale of liquor shall be prohibited.
- D. No licensee shall apply for or possess a Federal Wholesale Liquor Dealers special tax stamp or a Federal Gambling stamp.
- E. No licensee shall keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.
- F. Changes in the corporate or association officers, corporate charter, Articles of Incorporation, By-Laws, or Partnership Agreement, as the case may be, shall be submitted to the City Council within 30 days after the changes are made.
- G. The license shall be posted in a conspicuous place on the licensed premises at all times.
- H. Every licensee, and in the case of corporations the manager, named on the license shall be responsible for the conduct of his or her place of business, the conditions of sobriety and order in it and to see that all laws shall be obeyed. The act of any employee on the licensed premises authorized to sell or serve intoxicating liquor shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties provided by this Section equally with the employee.
- I. No license shall be effective beyond the compact and contiguous space named in the license for which it was granted.
- J. No alcoholic beverage shall be sold or furnished to any intoxicated person, or to any person under 21 years of age.
- K. No licensee shall keep, possess, or operate or permit the keeping, possession, or operation of any slot machine, dice, or any gambling device or apparatus on the licensed premises or in any room adjoining the licensed premises and he or she shall not permit any gambling therein.
- L. No licensee shall permit the licensed premises or any room in those premises or in any adjoining building directly or indirectly under his or her control to be used as a resort for prostitutes.
- M. The following acts or conduct on licensed premises shall be deemed contrary to public welfare and morals and therefore no "on sale" license shall be held at any premises where such conduct or acts shall be permitted:
 - 1. To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while the person is unclothed or in the attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
 - 2. To employ or use the services of any hostess while the hostess is unclothed or in the attire, costume or clothing as described in Subparagraph 1. above.
 - 3. To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
 - 4. To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.
 - 5. To permit any person to perform acts or of acts which simulate:
 - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - (b) The touching, caressing or fondling on the breast, buttocks, anus or genitals.
 - (c) The displaying of the pubic hair, anus, vulva, genitals or the nipple or areola of the female breast.
 - 6. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
 - 7. To permit any person to remain in or upon the licensed premises who exposes to public view the pubic hair, anus, vulva, or genitals except where the pubic hair, anus, vulva or genitals shall be covered with opaque clothing, in the form of pants or panties, and in addition where the breast and the pubic hair, anus, vulva and genitals shall be covered with opaque clothing.
 - 8. To permit the showing of film still pictures, electronic reproduction or other visual reproductions depicting:

- (a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
 - (b) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
 - (c) Scenes wherein a person displays the vulva or the anus or the genitals.
 - (d) Scenes wherein artificial devices or inanimate objects are employed to depict or drawings are employed to portray, any of the prohibited activities described above.
9. To permit any person, employee, or person under contract to perform on the premises to dance on any table, bar or other elevated platform, except on a duly designated stage designed exclusively for the entertainment of patrons of the premises, the stage to be located at least three feet from any patron. Where any said premises have such a stage, there shall also be an adequate dressing room for the entertainers, one for males and another for females.
- N. In the case of corporations, the manager named on the license shall have full power delegated to him or her to fully enforce the laws, and to bind the corporation in its dealing involving the City.
- O. If the license is held by a bona fide restaurant, capable of seating 30 or more people, the restaurant may remain open from 10:00 a.m. to 1:00 a.m. Monday through Saturday and Sundays 10:00 a.m. to 12:00 midnight.
- P. A violation of any of the above conditions shall be considered sufficient grounds to revoke or suspend the license involved.

Sec. 400.13 Restrictions on Purchase and Consumption. No alcoholic beverage shall be sold or consumed or displayed in an open container on a public right-of-way or in a motor vehicle, subject to Subsection 400.14 below. A public right-of-way shall include but not be limited to a street, sidewalk, boulevard, alley, parking lot, or park.

