

**CHAPTER IX.**

**SALE, CONSUMPTION AND DISPLAY OF**

**ALCOHOLIC BEVERAGES**

*Chapter replaced in its entirety  
Ordinance 2011-02  
Approved September 13, 2011*

**Section 900.00 ADOPTION OF STATE LAW BY REFERENCE**

The provisions of Minn. Stat. Ch. 340A, as they may be amended from time to time, are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the city council that all future amendments to Minn. Stat. Ch. 340A are adopted.

**Section 901.00. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW**

The city council is authorized by the provisions of Minn. Stat. §340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the possession, sale and consumption of alcoholic beverages within its limits beyond those contained in Minn. Stat. Ch. 340A, and as amended

**Section 902.00 DEFINITIONS**

Unless the context clearly indicates otherwise, the words, combination of words, terms and phrases used in this article shall have the meanings set forth in Minn. Stat. Ch. 340A.101 and in this section.

In addition to the definitions in Minn. Stat §340A.101, and as amended, the following terms are defined for purposes of this article:

“Liquor”, as used in this article, without modification by the words “intoxicating” or “3.2 percent malt” includes both intoxicating liquor and 3.2 percent malt liquor.

“Interest” includes any pecuniary interest in the ownership (of ten percent or greater), operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the license.

### **Section 903.00. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

**Subd. 1.** The City Council finds it be in the best interests of the public health, safety and general welfare of the people of this city that certain types of activities are prohibited as provided in this section upon the premises of licensed liquor, wine and 3.2 malt liquor establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The Council also finds that the standard set forth in this section reflect the prevailing community standards of the city. The provisions of this section are intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The Council also intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conducts, including prostitution, sexual assault and disorderly conduct.

**Subd. 2.** It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a non-transparent material.

**Subd. 3.** A violation of this section is a misdemeanor and is justification for revocation or suspension of any liquor, wine or 3.2 malt beverage license.

### **Section 904.00 CONSUMPTION IN PUBLIC PLACES**

No person shall consume intoxicating liquor, wine or 3.2 percent malt liquor on any public street, sidewalk, parking lot or alley, unless the City Council has authorized such consumption in a designated area in advance by Council resolution.

## **Section 905:00 LICENSE REQUIRED**

**Subd.1.** It is unlawful for any person directly or indirectly, on any pretense or by any device, to manufacture, import, sell, exchange, barter, dispose or keep for sale any intoxicating liquor, wine, or 3.2 percent malt liquor as part of a commercial transaction, whether directly or indirectly, without first having obtained a license therefor.

**Subd. 2.** The number of “On-Sale” licenses shall be limited to the number allowed under Minn. Stat. §340A.413, as amended. The Council is not required to issue the full number of licenses that is available.

## **Section 906:00 TYPES OF LIQUOR LICENSES**

**Subd. 1.** Liquor licenses shall be of the following categories:

- (a) On-sale intoxicating liquor, which may be issued only to restaurants, hotels, bowling centers, clubs and exclusive liquor stores and shall permit the sale and consumption of alcoholic beverages on the license premises only. Club licenses may be issued only with the approval of the commissioner of public safety.
- (b) On-sale wine licenses, with the approval of the commissioner of public safety to: to restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minn. Stat. §340A.404, subd.5, as it may be amended from time to time; to licensed bed and breakfast facilities which meet the criteria of §340A.401, subd.1; and to theaters which meet the criteria of §340A.404(b). The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with the content over 3.2 percent (strong beer) without an additional license.
- (c) Sunday on-sale intoxicating liquor licenses, which may be issued only to a restaurant, bowling center, club or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license and which serves liquor only in conjunction with the service of food. (*Ord. 2015-01*)

- (d) On-sale 3.2 percent malt liquor license, which may be issued only to golf course, restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- (e) Off-sale intoxicating liquor.
- (f) Off-sale 3.2 percent malt liquor license.
- (g) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days and the city shall issue no more than 12 days worth of temporary licenses to any one organization in any calendar year.
- (h) Combination on-sale/off-sale intoxicating liquor licenses.

## **Section 907:00 APPLICATIONS FOR LICENSE**

**Subd. 1.** Every application for a license issued under this chapter, new or renewal shall be on a form and request information of the Applicant as determined by the city council. Such application form shall be completed by the applicant to the satisfaction of the city. If the application form is not completed to the satisfaction of the city, the form and the application fee shall be returned by the city to the applicant. Every application shall state the name of the applicant, the applicant's date of birth, driver's license number or other government approved identification (subject to review and approval of the city), with references as the city may require, the type of license applied for the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is the owner and operator of the business, who will manage the business, how long the applicant has been in that business at that place, and any other information as the city may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the commissioner of public safety and shall also contain the information required by this section. The form shall be verified and filed with the city clerk. No person shall make a false statement in an application.

