

## **SECTION 1015 ON SALE WINE LICENSES**

### **1015.01 PROVISIONS OF STATE LAW ADOPTED.**

The provisions of Minnesota Statutes, Chapter 340 relating to the definition of terms, licensing, consumption, sales, conditions of bonds 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 forth fully herein.

### **1015.03 LICENSE REQUIRED.**

It is unlawful for any person to sell wine or keep it for sale without first obtaining either and On Sale Liquor License from the City or a Wine License from the City.

### **1015.05 QUALIFICATIONS OF APPLICANT.**

A license may not be issued to a person other than a citizen of the United States over 21 years of age, who is of good moral character and repute, nor to any person who within five years prior to the application for such license has been convicted of a wilful violation of any law of the United States, or the State of Minnesota, or any local Ordinance, with regard to the manufacture, sale, possession for sale, or distribution of intoxicating liquor, nor to a person whose license under this Section has been revoked for a wilful violation of any such laws or Ordinances. A false material statement made in the application is grounds for revocation of the license.

### **1015.07 LICENSE PROCEDURE.**

Subd. 1. Application. A person desiring a Wine License from the City shall file with the City Clerk a verified written application in the form prescribed by the Liquor Control Commissioner of the State of Minnesota and with other additional information required by the City.

Subd. 2. Partnership; Corporations. A partnership must file with their application a true copy of the partnership agreement. Any change thereof must be reported to the City Clerk within 14 days prior to making such change. A corporation must file with their application a true copy of the articles of incorporation and by-laws of such corporation. Any change in either the articles or the by-laws must be reported to the

City Clerk within 14 days before such change has been adopted by said corporation or filed.

**1015.09.      INVESTIGATION OF LICENSE APPLICATIONS.**

Subd. 1. Duties of Chief of Police. Every new or renewal application for a license to sell intoxicating liquor shall be referred to the Chief of Police for investigation of each individual. Every individual or person having any beneficial interest in the license shall be so investigated. The Chief of Police shall make necessary inquiry and list all violations of Federal and State law or municipal Ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. He/She shall report his/her findings and comments to the Mayor who shall order or conduct such additional investigations as he/she deems necessary or as the Council directs.

Subd. 2. Fees. Every new applicant shall pay to the City Treasurer \$40.00 per individual when more than one individual has a beneficial interest in such license whether a partnership, corporation or a group by whatever arrangement; the \$40.00 per individual to pay for the cost of investigation of each additional individual having a beneficial interest in a retail Wine License regardless of how limited the nature and extent of such interest.

**1015.11      BURDEN OF PROOF.**

Subd. 1. Facts. The applicant or holder of a retail Wine License has the burden of proving to the Council the following:

- A. That each individual having a pecuniary interest or a beneficial interest in the license is a fit person of good character and integrity.
- B. That the person applying for said license or holding the same is in fact the true proprietor thereof and that each individual having any interest in the license has in fact been listed correctly on the application, and the Council has been accurately appraised at least 14 days prior to any change of any and all changes in the person holding the license regardless of whether an individual, partnership, corporation or group by whatever arrangement organized.
- C. That the premises are suitable for the type and kind of license requested.
- D. That the applicant or licensee will be responsible for his/her agents, employees and servants and for the conduct of his/her place of business and for conditions of sobriety and order therein.

- E. That the provisions of this Section and other City Ordinances, State and Federal law shall be complied with.

Subd. 2. Failure to Disclose. In the event that the applicant for a license, or a holder of an existing license shall fail to make full disclosure to the Council, Mayor or Police Chief of any officer of the City so designated by them, fail to promptly produce books, records, leases or subleases or to promptly correct any deficiency in his/her operation or management of the promises as requested, then such refusal or non-compliance may be sufficient grounds of itself for denial of the new license, revocation or suspension of an existing license to refusal to renew and existing license.

