

SECTION 1020 INTOXICATING LIQUOR

1020.01 DEFINITIONS.

For the purposes of this Section, the following terms defined herein have the meanings given to them.

- Subd. 1. "Intoxicating Liquor" and "Liquor" mean ethyl alcohol, distilled, fermented, spirituous, vinous and malt liquors containing in excess of 3.2 percent alcohol by weight.
- Subd. 2. "Sale" and "Sell" and "Sold" mean all barters, and all manners or means, of furnishing intoxicating liquor and including such furnishing in violation or evasion of law.
- Subd. 3. "On Sale" means the sale of liquor by the glass for consumption on the premises only.
- Subd. 4. "Package" or "Original Package" means the container or receptacle holding liquor, which container or receptacle is corked or sealed.
- Subd. 5. "Hotel" means any establishment having a resident proprietor manager, where, in consideration of payment therefore, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than ten guest rooms with bedding and other usual suitable and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk, and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating of not less than 30 guests at one time, where the general public are, in consideration of payment thereof, served with meals at tables.
- Subd. 6. "Restaurant" means any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where in consideration of payment thereof, meals are regularly served at tables to the public, and which employs an adequate staff to provide the usual and suitable service to its guests. Such establishment shall have facilities for seating not less than 30 guests at one time.

Subd. 7. "Sunday Sale" means the sale of liquor by the glass for consumption on the premises, in conjunction with the serving of food by the licensee, pursuant to a special license therefore issued by the City as authorized by State law.

1020.03 LICENSE REQUIRED.

It is unlawful for any person to sell liquor or keep it for sale without first obtaining a license therefore from the City and complying with the laws of the State of Minnesota, the regulations promulgated by the Liquor Control Commissioner, appropriate regulations and statutes of the United States of America, and this Section.

1020.05 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 willful violation of any law of the United States, 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 willful violation of any such laws or Ordinances. A false material statement made in the application is ground for revocation of the license.

1020.07 LICENSE PROCEDURE.

Subd. 1. Application. A person desiring an On Sale or Sunday Sale Liquor 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 information required by the City.

Subd. 2. Partnerships; 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.

1020.09 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 verifying

complaints that occurred at the establishment being investigated while under the same ownership. He/She shall report his/her 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 liquor license regardless of how limited the nature and extent of such interest. In no event shall the investigation fee on one application exceed \$80.00.

1020.11 BURDEN OF PROOF.

Subd. 1. Facts. The applicant or holder of a retail liquor license has the burden of providing to the Council the following:

- A. That each individual having a pecuniary interest or 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 Chief of Police or any officer of the City so designated by them or fail to promptly produce books, records, leases or subleases or to promptly correct any deficiency in his/her operation or management of the premises 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 or refusal to renew an existing license.

1020.13 LICENSE YEAR.

Pro rated license 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. Both On Sale and Sunday Sale Liquor 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 for On Sale and Sunday Sale, or the payment of On Sale license fees 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 or Sunday Sale Liquor 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 requirement 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.

1020.15 TYPES OF LICENSES; FEES.

On Sale licenses shall be issued only to

- Hotels
- Restaurants
- Bowling Centers
- Clubs or Congressionally Chartered Veterans Organizations with the approval of the Commissioner, provided that the Organization has been in existence for at least three years, and liquor sales will only be to members and bona fide guests.
- Theaters

The Council may issue licenses for On Sale or Sunday Sale or a combination of both in such numbers as permitted by the laws of the State or Minnesota including the sale of food, cigars, cigarettes, tobacco, non-intoxicating malt beverages and soft drinks. However, a Sunday Sale License shall not be issued unless the applicant holds a valid On Sale license and qualified under the definition of restaurant or hotel as set forth in Subsection 1020.01 Subds. 6 and 7 of this Section. The acceptance of the City of one-half installment payment shall not be construed as a waiver on the part of the City of the whole license fee, which is hereby declared to be one indivisible fee. The fees for On Sale Licenses and for Sunday Sale Liquor Licenses issued pursuant to this Section are established in Chapter VIII of the City Code. Council may issue an On Sale Liquor License to bona fide clubs in existence for 20 years which are duly incorporated for the sale to members only for an annual license as established in Chapter VIII of this Code.

1020.17 ANNUAL REPORTS.

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

Subd. 1. The name or names of all persons owning or having an interest in the licensed business including their age, occupation, residence and place of business.

Subd. 2. A list of all other liquor business by name and address that are located in the State of Minnesota in which such persons listed in Subd. 1. have an interest, and state the extent of such interest.

1020.19 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 ten days notice and public hearing in accordance with Chapter VIII of the City Code.