**Subd. 2. Proof of Financial Responsibility.** Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as required by Minn. Stat. §340A.409 with regard to liability under §340A.801. Such proof shall be approved by the City Council and filed with the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minn. Stat. §340A.409. Operation of a business which is required to be licensed by this ordinance without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

**Subd. 3. Description of Premises.** The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk, except as provided in section 914:00 of this ordinance.

## **Section 908:00 LICENSE FEES**

**Subd. 1. Fee.** The annual fee for all licenses shall be established by city council resolution.

**Subd. 2. Time of Payment.** All license fees shall be paid in full prior to issuance of the license.

**Subd. 3. Term: Pro Rata Fee.** All license fees shall expire on the last day of June 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-rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

**Subd 4. Refunds.** Pro rata refunds of license fees shall be permitted as authorized by Minn. Stat. §340A.408, subd.5, except that no part of the investigation fee is refundable.

**Subd. 5. Failure to Pay.** Failure to pay any required license fee automatically terminates the license and it may only be reinstated after a hearing before the council.

**Subd. 6. Changes in Fee.** Any change of a license fee shall take effect immediately for new licenses, but for renewal licenses, the fee shall take effect at the expiration of the current license year in which the new fee was approved.

## **Section 909:00 INVESTIGATION**

**Subd. 1.** On an initial application for a license, on an application for transfer of a license, and in the discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the City shall conduct a preliminary background and financial investigation of the applicant. The application shall be referred to the chief of police for investigation of each individual, or person having any interest in the license and results shall be reported to the city council. The chief of police shall verify the facts stated in the application, and shall report all convicted violations of state or federal law or municipal ordinances involving the applicant, interested person, or the licensed premises while under the applicant's proprietorship. The scope of the investigation and of the investigation report shall be within the discretion of the chief of police. The chief of police may report suspected civil or criminal law violations only if a verified complaint, indictment or tab charge has been filed in a state or federal court. If the City Council determines, in its discretion, that the results of the preliminary investigation warrant a comprehensive background investigation, the chief of police may conduct such an investigation or the City may contract with the Commissioner of Public Safety for the investigation.

**Subd 2.** Each application for a new license or renewal of a previously issued license shall be investigated as is deemed necessary by the building official to establish that the business operation and structure to be licensed is in full compliance with all building and fire codes, laws and regulations of the state and the City. No license shall be issued until the proposed operation and premises is found to be in full compliance with such building and fire codes, laws and regulations.

**Subd. 3. Investigation Fee.** All applicants shall be charged for the cost of investigation of an application. The investigation fee shall be charged per license application, not number of applicants. The applicant shall pay with the application an investigation fee in addition to any license fee. The investigation fee shall be set by council resolution in accordance with Minn. Stat. § 340A.412, as amended.

## **Section 910:00 CORPORATE LICENSES**

Licenses may be issued to corporations as the licensee, but only if the corporation is incorporated within the State of Minnesota. It is a condition of every license issued to a corporation that the city clerk promptly be furnished with a correct list of all stockholders of the corporation and the number of shares held by each, either individually or beneficially for others. It is the continuing duty of each corporate licensee to notify the city clerk promptly of any change in ownership or beneficial interest of such shares. Any change of ownership or beneficial interest of the shares of stock entitled to be voted at any meeting of the stockholders of the corporation which results in a change of voting control shall be deemed equivalent to a transfer of the license issued to the corporation, and such license issued shall be revoked and terminated 30 days after any such change in ownership or beneficial interest unless the city clerk shall have been notified of such change in writing and the city council approved the transfer, The city clerk may at any reasonable time examine the stock transfer records and minutes of any corporate licensee, and the city council may cancel and terminate any license issued to a corporation upon determination that any change of ownership of stock has resulted in a change of control of such corporation so as to materially affect the integrity and character of its management and its operations of any licensed premises. However, no action may be taken against any corporate licensee until after a hearing conducted by the city council on 30 days' written notice to the licensee.

## **Section 911:00 GRANTING LICENSE**

**Subd. 1. Persons and Places Ineligible.** No license shall be granted to or held by any person, or issued for any place or business that is ineligible for such a license under state law. The city council shall not grant a license until the premises at issue has received a certificate of occupancy.

**Subd. 2. Hearing.** No license shall be granted until a public hearing shall have been conducted by the council at least ten days after published notice in the official newspaper, unless such license shall be a renewal of a license previously granted at the same location to the same licensee. The city council shall give an opportunity at a regular or special meeting of the council to any person to be heard for or against the granting of a license.