Sec. 400.14 Permits for Consumption on Public Land. Alcoholic beverages shall not be consumed in any park or public lands except by resolution of the Council.

Sec. 400.15 Revocation. The Council may suspend or revoke any license for violation of any provision or condition of this Chapter or any State law regulating the sale of intoxicating liquor, and shall revoke the license if the licensee willfully violates any provision of MN Statute Annotated, Sections 340A. Except in the case of suspension pending a hearing on revocation, revocation or suspension by the Council shall be preceded by written notice to the licensee, and a public hearing if requested by the licensee. The notice shall give at least 5 days notice of the revocation or suspension and shall state the nature of the charges against the licensee. The Council may, without any advance notice, suspend any license pending a hearing on revocation for a period of not exceeding 30 days. A hearing, if demanded by a licensee, shall be as determined by the Council, but shall be open to the public.

Sec. 400.16 Sunday Sales Licensee. Special licenses for the sale of intoxicating liquor on Sundays shall be issued only to the holder of an "on sale" liquor license. Such a licensee may apply to the Council for a Sunday sales license pursuant to which the licensee may sell intoxicating liquor between the hours of 10:00 a.m. and 12 midnight on Sunday. Each license shall conform to the requirements of Subsection 400.06, except that the fee shall be \$200.00 per license and that the fees shall not be payable on a pro rate basis where issued for less than one year. The license shall only be issued to a bona fide restaurant which does provide on a regular day-to-day basis, tables, chairs, china and eating utensils for 30 or more persons, in a room or rooms separate from the bar facilities.

Sec. 400.17 Licensing of Employees and Juvenile Work Permit.

- A. No person shall work as a manager, bartender, cocktail waitress, hostess, clerk, delivery person, bouncer, security guard, or in any capacity where such person sells, serves, or delivers alcoholic beverages in or from premises licensed under this Chapter, and no licensee shall permit any such person to be so employed, unless the person, within seven (7) days after being first employed, shall apply for a license to engage in the business. No person may be so employed in any capacity if his or her license is denied or revoked.
- B. No person shall make off-sale deliveries of alcoholic beverages in the original package within the City unless the person has obtained a license as an employee.
- C. No juvenile shall be employed unless the person has obtained a work permit.
- D. An application for the license or work permit shall be filed with the City Clerk upon form provided by the City, and the application shall be verified under oath and shall contain the following information:
 - 1. The names and addresses of two residents of Washington County, Minnesota, who have known the applicant for a period of two (2) years and who shall vouch for the honesty, and general good character of the applicant.
 - 2. A concise history of the applicant's previous employment,
 - 3. The record, if any, of arrests and of convictions for crimes and misdemeanors other than traffic offenses.

E. The annual license or work permit fee shall be as established by Council resolution from time-to-time, and shall be paid at the time of application. The licenses or permits shall expire on the anniversary of the date of application and shall be renewed at that time.

F. The application shall be referred to the police department which shall investigate the facts set forth in the application and shall take photographs and finger prints and make a complete background and national police check on all applicants, the police department shall then make a written report to the City Clerk thereon, at the earliest practicable time. If the police department recommends that the person be licensed, the City Clerk shall issue the license forthwith. If the police department makes a recommendation that the license not be issued, the applicant upon request shall be entitled to a hearing before the City Council and may offer evidence to prove the license should be issued.

G. No person shall be issued a license if it appears that the applicant has committed an act which is a willful violation of MN Statute 340, which are crimes directly related to the occupation herein licensed, as defined by MN Statute 364.03, Subdivision 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation to which this license applies as defined by MN Statute. 364.03, Subdivision 3.

H. Any license issued under this Section may be revoked for any violation of this Chapter or of Minn. Statute 340 for conviction of any crime or misdemeanor involving moral turpitude so long as the conviction shall directly relate to the occupation licensed in this Section as defined by MN Statute 364.03, Subdivision 2.

CHAPTER 4 CHANGE RECORD: