

Chapter 4. Liquor Licensing

Part 1. Non-Intoxicating Liquor

401.01. **Definition of Terms.** Subdivision 1. **Beer.** As used in this ordinance, "beer" or "non-intoxicating malt liquor" means 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.

Subd 2. **Beer Store.** "Beer Store" means an establishment used exclusively for the retail sale of beer, with the incidental sale of tobacco and soft drinks.

401.02. **License Required.** Subdivision 1. **Licenses.** No person, except wholesalers and manufactures 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 hereinafter provided. Licenses shall be "Off-sale".

Subd 2. **Off-Sale.** "Off-Sale" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

401.03. **License Applications.** Subdivision 1. **Form.** Every application for a license to sell beer shall be made to the city clerk on a form supplied by the city and containing such information as the clerk or the city council may require. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall include a copy of each summons received by the applicant under Minnesota Statutes 340A.802 during the preceding year.

Subd 2. **Proof of Financial Responsibility.** Prior to the issuance of a beer license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340A.409, Subdivision 1, with reference to liability under the statutes, Section 340A.801. Such proof shall be filed with the Commissioner of Public Safety except that if a license involves sales of beer of a prospective vendor who is not required by law to file such proof with the Commissioner of Public Safety, such proof shall be filed with the city clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 340A.409.

Subd 3. **Approval of Security.** Liability insurance policies required by this ordinance, but not by state law, shall be approved as to form by the city attorney. Operation of a business licensed by this ordinance without having on file with the State Insurance Commissioner or the city at all times effective security as required in Subdivision 2 is a cause for revocation or suspension of the license.

401.04. **License Fee.** Subdivision 1. **Payment Required.** Each application for a license shall be accompanied by a receipt from the city clerk 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 city clerk shall refund the amount paid.

Subd 2. **Expiration; Pro Rata Fees.** Every license shall expire on the last day of December in 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 license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such a fee, any unexpired fraction of a month shall be counted as one month.

Subd 3. **Fees.** The annual fee for an "off-sale license is \$200.00.

Subd 4. **Refunds.** No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the council within ten (10) days from the happening of the event. There shall be refunded a pro rate portion of the fee for the unexpired period of the license, computed on a monthly basis, if:

- a. The business ceases to operate because of destruction or damage;
- b. The licensee dies;
- c. The business ceases to be lawful for a reason other than a license revocation; or
- d. The licensee ceases to carry on the licensed business under the license.

401.05. **Granting of License.** Subdivision 1. **Investigation and Hearing.** The city council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in 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 may be transferred to another place without the approval of the council.

401.06. **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 such 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, and cannot show competent evidence under Minnesota Statutes 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 not a citizen or resident alien;
- e. Is not of good moral character;
- f. Is not the proprietor of the establishment for which the license is issued.

401.07. **Places Ineligible for License.** Subdivision 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

ordinance, or of the state beer or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation.

Subd 2. **Distance from Schools and Churches.** No license shall be granted for any place within 300 feet of any public school or within 300 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances following the route or ordinary pedestrian travel.

Subd 3. **Six Months Prior Eligibility.** No regular "off-sale" license shall be granted for a business or club which has not been in operation and eligible to receive a license for at least six months immediately preceding the application for a license.

401.08. **Conditions of License.** Subdivision 1. **General Conditions.** Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the city or state law.

Subd 2. **Insurance.** Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd 3. **Sales to Minors or Obviously Intoxicated Persons.** No beer shall be sold or served to any obviously intoxicated person or to any person under 21 years of age.

Subd 4. **Consumption by Minors.** No person under the age of 21 years shall be permitted to consume beer on the licensed premises.

Subd 5. **Employment of Minors.** No person under the age of 18 years shall be employed on the premises of a beer store.

Subd 6. **Gambling.** No gambling or any gambling device shall be permitted on any licensed premises unless otherwise authorized by statute or ordinance.

Subd 7. **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 Section 340A.301, Subd. 7. No retail licensee and manufacturer or wholesaler of beer shall be parties 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 shall confer any benefits contrary to law upon a retail licensee.

Subd 8. **Sale of Intoxicating Liquor.** 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 ordinance.

Subd 9. **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 intoxicating liquors found on the licensed premises in violation of Subdivision 8.

Subd 10. **Licensee's Responsibility.** Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by an employee authorized to sell such beverages is the act of the licensee.

~~401.09. **Closing Hours.** No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon.~~ (stricken 6/30/17 at midnight). This ordinance change allows Off-Sale liquor/beer sales from 11 am to 6 pm on Sundays.

401.10. **Restrictions on Purchase and Consumption.** Subdivision I. **Consumption.** It is unlawful for any person under the age of 21 years to consume beer unless in the household of the person's parent or guardian and with the consent of the parent or guardian.

Subd 2. **Purchasing.** It is unlawful for any person:

- a. To sell, barter, furnish or give beer to a person under 21 years of age, except that a parent or guardian of a person under that age may give or furnish beer to that person solely for consumption in the household of the parent or guardian;
- b. Under the age of 21 years to purchase or attempt to purchase beer; or
- c. To induce a person under the age of 21 years to purchase or procure beer.

Subd 3. **Possession.** It is unlawful for a person under the age of 21 years to possess beer with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of a parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

Subd 4. **Entering Licensed Premises.** It is unlawful for a person under age 21 years to enter an establishment licensed under this ordinance in order to purchase beer or have beer served or delivered.

Subd 5. **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 beer.

Subd 6. **Proof of Age.** Proof of age for purchasing or consuming beer may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign nation, by a valid passport.

Subd 7. **Consumption Prohibited--Where.** It shall be unlawful for any person to consume beer in any theater, recreation hall or center, dance hall, ~~ball park~~ (Amended 8/18/97), or other

place of public gathering used for the purpose of entertainment, or amusement except at city parks at events approved by the City Clerk or City council (Amended 8/18/97).

Subd 8. **Liquor Consumption and Display.** No person shall consume or display any intoxicating liquor on the premises of a licensee who does not hold a consumption and display permit.

401.11. **Suspension and Revocation.** The council shall either suspend for up to 60 days or revoke any beer license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the license has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverage. 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 Minnesota Statutes Sections 14.57 to 14.69 of the administrative procedure act. The 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 ordinance without further action of the city 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 thereon, and if such a request is made in writing to the clerk, a hearing shall be granted within 10 days or such longer period as may be required. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility of this ordinance has again been met.

401.12. **Penalty.** Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1000 or imprisonment in the county jail for not more than 90 days, or both, plus the cost of prosecution in any case.