**Subd. 3. Council Discretion.** The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this ordinance.

### **Section 912:00 TRANSFER OF INTOXICATING LIQUOR OR WINE LICENSE**

**Subd. 1.** 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, as provided in §909:00. In all cases where the approval of the council is required, a new application, new investigation, new license fee and a new processing pursuant to this Chapter is required. The failure to obtain prior council approval or to produce books or other records in compliance with this Chapter is grounds for immediate revocation of the license.

### **Section 913:00 TRANSFER OF 3.2 PERCENT MALT LIQUOR LICENSE.**

A 3.2 percent malt liquor license is nontransferable with regard to the licensee or location of premises licensed.

### **Section 914:00 RESTRICTIONS ON LICENSE**

**Subd. 1.** Each license shall be issued only to the applicant for the premises described in the initial application.

(a) Temporary Expansion of Licensed Premises. A licensee may apply to the city for a temporary expansion of the licensed premises for the sale and consumption of alcoholic beverages, including on sidewalks and parking lots. The temporary expanded premises must be directly adjacent and contiguous to the permanently licensed premises. The Council in its discretion may grant or deny permission for the temporary expansion, and impose such conditions as it deems necessary or advisable to protect the public health, safety and welfare. Authorization for the temporary expansion shall be by council resolution.

**Subd. 2.** No license shall be granted for operation on any premise on which taxes, assessment or other claims of the City are delinquent and unpaid.



## **Section 915:00 CONDITIONS OF LICENSE**

**Subd. 1.** Any license granted under this Chapter is subject to the following conditions, any and all conditions imposed by the city council at the time of issuance or renewal, all other conditions of this chapter and all other applicable ordinances of the City, and all regulations promulgated by the commissioner of public safety and statutes of the State of Minnesota.

**Subd. 2.** Each licensee is responsible for the conduct of their place of business and the conditions of sobriety and order therein.

**Subd. 3.** Any peace officer, health officer, 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.

## **Section 916:00 HOURS AND DAYS OF SALE**

**Subd. 1.** The hours and days of sale shall be those established by Minn. Stat. §340A.504, as amended.

**Subd. 2.** No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor, wine or 3.2 percent malt liquor in an on-sale licensed, premises more than 30 minutes after the time when a sale can legally occur.

**Subd. 3.** No on-sale licensee shall permit any glass, bottle, or other container of intoxicating liquor, wine or 3.2 percent malt liquor upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

**Subd. 4.** No person, other than the licensee and any employee, shall remain on the on-sale premises more than 30 minutes after the time when a sale can legally occur.

**Subd. 5.** Any violation of any condition of this section shall be grounds for revocation, suspension or nonrenewal of the license.

## **Section 917:00 SALE AND POSSESSION OF INTOXICATING LIQUOR, WINE AND 3.2 PERCENT MALT LIQUOR AT COMMUNITY FESTIVALS**

Any licensee authorized to sell intoxicating liquor, wine and/or 3.2 percent malt beverage may also dispense such alcoholic beverages off the licensed premises at a Community Festival held within the City of Loretto, if approved in advance by Resolution of the City Council. The authorization must specify the area in which the alcoholic beverages must be dispensed and consumed, and shall not be issued unless the licensee demonstrates that it has liability insurance that covers the event, as prescribed by Minn. Stat. § 340A.409, as amended.

## **Section 918:00 SUSPENSION AND REVOCATION.**

The City Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to liquor. Neither the charging of a criminal violation nor a criminal conviction is required in order for the council to suspend or revoke a license. Except in cases of lapse of proof 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 14.70 of the Administrative Procedures Act, as amended. The council may act as the hearing body, or it may contract with the Minnesota Office of Administrative Hearings or other appropriate agency for a hearing officer.

Lapse of required insurance or bond, or withdrawal of required deposit of cash or securities, shall affect an immediate suspension of any license pursuant to this ordinance without any 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 to 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 ten 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 requirement of this ordinance has again been met.

## **Section 919:00 PENALTIES**

1. Any person violating any provision of this ordinance or Minn. Stat. Chapter 340A, as amended, shall be guilty of a misdemeanor and upon conviction shall be punished criminally as provided by law.

2. The council shall impose a civil penalty not to exceed \$2,000.00, for each violation of this ordinance and Minn. Stat. Ch. 340A. These civil penalties shall be in addition to any criminal penalties imposed under this section or any suspension or revocation under section 918:00. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. Non-payment of the penalty is grounds for suspension or revocation of the license. No civil penalty shall be imposed until the City Council has held a hearing on the proposed violation and penalty and the licensee and interested parties have been provided with an opportunity to be heard.