**1015.13**            **LICENSE YEAR.**

Pro rata licenses may be issued to new licensees for a partial year. Any period of less than one month that the license is in effect shall be considered and computed as one month for the payment of the pro rata fee. On Sale Wine Licenses expire on the 30th day of June of each year. The Council may in its discretion provide by resolution duly adopted for an increase or decrease in the bond or Wine License fee, or the payment of the Wine License fee in two equal installments payable each six months, on or before December 31 and June 30 of each license year. All existing Liquor Licenses commence on July 1 of each year. Failure to pay any On Sale Wine License or installment automatically terminates the license and may only be reinstated after at least 10 days notice and hearing before the Council. Any change of license fee or change in bond requirements shall take effect immediately for new licenses, but for renewal licenses, at the expiration of the current license year in which the increase or decrease was approved by the Council.

**1015.15**            **TYPES OF LICENSES; FEES.**

On Sale Wine Licenses shall be issued only to restaurants having facilities for seating not fewer than 25 guests at one time. The fee for On Sale Wine Licenses pursuant to this Section are provided in Chapter VIII of this Code. Such license shall authorize the sale of wine as herein provided on all days of the week, including Sunday.

**1015.16**            **OBTAINING A 3.2% MALT LIQUOR LICENSE WITH AN ON SALE WINE LICENSE**

On sale wine license holders whose gross receipts are at least 60% attributable to the sale of food shall be allowed to sell intoxicating malt liquors at on-sale by obtaining an on-sale license to sell 3.2% malt liquors (non-intoxicating malt liquors.)

**1015.17**      **ANNUAL REPORTS.**

Each licensee shall furnish the City Clerk the following information not later than 30 days prior to renewal of each retail Wine License:

- A.      The name or names of all persons owning or having an interest in the licenses business, including their age, occupation, residence and place of business.
- B.      A list of all other liquor businesses by name and address that are located in the State of Minnesota in which such persons listed in paragraph (A.) have an interest, and state the extent of such interest.

**1015.19**      **LICENSE REVOCATION.**

Any license issued to a person not entitled to receive the same under this Section or any law of the State of Minnesota shall be revoked by the Council at any time after 10 days notice and public hearing in accordance with Chapter VIII of the City Code.

**1015.21.**      **CORPORATIONS HOLDING LICENSES.**

Subd. 1. Stock Transfers. Each corporate retail Liquor Licensee shall report within 14 days to the City Clerk prior to each and any proposed change of legal ownership or beneficial interest in any of said corporate shares of stock. The report shall be in writing and shall list all stockholders, their age, occupation, their residence address, the number of shares held by each, whether individually or for the benefit of others. The report shall include all powers of attorney for proxies granted that relate to the voting of the corporate shares of stock. The City shall approve or disapprove each such proposed transfer or assignment.

Subd. 2. Change of Control. Any change in the legal ownership or beneficial interest in the shares of stock which results in a change of ownership or change of control of the corporation is hereby declared to be a transfer of a Wine License which is prescribed by this Section and prior approval of the Council is required. A new application, new investigation, new license fee and a new processing is necessary. Any change of partners shall be deemed to be a new person requiring a new application, new investigation, new license fee and a new processing. The Council shall consider and vote on this matter of the change of ownership or control of the licensee as though an outsider were desiring to take out a new license. The failure to obtain such approval of the Council or to produce books or other records in compliance with this Section shall be grounds for automatic revocation of the corporate Wine License after notice and a public hearing.

Subd. 3. Corporation Books. The Council or any officer of the City so designated by it may at any reasonable hour examine the stock, transfer records, minute book and all other business records of the corporate licensee as may appear necessary. This right is especially provided to disclose the extent of the interest of any and all persons in the licensed corporation, and to determine whether or not any change of the legal ownership of, or beneficial interest in certain shares of stock by itself or together with other transfers of shares of stock has directly or indirectly resulted in a multiple ownership or in a change of control of the licensed business. Particular scrutiny shall be given to proxy voting and powers of attorney to vote stock shares.

Subd. 4. Corporate Stockholder. The sale or transfer of shares of voting stock by the corporate license to another corporation is forbidden.

**1015.23**      **LICENSE REVOCATION OR SUSPENSION.**

Subd. 1. Violations of Law. The Council may revoke the Wine License for a violation of any provisions of State law, Federal law, or this Code relating to intoxicating liquor or may suspend the license if revocation is not mandatory.

