

CHAPTER 4. ALCOHOLIC BEVERAGES

Section 400 - 3.2 Malt Liquor

400.01 Definition of Terms. As used in this ordinance, the following terms shall have the meanings stated:

Subd. 1 Person. The term “person” shall mean and include a natural person of either sex, persons, co-partnerships, corporations and associations of persons; and shall include the agent or manager of any of the above. The singular number shall include the plural, and the masculine pronoun shall include the feminine and neuter, and vice-versa.

Subd. 2 3.2 Malt Liquor. “3.2 Malt Liquor” shall mean any potable malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-thirds percent by weight.

Subd. 3 Bona Fide Club. A “Bona Fide Club” as used in this Section shall be any club organized for social or business purposes, or for intellectual improvement, or for the promotion of sports, where the serving of such liquors is incidental to and not the major purpose of the club.

Subd. 4 Original Package. “Original Package” as used in this Section shall mean the sealed container in which the liquor is placed at the place of manufacture.

Subd. 5 Restaurant. “Restaurant” as used in this Section shall mean any place where preparing and serving lunches or meals to the public to be consumed on the premises constitutes a substantial part of the business thereof.

400.02 License Required. No person shall sell, vend, deal in or dispose of, by gift, sale or otherwise, or keep or offer for sale, any 3.2 malt liquor within the City without first having received a license therefor as provided in this Section. Licenses shall be of two kinds: “On-sale” and “Off-sale.”

Subd. 1 On-Sale. “On-Sale” licenses shall be granted only to drug stores, cafes, restaurants and hotels where food is prepared and serve for consumption on the premises and in bona fide clubs, and shall permit the sale of such liquor for consumption on the premises only.

Subd. 2 Off-Sale. “Off-Sale” licenses shall be granted to permit the sale at retail of the liquor in the original packages for removal from and consumption off the premises only.

Subd. 3 Temporary On-Sale 3.2 Malt Liquor. Temporary on-sale 3.2 malt liquor licences shall be granted only to bona fide clubs, charitable and other non-profit organizations for sale of 3.2 malt liquors for consumption on the premises designated. These licenses are subject to the terms prescribed by the city council at the time of issuance.

400.03 Application for License. All applications for any license to sell 3.2 malt liquor shall be made on forms to be supplied by the City setting forth the name of the person asking for the license, his or her age, representations as to his or her character with any references as may be required, his or her citizenship, the location where the business is to be carried on, whether the application is for “on-sale” or “off-sale,” the business in connection with which the proposed license will operate, whether the applicant is the owner and operator of the business, the time the applicant has been in that business at that place, and any other information as the City Council may require from time to time. It shall be unlawful to make any false statement in an application.

400.04 Fees. All applications for a license under this Section shall be accompanied by the required annual fee for the respective license. All fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license, the Clerk-Treasurer shall refund the amount paid.

Subd. 1 On-Sale. The annual fee for an “On-sale” license shall be \$25.00.

Subd. 2 Off-Sale. The City may issue off-sale liquor licenses. The annual fee for the license shall be \$200.

Subd. 3 Pro-Rata. All licenses shall expire on the last day of June in each year; provided that if eight months of any licensing year have elapsed when the application is made, the fee shall be reduced to one-half of the regular amount thereof.

Subd. 4 Wine Licenses. The City Council may issue an on-sale wine license with the approval of the Commissioner to a restaurant having facilities for seating at least 25 guests at one time or to a licensed bed and breakfast facility serving only to registered guests of the facility or to guests attending a private event at the facility and if the facility contains a licensed commercial kitchen. A wine license permits the sale of wine of up to 14% alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days authorized for intoxicating liquor including Sundays. The City Council may by ordinance authorize a holder of an on-sale wine license who is also licensed to sell 3.2% malt liquors at on-sale and whose gross receipts are at least 60% attributable to the sale of food, to sell intoxicating malt liquors at on-sale without an additional license. The annual fee for this license shall be \$350.

(Am. Res. 10-13, passed 5-10-10)

400.05 Granting of Licenses. The City Council shall cause an investigation to be made of all facts set forth in the application. Opportunity shall be given to any person to be heard for or against the granting of any license. After the investigation the City Council shall grant or refuse any application at its discretion. All licensed premises shall have the license therefor posted in a conspicuous place at all times.

400.06 Conditions of Licenses. All licenses granted under this Section shall be granted subject to the following conditions, and all other conditions of this Chapter, and subject to all other provisions of the City Code applicable thereto.

