

Chapter 4

ALCOHOLIC BEVERAGES*

* **State Law References:** Alcoholic beverages, Minn. Stats. ch. 340A; local restrictions on sale of alcohol, Minn. Stats. § 340A.509.

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ARTICLE I.

IN GENERAL

Sec. 4-1. Definitions.

All terms used in this chapter shall have the meanings prescribed by Minn. Stats. ch. 340A unless specifically indicated otherwise.
(Ord. No. 1997-76, § 2, 4-1-1997)

Sec. 4-2. Provisions of state law adopted.

The provisions of Minn. Stats. ch. 340A, relating to the definitions of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all matters pertaining to the retail sale, distribution, and

consumption of intoxicating liquor and nonintoxicating malt liquor are adopted and made a part of this chapter as if set out in full.

(Ord. No. 1997-76, § 1, 4-1-1997)

Sec. 4-3. Restrictions on purchase and consumption.

(a) *Intoxicating liquor or 3.2 percent malt liquor on unlicensed places.* No person shall mix or prepare intoxicating liquor for sale in any public place of business unless it has a license to sell intoxicating liquor on-sale or a consumption and display permit from the commissioner of public safety, and no person shall consume intoxicating liquor or 3.2 percent malt liquor in such a place.

(b) *Consumption in public places.* No person shall consume intoxicating liquor or 3.2 percent malt liquor on a public highway, public park, or other public space, or on the premises of an off-sale license holder, without the written consent of the city council.

(Ord. No. 1997-76, § 11, 4-1-1997)

State Law References: Consumption and display permits, Minn. Stats. § 340A.414; alcohol and underage persons, Minn. Stats. § 340A.503.

Secs. 4-4--4-24. Reserved.

ARTICLE II.

DEALERS

DIVISION 1.

GENERALLY

Secs. 4-25--4-51. Reserved.

DIVISION 2.

LICENSE*

* **State Law References:** Intoxicating liquor and 3.2 percent malt liquor licenses, Minn. Stats. § 340A.401 et seq.

Sec. 4-52. Required.

(a) *General restriction.* 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 or 3.2 percent malt liquor without a license to do so as provided in this division. Intoxicating liquor and 3.2 percent malt liquor licenses shall be of nine kinds:

- (1) On-sale intoxicating liquor.
- (2) Club on-sale.

- (3) On-sale Sunday.
- (4) One-day permit.
- (5) On-sale wine.
- (6) Consumption and display.
- (7) On-sale 3.2 percent malt liquor.
- (8) Off-sale 3.2 percent malt liquor.
- (9) Off-sale intoxicating liquor.

(b) *Consumption and display licenses.* A consumption and display license shall be considered the approval of a consumption and display permit by the council under law.

(c) *On-sale Sunday licenses.* A special on-sale license for the sale of intoxicating liquor on Sundays may be issued only to a restaurant having a seating capacity for at least 30 persons holding a regular on-sale license.

(d) *On-sale 3.2 percent malt liquor.* On-sale 3.2 percent malt liquor licenses shall only be granted to clubs, 3.2 percent malt liquor stores, drugstores, restaurants, hotels, and bowling centers where food is prepared and served for consumption on the premises.

(e) *Off-sale 3.2 percent malt liquor.* Off-sale 3.2 percent malt liquor licenses shall only permit the sale of 3.2 percent malt liquor at retail, in the original package for consumption off the premises of the licensee. Off-sale 3.2 percent malt liquor licenses shall only be granted to grocery stores, convenience stores selling food and drink for consumption off the premises, and persons holding on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses for use on the same premises as their on-sale license.
(Ord. No. 1997-76, § 3, 4-1-1997)

State Law References: On-sale intoxicating liquor licenses, Minn. Stats. § 340A.403; off-sale intoxicating liquor licenses, Minn. Stats. § 340A.405; 3.2 percent malt liquor licenses, Minn. Stats. § 340A.403; local approval of sale and consumption permits, Minn. Stats. § 340A.414, subd. 6.

Sec. 4-53. Application.

(a) *Form.* Every application for license to sell intoxicating liquor or 3.2 percent malt liquor shall be in the form prescribed by the city and include the name of the applicant, his age, representations as to the applicant's character (with such references as the council may require), citizenship, the type of license applied for, the business or organization in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long the business has been at that location, and such other reasonable and/or necessary 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 Minn. Stats. § 340A.802 during the preceding year.

(b) *Accuracy of application.* No person shall knowingly make a false or misleading statement on any application for an intoxicating liquor or 3.2 percent malt liquor license, or in any proceeding regarding the issuing of an intoxicating liquor, 3.2 percent malt liquor or wine license.

(Ord. No. 1997-76, § 4, 4-1-1997)

Sec. 4-54. Fees.

(a) *Established.* The fees for licenses issued under this division shall be as established by ordinance.