Subd. 2. Grounds. Conviction of the licensee or of any agent or employee of said licensee for the wilful violation of any of the provisions of the United States law, Minnesota law, or any Ordinance of the City relating to the manufacture, sale, possession or use of intoxicating liquor on the premises operated under the license is grounds for revocation of the license, unless it shall appear that such violation was not wilful on the part of the licensee or his/her agent, in which case, and in lieu of such revocation, such license may be suspended for a period of not less than 15 days for the first violation. For any two non-wilful violations occurring within a period of five years such license shall be suspended for a period for a period not less than 45 days for the second violation or offense. For any three not wilful violations occurring within a period of five years, said license shall be revoked forthwith.

**1015.25**      **LIQUOR CONTROL COMMISSIONER.**

The City Clerk shall after issuing any retail Wine License submit to the Liquor Control Commissioner of the State of Minnesota the full name and address of each person granted such license including the trade name, effective license date, date of expiration, change of address, change of ownership, suspension, cancellation, or the revocation of such license by the Council.

**1015.27**      **MULTIPLE OWNERSHIP.**

Except where a combination On Sale and Sunday Sale License is permitted by the laws of the State of Minnesota no person shall knowingly have or possess a direct or indirect interest in more than one retail license in the City. Interest includes any pecuniary interest in the ownership, operation, management, or profits of retail liquor establishment other than bona fide rental agreements, bona fide loans or bona fide open accounts. No manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor.

**1015.29**      **LICENSE TRANSFER; POSTING.**

Liquor Licenses are non-transferable. Licenses shall be posted in a conspicuous place in the premises for which they are issued.

**1015.31**      **LICENSE REFUNDS.**

On Sale Wine Licenses may be pro rate refunded by the Council in the following cases:

- A. Place of business is destroyed by fire or other catastrophe.
- B. Licensee ceases business because of death or serious illness.
- C. Any act of the legislature or local option election prohibiting the sale of intoxicating liquors by the licensee.

**1015.33**      **HEALTH REGULATIONS.**

Subd. 1. On Sale Sanitary Facilities. Separate wash rooms, including flush toilets shall be provided for each sex on the inside of the building and shall be provided with a ventilation system permitting the air to circulate so that there will be a complete change of air at least four times per hour.

Subd. 2. Inspections. The premises of liquor establishments may be inspected by City officials and other public officers at any time. The premises shall be maintained in a sanitary condition. All laws, regulations, and Ordinances in force pertaining to sanitation and health shall be complied with. Glasses shall be sterilized prior to being refilled or reused.

**1015.35**      **CONDITIONS OF LICENSE.**

Subd. 1. Beverage. Every licensee shall be responsible for the conduct of his/her business.

Subd. 2. Unlawful Acts. It is unlawful for:

- A. A licensee to sell or furnish to any person under 21 years of age, or to any habitual drunkard, or to any person obviously intoxicated, or to any person to whom sale is prohibited by Minnesota Statute, any intoxicating liquor.
- B. A licensee to keep, possess, or operate, or permit the keeping, possession, or operation of, on the licensed premises or in any room adjoining the premises, any slot machines, dice or any gambling device or apparatus, nor permit any gambling therein, or permit the licensed premises or any room in the same or any adjoining building directly or indirectly under his/her control to be used for prostitution or other disorderly persons.

Subd. 3. Other Conditions.

- A. Wine shall not be sold, served or consumed in any automobile or on any street or alley within the City.

Subd. 4. Minors. It is unlawful for:

- A. A minor to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing or having served or delivered to him or her, any alcoholic beverage containing more than 1/2 of one percent of alcohol by volume, or
- B. A minor to consume any intoxicating liquor or to purchase, attempt to purchase, or have another purchase, for him or her, any intoxicating liquor, or
- C. Any person to misrepresent or misstate his or her age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, to sell, serve or deliver any alcoholic beverage to a minor, or
- D. A minor to have in his/her possession intoxicating liquor with the intent to consume it at a place other than the household of his/her parent or guardian; possession of intoxicating liquor at a place other than the household of his/her parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his/her parent or guardian.