

CHAPTER 91. LIQUOR REGULATIONS

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GENERAL PROVISIONS

§ 91.01 MINORS.

In addition to the regulations set forth in §§ 91.15 *et seq.* and 91.40 *et seq.*, the requirements of M.S. § 340A.503, as it may be amended from time to time, are hereby adopted and made a part of this code as if set forth here in full. It shall be a violation of this chapter for any person to violate any of the provisions of this statute.

(Prior Code, § 420.01) Penalty, see § 91.99

§ 91.02 GAMBLING.

No licensee under this chapter shall operate or allow to be operated any gambling operation, or allow any gambling devices on the licensed premises except as permitted by state law.

(Prior Code, § 420.02) Penalty, see § 91.99

§ 91.03 NUDITY.

(A) *Purpose.* The City Council has determined that it shall be in the best interest of the public health, safety and welfare of the people of the city that certain types of activities as set forth in this section shall be prohibited upon any premise licensed under this chapter so as to best protect and assist the owners, operators and employees of the licensed premise as well as the patrons and the public as a whole. The Council has also determined that this section reflects the prevailing community standards of the city. This section shall be intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. This section shall also be intended to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault and disorderly conduct.

(B) *Prohibited acts.* It shall be unlawful for any license holder under this chapter, employee, patron or other person to be on any premises licensed under this chapter without having his or her buttocks, anus, breasts and genitals covered by a nontransparent material. It shall also be unlawful for any license holder under this chapter to allow any person to be on the licensed premise unless the person's buttocks, anus, breasts and genitals are covered by a non-transparent material.

(Prior Code, § 420.03) Penalty, see § 91.99

§ 91.04 REMAINING ON PREMISES AFTER HOURS.

(A) *General.* It shall be unlawful for any person other than the person licensed under this chapter, and any employee of the licensee in the performance of his or her employment, to be or remain on any premises licensed for on-sale under this chapter after 1/2 hour following the time of the last legal on-sale of an alcoholic beverage under this chapter.

(B) *Exceptions.* The provisions of division (A) above shall not apply to customers in a restaurant where food is served following the end of the sale of alcoholic beverages provided the consumption of alcoholic beverages ceases and all alcoholic beverages are removed from the area where food is being served within 1/2 hour following the time of the last legal sale of alcoholic beverages under this chapter. Likewise, the provisions of division (A) above shall not apply to bowling alleys open after the time for the legal sale of alcoholic beverages are removed from the area in which bowling and its incidentally related activities occur within 1/2 hour following the time of the last legal sale of alcoholic beverages under this chapter.

(Prior Code, § 420.04) Penalty, see § 91.99

INTOXICATING LIQUOR**§ 91.15 PROVISIONS OF STATE LAW ADOPTED.**

The provisions of M.S. Chapter 340A, as it may be amended from time to time, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on-sales, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor shall be hereby adopted and made a part of this chapter as if fully set out in this section.

(Prior Code, § 400.01)

§ 91.16 LICENSE.

(A) *Required.* No person, except wholesalers or manufactures to the extent authorized under state license, shall directly or indirectly deal in, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this section. Licenses shall be of 4 kinds: "on-sale," "off-sale," "club licenses" and "Sunday sale."

(B) *On-sale.* On-sale licenses shall permit the sale of liquor for consumption on the licensed premise only.

(C) *Off-sale.* Off-sale licenses shall permit the sale of liquor in its original packaging or container for the purpose of consumption of off the licensed premises.

(D) *Clubs.* Special licenses shall be issued only to duly incorporated clubs which have been in existence for at least 3 years.

(E) *Sunday sales.* Sunday sale licenses shall be granted only to hotels or restaurants as the same shall be defined in M.S. Chapter 340A, as it may be amended from time to time, which hotels or restaurants have facilities for serving not less than 30 guests at one time. The Sunday sale licenses shall permit the sale and consumption of intoxicating liquors on the licensed premises only and between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays in conjunction with the serving of food, but no liquor shall be served on Sundays other than to persons who are seated at tables in those types of hotels or restaurants which qualify for the Sunday sale license as provided in this section
(Prior Code, § 400.02) Penalty, see § 91.99

§ 91.17 APPLICATION FOR LICENSE.

Every application for a license to sell liquor shall be verified and filed with the Administrator-Clerk. It shall state the name of the applicant, his or her age, representations as to his or her character with reference as may be required, his or her citizenship, whether the application is for on-sale, off-sale, clubs or Sunday sales, the business in connection with which the proposed license shall operate and its location, whether applicant is owner and operator of the business, how long he or she has been in that business at that place, and any other information as the Council may require from time to time. In addition to containing this information, each application for a license shall be in the form prescribed by the Department of Public Safety. No person shall make a false statement in an application.
(Prior Code, § 400.03) Penalty, see § 91.99

§ 91.18 FEES.

(A) *Fees required.* Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. In addition, the applicant shall pay in full an investigation fee as set from time to time by the Council. A separate investigation fee shall be required if there is a change in ownership control of a corporation or partnership licensed under this chapter. All fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license, the Treasurer shall refund the amount paid for the application, but any inspection fee paid shall not be refundable.