(b) *Payment.* Each application for a license shall be accompanied by a receipt from the city for payment in full of the license fee and the fixed investigation fee under section 4-55, if any. All fees shall be paid into the general fund. If any application for a license is rejected, the city shall refund the amount paid as the license fee.

(c) *License terms and pro rata fees.* Each license, except one-day permits, shall be issued for a period of one year. If an application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee. Such pro rata fee is to be determined on the number of months remaining in the year, with each unexpired fraction of a month being counted as one month. Every license shall expire on December 31 of each year.

(d) *Refunds.* Refunds of license fees shall be made only if:

- (1) The business ceases to operate because of destruction or damage not caused by the unlawful actions of the licensee, and such damage made the business unusable;
- (2) The licensee dies; or
- (3) The business loses its lawful authority to operate due to an act of legislature or local option election.

The refund shall be based on a pro rata basis determined by the number of months remaining until the end of the license year, with any fraction of a month remaining not being credited as part of the refund. Refunds shall be made only after the business ceases to operate.

(Ord. No. 1997-76, § 6, 4-1-1997)

State Law References: License fees, Minn. Stats. § 340A.408.

Sec. 4-55. Granting procedure.

(a) *New licenses; investigation fee.* On an initial application for an on-sale intoxicating liquor or off-sale intoxicating liquor license and on application for transfer of an existing on-sale or off-sale intoxicating liquor license, the applicant shall pay with his application an investigation fee in the amount established by ordinance.

(b) *Renewals.* Applications for renewal of a license issued in accordance with this division shall be the same, in form and procedure, as an initial application, except an initial investigation fee shall only be charged only if the council determines that such an investigation is warranted.

(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 conducted pursuant to subsection (a) of this section. Opportunity shall be given to any person to be heard for and against the granting of the license. After investigation and hearing, the council shall, at its discretion, grant or refuse the application.

(d) *Assignability and transferability.* 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 license is deemed a transfer of the license, and transfer of stock without prior council approval is a ground for revocation of the license. In case a licensee dies, his personal representative may continue operation of the business within the terms of the license for a period not to exceed 90 days.

(Ord. No. 1997-76, § 7, 4-1-1997)

State Law References: Persons eligible for licenses, Minn. Stats. § 340.402; limitations on issuance of intoxicating liquor licenses, Minn. Stats. § 340A.412; restrictions on number of intoxicating liquor licenses, Minn. Stats. § 340A.413.

Sec. 4-56. Ineligible places.

No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent or unpaid.

(Ord. No. 1997-76, § 9, 4-1-1997)

Sec. 4-57. Conditions.

(a) *Generally.* Every license is subject to the conditions specified in this division and of any other applicable ordinance, state law or regulation.

(b) *Closing hours.* Every holder of any on-sale license shall cause the premises to be vacated of all persons except the owner or manager within one hour after the licensed premises closes. All intoxicating liquor or 3.2 percent malt liquor shall be stored out of public view after closing time. No licensee shall give or sell intoxicating liquor or 3.2 percent malt liquor to any employee while such employee is working on the premises. All customers or persons not employed by a licensee shall vacate the premises within one-half hour after the established closing time.

(c) *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.

(d) *Display.* No establishment shall display intoxicating liquor to the public during hours when the sale of intoxicating liquor is prohibited.

(e) *Employment of minors.* No person under the age of 18 years shall be employed on the premises of any establishment selling intoxicating liquor or 3.2 percent malt liquor when such beverages are on display and offered for sale. This prohibition shall not apply to restaurants. In no case may a person under 18 years of age offer for sale, mix, or serve intoxicating liquor or 3.2 percent malt liquor in any licensed establishment.

(Ord. No. 1997-76, § 10, 4-1-1997)

State Law References: General conditions of license, Minn. Stats. § 340A.410; responsibility of licensee, Minn. Stats. § 340A.501; days and hours of sale, Minn. Stats. § 340A.504.

Sec. 4-58. Suspension and revocation.

Lapse of required dram shop insurance, any required bond, or withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this division without further action of the city council. Notice of cancellation or lapse of a current intoxicating liquor liability policy or bond, or withdrawal of deposited cash or securities shall constitute notice to the licensee of suspension of 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 request is made in writing to the city clerk, a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this section shall continue until the city council determines the financial responsibility requirements have been met.

(Ord. No. 1997-76, § 12, 4-1-1997)

State Law References: License suspension or revocation, Minn. Stats. § 340A.415.

Secs. 4-59--4-89. Reserved.

DIVISION 3.

SALES TO UNDERAGE PERSONS*

* **State Law References:** Sales to underage persons, Minn. Stats. § 340A.503.

Sec. 4-90. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Licensed establishment means any place of business where alcoholic beverages are available for sale to the general public. Licensed establishments shall include, but not be limited to, bars, restaurants and clubs.