- A. No license shall be granted to any person under twenty-one years of age.

- B. No license shall be granted to any person who has been convicted within the five years immediately preceding the date of the application of a felony or of violating the national prohibition act or any law of this State or local ordinance relating to manufacture or transportation of intoxicating liquors.

- C. No license shall give permission to sell 3.2 malt liquor to any theater, public recreation hall or center, dance hall, ball park or other place of public gathering for the purpose of entertainment, amusement or playing of games, and no such liquor shall be consumed there.

- D. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this Code or where any license hereunder has been revoked for cause for at least one year after the conviction or revocation of license.

- E. No sale of any 3.2 malt liquor shall be made to any person under guardianship, nor to any person under twenty-one years of age.

- F. All premises where any license shall be granted under this Section 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 so licensed is open to the public for business.

G. No gambling, nor any gambling device prohibited bylaw, shall be permitted in any licensed premises.

H. All licenses granted under this Section shall be issued to the applicant only and shall be issued for the premises described in the application. The license shall not be transferred to another place without the approval of the City Council.

I. No license shall be granted to any manufacturer of 3.2 malt liquor nor to anyone interested in the control of any such place, and no equipment or fixtures in any licensed place shall be owned in whole or in part by any such manufacturer.

J. No license shall be granted within 250 feet of any public school nor within 250 feet of any church.

K. Licenses shall be granted only to persons who are citizens of the United States and residents of the City and to persons of good moral character.

L. “No spiking” or adulteration by the addition or use of alcohol or other intoxicating liquor shall be allowed on the premises. The licensee shall be held responsible for the compliance with this provision.

400.07 Hours. No 3.2 malt liquors shall be sold in the City between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 10:00 a.m. on Sunday.

(Am. Ord. 08-03, passed 9-22-08)

400.08 Clubs. No club shall sell liquor except to members and to guests in the company of members.

400.09 No Bar, Partition, Box or Screen Permitted. In any place licensed for “on-sales” the liquor sold shall be served and consumed at tables in the dining or refreshment room of the café, restaurant, hotel or club, and shall not be consumed or served at bars; provided the liquor may be served at counters where food is regularly served consumed. All windows in the front of any such place shall be of clear glass, and the view of the whole interior shall be unobstructed by screens, curtains or partitions. There shall be no partition, box, stall, screen, curtain or other device which shall obstruct the view of any part of the room from the general observation of persons in the room; provided, however, that partitions, subdivisions or panels not higher than forty-eight inches from the floor shall not be construed in conflict with the foregoing; and provided, however, the license shall entitle the holder thereof to serve 3.2 malt liquors in a separate room of the restaurant to banquets or dinners at which are present not less than ten persons.

400.10 Suspension and Revocation. The Council shall either suspend for up to 60 days or revoke any liquor license or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, 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 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this Section without further action of the Council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities 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 bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing. If a request is made in writing to the clerk a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the Council determines that the financial responsibility requirements of this Section have again been met.

400.11 Penalty. Any person violating any provision of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than seven hundred dollars (\$700.00), or shall be imprisoned for not to exceed ninety (90) days or both, plus the costs of prosecution in any case.

Section 410 - Intoxicating Liquor

410.01 Definitions. As used in this Section, unless otherwise stated in specific provisions, the following words and terms shall have the meanings stated:

Subd. 1 Application. “Application” shall mean a form with blanks or spaces thereon to be filled in and completed by the applicant as his or her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 2 Applicant. “Applicant” shall mean any person making an application for a license under this Section.

Subd. 3 License. “License” shall mean a document, issued by the City, to an applicant permitting him or her to carry on and transact the business stated in the license.

Subd. 4 Licensee. “Licensee” shall mean an applicant, who, pursuant to his or her approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the City for carrying on the business stated therein.

Subd. 5 License Fee. “License Fee” shall mean the money paid to the City pursuant to an

application and prior to issuance of a license to transact and carry on the business stated in the license.

Subd. 6 Intoxication Liquor and Liquor. “Intoxication Liquor” and “Liquor” shall mean ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Subd. 7 Off-Sale. “Off-Sale” shall mean the retail sale of beer or liquor in original packages for consumption off or away from the premises where sold.

Subd. 8 On-Sale. “On-Sale” shall mean the retail sale of beer, wine or liquor, by the glass or by the drink, for consumption on the premises where sold only.

Subd. 9 Sale”, “Sell”, and “Sold. “Sale”, “Sell”, and “Sold” shall mean all barter and all manners or means of furnishing beer, wine or liquor to persons. NOTE: It is assumed from the response to the first draft that the city does not issue temporary licenses nor wine licenses.

