

CHAPTER 4. LIQUOR LICENSING AND OTHER BUSINESS REGULATION

401 Sale and Consumption of Intoxicating Liquor; Licensing and Regulation.

- (1) **Provisions of State Law Adopted.** The provisions of Minnesota Statutes Chapter 340 as amended, relating to the definition of terms, licensing, 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, except as the same are inconsistent with this section in which case the specific provisions of this section shall control.
- (2) **Sunday Sales.** Sunday sales pursuant to the provisions of Minnesota Statutes Section 340.14, subd. 5, shall be allowed, but only to the holder of a special club license, and only if the licensee is also serving food. Sunday sales shall only be to persons seated at tables.
- (3) **License Required.** No person, except a wholesale 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 section. Liquor licenses shall be of three kinds: "on-sale," "on-sale wine," and "special club license."
 - (A) **On-Sale License.** On-sale licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores and shall permit "on-sale" of liquor only.
 - (B) **On-Sale Wine License.** On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes, Section 340.11, Subdivision 20 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.
 - (C) **Special Club License.** Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more. Such license includes the right to sell on Sunday pursuant to Minnesota Statutes 340.14, subd. 5.
- (4) **Application for License.**
 - (A) **Form.** The application shall be in the form prescribed by the State Commissioner of Public Safety and may contain such additional information as the City Council may require from time to time.

The form shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

- (B) **Security**. Each application for a license shall be accompanied by a liquor liability insurance certificate in the amount of at least one million dollars (\$1,000,000.00) that covers the upcoming full license period. Cash, securities or a surety bond in the amount of at least one hundred thousand dollars (\$100,000.00) or such higher amount as the City Council may set from time to time, may be submitted in lieu of liquor liability.
- (C) **Approval of Security**. The security offered under subsection (4)(B) shall be approved by the City Council. Liability insurance policies required by this ordinance but not be state law and surety bonds required under subsection (4)(B) 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 herein is a cause for revocation of the license.
- (5) **License Fees**.
- (A) **Amount**. The annual fee for a liquor license shall be \$500 for an "on-sale" license, \$250 for an "on-sale" wine license, and \$100 for a club license, or such other fees as the City Council may establish by resolution from time to time.
- (B) **Payment**. Each application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the license fee and the fixed investigation fee required under Section 402 (5), 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.
- (C) **Term**. Each license shall be issued for a period of one year.
- (D) **Refund**. No refund of any fee shall be made except as authorized by statute.
- (6) **Granting of License**.
- (A) **Preliminary Investigation**. On an initial application for a license, and on application for transfer of an existing license, the applicant shall pay with its application an investigation fee of \$250 or such other amount as may be established by the City Council by resolution from time to time. The City shall then conduct a preliminary background and financial investigation of the

applicant. The application shall be on a form prescribed by the State 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 a license, it shall so order.

- (B) **Comprehensive Investigation**. If the Council determines that a comprehensive background and financial investigation of an applicant is required at any time, it may conduct the investigation itself or contract with the State. 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 with the cost which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable in advance by the applicant and is payable whether or not the license is subsequently granted.
- (C) **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. Opportunity shall be given to any person to be heard for or against the granting of a license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, has been approved by the City Council.
- (7) **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 grounds for revocation of the license.
- (8) **Ineligibility for License**.
- (A) **Prohibitions**. No license shall be granted for any place or business, and/or to any person, 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.
- (B) **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 unpaid and delinquent.

- (C) **Distance from School of Church.** No license shall be granted for premises within 500 feet of any school or within 100 feet of any church.
- (9) **Conditions of License.**
- (A) **In General.** Every license is subject to the conditions set forth in this section and all other applicable ordinances, laws and regulations.
- (B) **Financial Responsibility.** Compliance with financial responsibility requirements of state law and of this section is a continuing condition of any license granted pursuant to this section.
- (C) **Licensee Responsibility.** Every licensee is responsible for the conduct of its place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this section and all other applicable law equally with the employee.
- (D) **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 without a warrant.
- (E) **Display During Prohibited Hours.** No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (F) **Federal Stamps.** No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.
- (10) **Restrictions on Purchase and Consumption.**
- (A) **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 State under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.
- (B) **Consumption in public places.** No person shall consume alcohol on a public highway or roadway. No person shall consume alcohol in a public place or public park except at an event organized by the City of Minnetonka Beach or by the Minnetonka Beach Civic

Committee where a permit has been issued, and as outlined in city policies and procedures.

(11) **Suspension and Revocation.**

(A) **In General.** The Council may either suspend for a period not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor. 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 15.0418 to 15.0426.

(B) **In Cases of Failure of Financial Responsibility.** Lapse of required 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 City Council. Notice of cancellation or 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 receive 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 City Clerk, a hearing shall be granted within ten (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 section have again been met.

(12) **Penalty.** Any person violating any provision of Section 401 is guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment up to the maximum extent permissible by law, plus the cost of prosecution in any case.