1020.21 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 writing and shall list all stockholders, their age, occupation, their residence address, and 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 the change of ownership or change of control of the corporation is hereby declared to be a transfer of a liquor license which is prescribed by this Section and prior approval by 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 prior 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 liquor 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 books 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, the ownership and voting of shares of stock of the 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 licensee to another corporation is forbidden.

1020.23 LICENSE REVOCATION OR SUSPENSION.

Subd. 1. Violations of Law. The City Council may revoke the liquor 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 willful 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 willful 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-willful violations occurring within a period of five years such license shall be suspended for a period of not less than 45 days for the second violation or offense. For any three not willful violations occurring within a period of five years, said license shall be revoked forthwith.

Subd. 3. Effect on Sunday Sale License. Upon suspension or revocation of an On Sale Liquor License, such suspension shall include the automatic revocation or suspension of Sunday Sale License which may be in force or held by the suspended On Sale license holder. Further, the City Council may at their discretion, suspend or revoke both the On Sale and Sunday Sale Licenses, upon any violation or conviction under the Sunday Sale License, or may suspend or revoke the Sunday Sale License only.

1020.25 LIQUOR CONTROL COMMISSIONER.

The City Clerk shall after issuing any retail liquor 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.

1020.27 MULTIPLE OWNERSHIP.

No person shall knowingly have or possess a direct or indirect interest in more than one retail Off Sale license in the City. "Interest" includes any pecuniary interest in the ownership, operation, management or profits of the 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 intoxication liquor.

1020.29 LICENSE TRANSFER; POSTING.

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

1020.31 LICENSE REFUNDS.

On Sale and Sunday Sale Liquor Licenses may be pro rata refunded by the Council in the following cases:

- Subd. 1. Place of business is destroyed by fire or other catastrophe.
- Subd. 2. Licensee ceases business because of death or serious illness.
- Subd. 3. Any act of the legislature or local option election prohibiting the sale of intoxicating liquors by the licensee.
- Subd. 4. The licensee, during its first year of operation, ceases business due to financial reasons and a request is made within 30 days of ceasing business for a prorated refund of its liquor license fee.

1020.33 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 from the outside 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.

1020.35 CONDITIONS OF LICENSE.

Subd. 1. Beverage. Licenses issued under this Section are subject to the conditions of this Subsection. Every licensee shall be responsible for the conduct of his/her place of business.

Subd. 2. Unlawful Acts.

- 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 licensee 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. Liquor 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 one-half 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 intoxication 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.

1020.37 HOURS OF SALE.

No sale of intoxicating liquor for consumption on the licensed premises may be made:

1. Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday.
2. After 2:00 a.m. on Sundays, except a restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons, and which holds an on-sale intoxicating liquor license, may sell intoxicating liquor for consumption on the premises, in conjunction with the sale of food, between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays.

1020.39 CONSUMPTION ON PREMISES.

It shall be a misdemeanor for a licensee of any intoxicating liquor establishment to allow any person, to consume alcoholic beverages on the licensed premises after 2:30 A.M. and before 8:00 A.M. on any day.

1020.43 POSTING.

All licensees hereunder shall post a copy of Subsection 1020.41 in a conspicuous place on the licensed premises, the size and placement of the same to be approved by the Chief of Police.

1020.45 HOTEL EXEMPTIONS.

With regard to any Hotel licensed hereunder, premises as used in Subsections 1020.39, 1020.41 and 1020.43 shall mean only the bar and dining area of such establishments.

1020.47 CERTAIN SEXUAL CONDUCT PROHIBITED.

The following acts or conduct on licensed premises are unlawful and violation of the same constitutes a misdemeanor:

Subd. 1. To employ, use or allow any person in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

Subd. 2. To employ or use the services of any hostess while such hostess is unclothed or in such attire, costume or clothing as described in Subd. 1. above.

- Subd. 3. To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- Subd. 4. To permit any employee or person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair or any portion thereof.
- Subd. 5. To permit any person to perform acts of or acts which simulate:
- A. With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual act which is prohibited by law.
 - B. Masturbation or bestiality.
 - C. With or upon another person the touching, caressing or fondling on the buttocks, anus, genitals or female breast.
 - D. The displaying of the pubic hair, anus, vulva, genitals or female breast below the top of the areola.
- Subd. 6. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
- Subd. 7. To permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.
- Subd. 8. To permit the showing of film, still pictures, electronic reproduction or other visual reproductions depicting:
- A. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
 - B. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
 - C. Scenes wherein a person displays the vulva or the anus or the genitals.
 - D. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
- Subd. 9. To permit any employee or person to perform a dance or other exhibition on the licensed premises unless said performance or exhibition is done on a stage area separated from the audience by a distance of at least 10 feet.