(B) *Pro-rating.* All licenses shall expire on the last day of June of each year. Each license shall be issued for a period of 1 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 the license fee, any unexpired fraction of a month shall be counted as 1 month.

(C) *Fees established.* The annual fee for any license issued under this chapter shall be as set from time to time by the Council. The fee for any investigation required under this chapter shall be as set from time to time by the Council, but shall not exceed the maximum charges authorized under M.S. § 340A.412, as it may be amended from time to time.

(D) *Refunds.* No refund of any fee shall be permitted except as authorized under Minnesota Statutes.
(Prior Code, § 400.04)

§ 91.19 GRANTING OF LICENSES.

(A) *Investigation and hearings.* The City Council shall investigate all facts set out in the applications. A copy of the application shall be referred to the designated law enforcement agency. The law enforcement agency or its designee shall conduct any background investigation required by law and shall provide the Council with a report of its findings and recommendation as to the approval or denial of the application. Opportunities shall be given to any person to be heard for or against the granting of a license. After the investigation and hearing, the City Council shall grant or refuse the application based upon consideration of all the information presented. No off-sale license shall become effective until it has been approved by the Department of Public Safety.

(B) *Transfers.* Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license may be transferred to another person or to another place without the approval of the City Council. In the case of a corporate license, any change in ownership or control as set forth in M.S. Chapter 340A, as it may be amended from time to time, shall constitute a transfer.
(Prior Code, § 400.05) Penalty, see § 91.99

§ 91.20 PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person made ineligible for a license by state law.
(Prior Code, § 400.06) Penalty, see § 91.99

§ 91.21 PLACES INELIGIBLE FOR LICENSE.

(A) *State law.* No license shall be issued for any place or for any business ineligible for a license under state law.

(B) *Continuous operation.* No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for 6 months.

(C) *Delinquent taxes.* 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.

(D) *Location.* No license shall be granted within 300 feet of any school or within 300 feet of any church.

(Prior Code, § 400.07) Penalty, see § 91.99

§ 91.22 CONDITIONS OF LICENSE.

(A) *Compliance.* Every license shall be granted subject to the conditions of the following divisions and all other provisions of this chapter and of any other applicable ordinance of the city or state law.

(B) *Responsibility.* Every licensee shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order in it.

(C) *Credit.* No sale of liquor shall be made to anyone on credit.

(D) *Inspections.* Any police 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.

(Prior Code, § 400.08) Penalty, see § 91.99

§ 91.23 HOURS OF OPERATION.

(A) *On-sale.* No sale of intoxicating liquor for consumption on the premises shall be made:

- (1) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (2) After 1:00 a.m. on Sundays, except as provided by § 91.16 (E); or
- (3) An on-sale licensee shall comply with the provisions set forth in § 91.16 (E).

(B) *Off-sales.* No sale of intoxicating liquor for consumption off the premises shall be made:

- (1) Before 11:00 a.m. or after 6:00 p.m. on Sundays;
- (2) Before 8:00 a.m. on Monday through Saturday;
- (3) After 10:00 p.m. on Monday through Saturday.
- (4) On Thanksgiving Day;

(5) On Christmas Day, December 25; or

(6) After 8:00 p.m. on Christmas Eve, December 24.

(Prior Code, § 400.09) Penalty, see § 91.99

§ 91.24 RESTRICTIONS ON PURCHASE AND CONSUMPTION.

(A) *Minors.* No minor shall misrepresent his or her age for the purpose of obtaining intoxicating liquor. No person shall induce a minor to purchase or procure liquor, or purchase liquor on behalf of a minor.

(B) *Public place.* No person shall mix or prepare liquor for consumption in any public place or place of business not licensed to sell on-sale and no person shall consume liquor in any such place.

(C) *Highways.* No liquor shall be sold or consumed on a public highway or in an automobile.

(Prior Code, § 400.10) Penalty, see § 91.99

§ 91.25 SUSPENSION AND REVOCATION.

The Council may suspend or revoke any liquor license for violation of any provision or condition of this chapter or any state law regulating the sale of intoxicating liquor and shall revoke the license if the licensee willfully violates any provision of M.S. Chapter 340A, as it may be amended from time to time. Except in the case of a suspension by the Council, revocation shall be preceded by written notice to the grantee and a public hearing. The notice shall give at least 10-days' notice of the time and place of the hearing and shall state the nature of the charge against the licensee. The Council may, without any advance notice, suspend any license pending a hearing on revocation for a period of not exceeding 30 days.

(Prior Code, § 400.11) Penalty, see § 91.99

3.2% MALT LIQUOR

§ 91.40 LICENSE REQUIRED.

(A) *Generally.* It shall be unlawful to sell 3.2% malt liquors at wholesale or retail except when licensed as provided in this subchapter. There shall be 2 types of licenses issued for the sale of 3.2% malt liquors, as set out in this section.