410.02 License Required. No sale of intoxicating liquor shall be permitted unless the seller, or its duly authorized agent, shall have issued and on display, a license therefore issued by the City and in current force and effect.

410.03 Types of Licenses and Application. No license shall be issued by the City until or after the applicant has applied for the license on forms acceptable to the City and the State of Minnesota, and shall have paid the required fee. The City Council in its sole discretion may reduce the fee for a part of any one year. There shall be four (4) types of intoxicating liquor licenses which may be issued by the City.

Subd. 1 On-Sale. The City may issue up to the number of On-Sale intoxicating liquor licenses authorized by state law. The annual fee for this license shall be \$1,250.00.

Subd. 2 Club On-Sale. The City may issue up to the number of Club On-Sale intoxicating liquor licenses authorized by state law. The annual fee for this license shall be \$100.00.

Subd. 3 Off-Sale. The City may issue Off-Sale liquor licenses. The annual fee for this license shall be \$100.00.

Subd. 4 Sunday Liquor Licenses. The City Council may issue Sunday On-Sale intoxicating liquor licenses, only to a restaurant, club, bowling center, or hotel which has a seating capacity of at least thirty (30) persons, which holds an On-Sale intoxicating liquor license, and which serves liquor in conjunction with the service of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays. The annual fee for this license shall be set by ordinance and is incorporated by reference in § 240 of this code, and the term of the license shall be concurrent with the term of the On-Sale intoxicating liquor license.

(Am. Res. 00-15, passed 11-27-00; Am. Ord. 08-03, passed 9-22-08)

410.04 Term. Any license issued under this Section shall be for a period of twelve (12) months and shall be from July 1 to June 30 of every year.

410.05 Consolidation. Any On-Sale operation duly licensed by the City may be consolidated and combined with an Off-Sale operation by a same license holder and on the same premises if separately maintained.

410.06 Transfer. No license shall be transferrable between persons or to a different location without prior consent of the City Council and the filing of an initial application. It shall be unlawful to make any transfer in violation of this Section.

410.07 Hours of Sales.

Subd. 1 On-Sale. No sale of intoxicating liquor for consumption on the licensed premises may be made:

- A. between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday.
- B. after 1:00 a.m. on Sundays, except as provided in § 410.03 Subd. 4.
- C. between 8:00 p.m. on December 24 and 8:00 a.m. on December 25.

Subd. 2 Off-Sale. No sale of intoxicating liquor may be made by an off-sale licensee:

- A. on Sundays;
- B. before 8:00 a.m. on Monday through Saturday;
- C. after 10:00 p.m. on Monday through Saturday;
- D. on Thanksgiving Day;
- E. on Christmas Day, December 25; or
- F. after 8:00 p.m. on Christmas Eve, December 24.

Subd. 3 Clubs. No establishment licensed under Minnesota Statutes § 340A.414, Bottle Clubs, may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

(Am. Ord. 08-03, passed 9-22-08)

410.08 Conditions.

Subd. 1 Eligibility. No person shall qualify for a license under this Section who has been convicted within the past five years of violating any law relating to the manufacture, sale or distribution of beer, liquor or wine, or whose license therefor has been revoked within such period of time. Nor shall any person qualify as a licensee who has not attained the age of twenty-one (21) years or who is not a citizen or legal alien of the United States. No license under this Section shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the City, are owed by the applicant and are delinquent and unpaid.

Subd. 2 Financial Responsibility. No liquor license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minn. Stat. § 340A.409 with regard to liability under the statutes, § 340A.801. This proof shall be filed with the commissioner of public safety. (Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year.) Any liability insurance policy filed as proof of financial responsibility under this Subdivision shall conform to Minn. Stat. § 340A.409. The security offered shall be approved by the Council and shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in this Section shall be cause for revocation of the license.

Subd. 3 Preliminary Investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with the application an investigation fee as set forth in this Section and the City shall conduct a preliminary background and financial investigation of the applicant. The application, in such case, shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the Council may require. The Council may require, if it is in the public interest, to have an investigation made on a particular application for renewal of an on-sale license. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal investigation for the investigation. No license shall be issued, transferred or renewed if the results show, to the satisfaction of the Council, that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 4 Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subd. 3. 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 on-sale wine license or off-sale license shall become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

410.09 Renewal. Applications for a renewal of all licenses under this Section shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain any information as shall be required by the City.

