

## Part 2. Intoxicating Liquor

402.01. **Provisions of State Law Adopted.** The provisions of Minnesota Statutes Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility 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 ordinance as if set out in full.

402.02. **License Required.** Subdivision I. **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 ordinance. Liquor licenses shall be of six kinds: "On-Sale", "On-Sale Wine", Temporary "On-Sale", "Off-Sale", "Club Licenses", and "Sunday On-Sale".

Subd 2. **On-Sale Licenses.** "On-Sale" licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores, and shall permit consumption of liquor on premises only.

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

Subd 4. **Temporary On-Sale Licenses.** Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the state liquor act, which may be limited to beer and wine.

Subd 5. **Off-Sale Licenses.** "Off-Sale" licenses shall be issued only to drug stores and exclusive liquor stores and shall permit "off-sales" of liquor only.

Subd 6. **Special Club Licenses.** Special Club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence for at least three years.

Subd 7. **Special Sunday On-Sale License.** Special On-Sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to bowling centers and to hotels, restaurants, and clubs as defined in Minnesota Statutes Section 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, Subd.3.

Subd. 8. **Sunday Hours.** The sale of on-sale intoxicating liquor on Sundays is allowed between the hours of noon on Sunday and 1:00 a.m. on Monday. Establishments serving liquor on Sundays must obtain a special license under subdivision 1 above.

Subd. 9. ~~**Closing Hours.** No sale of intoxicating liquor shall be made between the hours of 1:00 a.m. and 12:00 noon on Sunday. All customers shall leave the premises by 1:30 a.m. of every day. (stricken 6/30/17 at midnight).~~ This ordinance change allows Off-Sale liquor/beer sales from the hours of 11 am to 6 pm on Sundays.

402.03. **Application for License.** Subdivision 1. **Form.** Every application for a license to sell liquor shall state the name of the applicant, his/her age, representation as to his/her character (with such references as the council may require), his/her citizenship, 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/she has been in that business at that place, and such other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes 340A.802 during the preceding year. (M.S. 340.409, Subd. 8) In addition to containing such information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

Subd 2. **Financial Responsibility and Insurance.** No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liability under the statutes, Section 340A.801. Such 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 Minnesota Statutes Section 340A.409. No retail license may be issued, maintained, or renewed without complying with Minnesota Statutes 340A.409 including, but not limited to, filing a certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence.

402.04. **License Fees.** Subdivision 1. **Fees.** The annual fee for a liquor license: Refer to Appendix 7A.

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 and the fixed investigation fee required under Section 402.05, Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.

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 that year for a pro rata fee, with an unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

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

402.05. **Granting Licenses.** Subdivision 1. **Preliminary Investigation.** On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant for transfer of an existing on-sale license, the applicant shall pay with his/her application an investigation fee of \$100 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. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. If the council finds 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 any initial investigation fee is already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd 2. **Hearing and Issuance.** The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. 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 "off-sale" license shall become effective until it, together with the security furnished by the applicant, and has been approved by the Commissioner of Public Safety.

Subd 3. **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 is deemed a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license.

402.06. **Persons Ineligible for License.** No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the city. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

402.07. **Places Ineligible for License.** Subdivision 1. **General Prohibition.** No license shall be

issued for any place or any business ineligible for such a license under state law.

Subd 2. **Time in Business.** No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for one (1) month.

Subd 3. **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.

Subd 4. **Distance from School or Church.** No license shall be granted within 300 feet of any school or within 300 feet of any church.

402.08. **Conditions of License.** Subdivision 1. **In General.** Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

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. **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 in the establishment is the act of the licensee.

Subd 4. **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 or non-business hours without a warrant or if any person is upon the business premises.

Subd 5. **Display During Prohibited Hours.** No "On-Sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

402.09. **Restrictions on Purchase and Consumption.** Subdivision 1. **Liquor in Unlicensed Places.** No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor "on-sale" or a permit from the commissioner of public safety under Minnesota Statutes and no person shall consume liquor in any such place.

Subd 2. **Consumption in Public Places.** No person shall consume liquor on a public highway, ~~public park~~ (Amended 8/18/97...see Chapter 4, Part 1, 401.10, Subd. 7), or other public place.

402.10. **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 Minnesota Statutes Section 14.57 to 14.70 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall affect 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 requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

**402.11. Penalty.** Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine or 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.