Licensed premises means the premises described in the approved license application, subject to the provision of Minn. Stats. § 340A.410, subd. 7. In the case of a restaurant, club or exclusive liquor store licensed for on-sale of alcohol located on a golf course, the term "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Licensee means any person, individual, firm, corporation, partnership, association, limited liability company, government agency, club or organization of any kind licensed by the city under the authority contained in Minn. Stats. ch. 340A.

Retail means sale for consumption.

Sale means any transfer for money, trade, barter or other consideration.

Underage person means a person under the age of 21 years.
(Ord. No. 2002-92, § 2, 3-12-2002)

Sec. 4-91. Purpose and scope.

(a) *Purpose.* The city recognizes many persons under the age of 21 years attempt to purchase or otherwise obtain, possess and use alcohol. In order to more strictly enforce the prohibitions against the sale of alcohol to underage persons, the council enacts this provision imposing civil penalties on licensees and establishing license suspension and revocation procedures for violations of the prohibitions contained in this division. The prohibitions created and sanctions imposed by this provision are not exclusive and are in addition to any other sanctions available to the city under any other statute, rule or ordinance.

(b) *Scope.* This division applies to any establishment licensed by the city under the authority contained in Minn. Stats. ch. 340A.

(c) *State law adopted.* The provisions of Minn. Stats. § 340A.503 are adopted by reference. (Ord. No. 2002-92, §§ 1, 4, 3-12-2002)

Sec. 4-92. Inspection and compliance checks.

To ensure that alcohol is not sold to underage persons, law enforcement officers or other designated employees or independent contractors of the city shall periodically perform inspections and compliance checks. Additional inspections and compliance checks may be performed as a result of failed inspections or failed compliance checks.

(1) *Inspections.* All licensed premises shall be open to inspection by any law enforcement officer, or other designated officer, employee or contractor of the city, at any time there are persons within the licensed premises. The city shall from time to time perform compliance checks to determine if retailers are in compliance with state statute and local ordinance.

(2) *Compliance checks.* The city shall conduct compliance checks by using underage persons over the age of 16 years to enter the licensed premises to attempt to purchase alcohol. Minors may be used for compliance checks with the written consent of the minor's parent or guardian. Designated law enforcement personnel shall supervise underage persons used for compliance checks. Underage persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of alcohol when such alcohol is obtained or attempted to be obtained as part of the compliance check. No underage person used in the compliance check shall attempt to use a false identification misrepresenting the underage person's age and all underage persons lawfully engaged in a compliance check shall answer all questions about the underage person's age asked by the licensee or his employee and shall produce any identification, if any exists, for which he is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes or required for the enforcement of a particular state or federal law.

(Ord. No. 2002-92, § 5, 3-12-2002)

Sec. 4-93. Enforcement and penalties.

(a) *Enforcement.* Violations of the prescriptions established in this division may be enforced through

criminal and/or civil sanctions. The administrative penalty provisions of this division shall be enforced pursuant to chapter 2, article V.

(b) *Administrative penalties.* The city may issue the following administrative penalties for violations of this division:

- (1) *First violation.* Any licensee found to have violated this division shall be charged an administrative penalty of \$500.00; the sum of \$250.00 will be waived if all employees attend alcohol awareness training within three months of the violation.
- (2) *Second violation.* Any licensee found to have violated this division two times within a 12-month period will be subject to a \$1,000.00 administrative penalty.
- (3) *Third violation.* Any licensee found to have violated this division three times within a 12-month period will be subject to a \$2,000.00 administrative penalty. In addition, a one-day suspension of the liquor license shall be imposed.
- (4) *Fourth violation.* Any licensee found to have violated this division four times within a 12-month period will be subject to a \$2,000.00 administrative penalty. In addition, a ten-day suspension of the liquor license shall be imposed.
- (5) *Fifth violation.* Any licensee found to have violated this division five times within a 12-month period shall have his liquor license revoked.

(c) *Appeal.*

- (1) The licensee shall appeal the imposition of an administrative penalty pursuant to chapter 2, article V.
- (2) A licensee may appeal a suspension or revocation of a license to the city council pursuant to Minn. Stats. §§ 14.57--14.69. No suspension or revocation shall take effect until the time for appeal has run; or, if appeal is brought, until the city council has rendered a decision.

(Ord. No. 2002-92, § 6, 3-12-2002)

Sec. 4-94. Alcohol awareness training.

(a) *Required.* License holders are encouraged to train all employees authorized to serve or sell alcoholic beverages on the licensed premises through an alcohol awareness program approved by the licensing agency or its designee.

(b) *Alcohol awareness checklist.* Every employee authorized to serve or sell alcoholic beverages is encouraged to use an alcohol awareness checklist. Alcohol awareness checklists are available through the city.
(Ord. No. 2002-92, § 7, 3-12-2002)