410.10 Suspension and Revocation. The City may at its sole and exclusive option, suspend or revoke this license at any time after a hearing conducted by the City Council concerning any license violations; liquor sales violations or other criminal violations reflecting adversely on the license holder. The hearing shall be called by the Mayor upon written notice to the licensee served in person or by certified mail not less than ten (10) days prior to the hearing date stating the time, place and purpose thereof.

Section 420 - General Regulations

420.01 After Hours Consumption. It shall be unlawful for any person to consume, or any licensee to permit consumption of, beer, wine or liquor on licensed premises after 1:15 a.m. or 15 minutes after the hour when a sale can legally be made.

420.02 Removal of Containers. It shall be unlawful for any on-sale licensee to permit any glass, bottle, or other container, containing beer, wine or liquor in any quantity, to remain upon any table, bar, stool or other place where customers are served after 1:15 a.m. or 15 minutes after the hour when a sale thereof can legally be made.

420.03 Remaining on Premises. It shall be unlawful for any person, other than an on-sale licensee's

bona fide employee actually engaged in the performance of his or her duties, to be on premises licensed under this Chapter after 1:15 a.m. or 15 minutes after the legal time for making licensed sales.

Provided, however, that this Subdivision shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than beer, wine or liquor.

420.04 City Parks.

Subd. 1 Quantity. It shall be unlawful for any person to have in his or her possession in any City Park any container larger than 32 ounces containing intoxicating liquor or 3.2 malt liquor without a permit from the Police. Application for a permit shall be made at least one (1) day before the permitted use is scheduled. An application fee of zero dollars shall accompany the application along with a deposit of fifty dollar (\$50.00). The surety deposit shall be returned upon completion of the scheduled use unless, in the opinion of the City, the event shall have caused additional maintenance or damage, then the City may deduct such additional maintenance or damages from the surety deposit.

Subd. 2 Glass. It shall be unlawful for a person to have in his or her possession in any City Park any glass container containing intoxicating liquor or 3.2 malt liquor, or any other beverage.

Subd. 3 St. Olaf Park. It shall be unlawful for a person to have in his or her possession at St. Olaf Lake Park any glass or can container containing intoxicating liquor or 3.2 malt liquor or any other beverage in the swimming area.

420.05 Public Places. No person shall mix or prepare alcoholic beverages or consume alcoholic beverages or possess the same in an opened container in any public place, street, or sidewalk, within the City, without permission of the City Police Department.

420.06 Insurance. Compliance with financial responsibility requirements of State law and of this Chapter is a continuing condition of any license granted pursuant to this Chapter.

420.07 Sales to Minors or Obviously Intoxicated Persons. No alcoholic beverage shall be sold or served to any obviously intoxicated person or to any person under 21 years of age.

420.08 Consumption by Minors. No person under the age of 21 years shall be permitted to consume alcoholic on the licensed premises.

420.09 Employment of Minors. No person under the age of 18 years shall be employed on the licensed premises, except as may be permitted by State law.

420.10 Purchasing and Possession. It shall be unlawful for any person:

- A. Under the age of 21 years to purchase or attempt to purchase alcoholic beverages; or
- B. To induce a person under the age of 21 years to purchase or procure alcoholic beverages;
- C. To purchase alcoholic beverages for a person under the age of 21;
- D. Under the age of 21 years to possess alcoholic beverages.

420.11 Entering Licensed Premises. It shall be unlawful for a person under the age of 21 years to enter an establishment licensed under this Chapter in order to purchase or have served or delivered, any alcoholic beverage.

420.12 Misrepresentation of Age. It is unlawful for a person under the age of 21 years to misrepresent his or her age for the purpose of purchasing alcoholic beverages.

420.13 Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

420.14 Gambling. No illegal gambling or illegal gambling device shall be permitted on any licensed premises.

420.15 Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of alcoholic

beverages shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the provisions of Minn. Stat. § 340A.301, Subd. 7. No retail licensee and manufacturer or wholesaler of alcoholic beverages shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of alcoholic beverages and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

420.16 Display/Consumption. No licensee who does not hold a consumption and display permit shall sell or permit the consumption or 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 Chapter.

420.17 Searches and Seizures. Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all alcoholic beverages found on the licensed premises in violation of this Chapter

420.18 Licensee's Responsibility. Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell such beverages is the act of the licensee.

Section 430 - Violations

430.01 Violations. A violation of this Chapter shall be a misdemeanor and shall be grounds for the suspension or revocation of any license issued under this Chapter.