(B) *On-sale.* On-sale licenses shall permit the licensee to sell 3.2% malt liquors for consumption on the premises. On-sale licenses shall be granted only to restaurants, hotels, drug stores and bona fide clubs.

(C) *Off-sale.* Off-sale licenses shall permit the licensee to sell 3.2% malt liquors in the original package for consumption off the premises only.
(Prior Code, § 410.01)

§ 91.41 APPLICATION.

Any person desiring either of the licenses described in this subchapter shall first make application for the license to the City Council by filing with the Administrator-Clerk for presentation by him or her to the Council a formal application in writing, which application shall set forth the applicant's name, residence, the location at which he or she proposes selling the 3.2% malt liquors, and together with any other information as the Council may require.
(Prior Code, § 410.02) Penalty, see § 91.99

§ 91.42 FEE.

At the time of filing the application, the licensee shall deposit with the Administrator-Clerk of the city of the annual license fee required for the type of license applied for as set from time to time by the Council by ordinance. No license shall be issued until the fee for the license shall have been paid. Licenses provided for in this section expire July 31 of each year, but if issued after the first of August, the license fee therefore may, at the option of the Council, be pro-rated on a quarterly basis.
(Prior Code, § 410.03) Penalty, see § 91.99

§ 91.43 PERSONS ELIGIBLE.

Licenses shall be issued only to persons who are citizens of the United States who are of good moral character and repute and who meet the requirements of state law.
(Prior Code, § 410.04) Penalty, see § 91.99

§ 91.44 INSPECTION.

The applicant shall at all times permit the health officers and representatives of the city to inspect and examine the place of business described in the application, together with all appliances, instruments or equipment used or to be used in the conduct of the business for which the license is sought; and for any refusal on the part of the applicant to permit any inspection or any false statement in the application shall, at reasonable times, be sufficient ground for the refusal to issue the license or to revoke the license after issuance has been made. The applicant shall at all times during an emergency permit such inspection. (Prior Code, § 410.05) Penalty, see § 91.99

§ 91.45 UNLAWFUL SALES AND CONSUMPTION.

(A) *Generally.* It shall be unlawful to sell 3.2% malt liquors to a minor as defined by state law.

(B) *Minors.* No minor shall misrepresent his or her age for the purpose of obtaining intoxicating liquor. No person shall induce a minor to purchase or procure liquor or purchase liquor on behalf of a minor.

(C) *Public place.* No person shall mix or prepare liquor for consumption in any public place or place of business not licensed to sell on-sale and no person shall consume liquor in any such place.

(D) *Highways.* No liquor shall be sold or consumed on a public highway or in an automobile. (Prior Code, § 410.06) Penalty, see § 91.99

§ 91.46 RESPONSIBILITY.

A sale made by any employee of the applicant or any person in charge of the premises shall be deemed the act of the applicant as fully as if made by himself or herself. (Prior Code, § 410.07)

§ 91.47 TRANSFERS.

No license issued hereunder shall be transferable. (Prior Code, § 410.08) Penalty, see § 91.99

§ 91.48 OTHER LICENSES.

All license holders hereunder, except bona fide clubs, shall also hold a hotel, restaurant or food-stuff license. (Prior Code, § 410.09)

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§ 91.49 INTOXICATING LIQUOR.

No license hereunder shall permit the practice of adding any alcohols, whisky, moonshine or other intoxicating liquor to the 3.2% malt liquors sold or consumed in his or her place of business, and if the intoxicating liquor is added to the 3.2% malt liquor in the premises it shall be deemed to have been done with the knowledge, acquiescence and consent of the licensee. (Prior Code, § 410.10) Penalty, see § 91.99

§ 91.50 HOURS.

No sale of 3.2% malt liquors shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 p.m., nor between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday inclusive. (Prior Code, § 410.11) Penalty, see § 91.99

§ 91.51 SUSPENSION AND REVOCATION.

(A) The Council may suspend or revoke any liquor license for violation of any provision or condition of this chapter or any state law regulating the sale of intoxicating liquor and shall revoke the license if the licensee willfully violates any provision of M.S. Chapter 340A, as it may be amended from time to time.

(B) Except in the case of a suspension by the Council, revocation shall be preceded by written notice to the grantee and a public hearing. The notice shall give at least 10-days' notice of the time and place of the hearing and shall state the nature of the charge against the licensee. The Council may, without any advance notice, suspend any license pending a hearing on revocation for a period of not exceeding 30 days. (Prior Code, § 410.13) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Intoxicating liquor.* Any person violating the provisions of §§ 91.15 *et seq.* shall be guilty of a misdemeanor, punishable by a fine not exceeding \$1,000 or by imprisonment for a period of not exceeding 90 days, or both, and in either case the costs of prosecution may be added. (Prior Code, § 400.12)

(C) *3.2% malt liquor.* Any person violating the provisions of §§ 91.40 *et seq.* shall be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment for a period not exceeding 90 days, or both, and in either case the costs of prosecution may be added. (Prior Code, § 410.12)