
CHAPTER 8: LIQUOR & BEVERAGES

SECTION 800. NON-INTOXICATING MALT LIQUOR LICENSES.

SECTION 820. INTOXICATING, WINE AND SUNDAY LIQUOR LICENSES.

SECTION 800. NON-INTOXICATING MALT LIQUOR LICENSES.

Section 800.00. Definitions.

See chapter 12 for definitions.

Section 800.05. License Required.

Subd. 1. No person may directly or indirectly on any pretense or by any device sell, barter, keep for sale any non-intoxicating malt liquor within the city without first having obtained a license therefore as hereinafter provided. The licenses shall be of two kinds: 1) off-sale non-intoxicating malt liquor and 2) temporary "on-sale" non-intoxicating malt liquor. No retail on-sale non-intoxicating malt liquor sales will be allowed except in conjunction with an intoxicating liquor license.

Subd. 2. Off-sale licenses shall permit the license holder to sell and retain non-intoxicating malt liquor in the original package for removal by the customer and consumption off of the premises only.

Subd. 3. Temporary on-sale licenses may be granted to a club or charitable, religious or non-profit organization.

Section 800.10. Application for License.

Subd. 1. All applications for any license to sell non-intoxicating malt liquor shall be made on forms supplied by the city clerk. The forms must supply the following information in addition to other information that may be required from time to time by the city, the city attorney, or the police: name of applicant, age, citizenship, representations as to character of applicant including references, location of business to be carried on, all other businesses to be operated in conjunction with the proposed license; and if a manager will be employed, then their name, age, and whether or not that person has worked in a licensed liquor establishment in the past 5 years; and, if so, the names and addresses of those businesses.

If the prospective license holder is a corporation, the name of every office holder of the corporation, and every shareholder of the corporation holding at least 5% of the issued shares of the corporation, specifying number of shares held by each individual, the total number of shares which the corporation may offer. If the manager of the business is not an officer of the corporation, their address and years so employed, period of time in which the applicant has operated a commercial business, and in particular, details of each liquor license that has ever been issued to the corporate officers or manager of the corporation during the past 10 years, stating the municipality where the license was issued, and the dates of issuance.

Every application of license shall include a copy of each summons received by the applicant under Minnesota statutes section 340A.802 during the preceding year.

Subd. 2. The application shall be subscribed and sworn to before a notary public. It shall be unlawful to make any false statement in making application for non-intoxicating malt liquor license.

Subd. 3. **Renewal.** License holders who wish to renew a previously granted license shall sign a written affirmation of the license application information on file and amend it accordingly before December 15 each year.

Section 800.15. Fees.

All applications submitted to the city council for approval for a license for the sale of non-intoxicating malt liquor shall be accompanied by a receipt from the city clerk for the required annual fee. All such fees shall be paid into the general fund of the city. In the event the application is rejected by the city council, the license fee shall be refunded by the city clerk to the applicant.

The annual fee for an off-sale non-intoxicating malt liquor license or temporary on-sale license shall be set from time to time by the city council in conformance with Minnesota statutes section 340A.408, subdivision 1A as amended. The fee amount shall be set forth in chapter 5 of this code book. The city shall not increase the fee for non-intoxicating malt liquor license except after notice of hearing on the proposed increase. Notice of the proposed increase must be mailed to all affected licensees at least 30 days before the date set for the hearing before the city council.

Section 800.20. Expiration of License.

All retail "off-sale" non-intoxicating malt liquor licenses issued hereunder shall expire on the last day of December each year. Temporary on-sale licenses shall be limited to no more than 3 consecutive days. No more than 2 temporary licenses shall be issued to any one organization during any 12-month period.

Section 800.25. Persons Ineligible.

No non-intoxicating malt liquor license shall be issued to:

1. A person not a citizen of the United States or a resident alien;
2. A person under 21 years of age;
3. A person who has had an intoxicating liquor or a non-intoxicating liquor license revoked within 5 years of the license application, or any person who at the time of the violation owns any interest, whether as a holder of more than 5% of the capital stock of a corporation licensee as a partner or otherwise in the premises or in the business conducted thereon, or through a corporation, partnership, association, enterprise, business, or firm in which any such person is any manner interested; or,
4. A person not of good moral character and repute. In addition, no new retail license may be issued to and the city may refuse to renew the license of a person who, within 5 years of the license application, has been convicted of a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.
5. Foreign Corporation. A corporation not chartered in the state of Minnesota and not registered to do business with the office of the Secretary of State.
6. A person who is not the real party in interest.

Section 800.30. Investigation.

On receipt of an initial application for an off-sale non-intoxicating malt liquor license, the city shall cause an investigation to be made by the police department of all facts set forth in the application. The applicant must cooperate with the investigating officer in the solicitation of necessary information in preparation of the report for recommendation or denial of the license. The investigation shall include a preliminary background and financial investigation of the applicant as permitted under Minnesota statutes section 340A.412, as amended. A one time investigation fee in an amount required or authorized but not greater than permitted under Minnesota statutes section 340A.412, as amended, and set forth in chapter 5 of this code book shall be charged to the applicant by the city. If investigation is required outside the State of Minnesota, the costs shall be payable by the applicant as a condition if issuance of the license, in an amount as required or authorized, but not greater than permitted under Minnesota statutes section 340A.412, as amended.

In the event that a corporate license holder has a change of ownership constituting a transfer of 10% or more of the stock of the corporation, such transaction must be reported in writing to the city within 10 days of the transfer, and the city may at its election demand a supplemental investigation then be undertaken, and all application and investigation forms necessary for that investigation shall be completed by the applicant within 30 days and the applicant shall pay an additional investigation fee in the amount set forth in chapter 5 of this code book, but not greater than permitted under Minnesota statutes section 340A.412, as amended.

Section 800.35. Condition of License.

Subd. 1. Proof of Insurance. All licenses shall be granted subject to proof of insurance coverage as specified in chapter 5. Proof of insurance shall be subject to the approval of the city attorney as to form and shall be approved by the city council prior to the issuance of any license.

Subd. 2. Prohibited Licensees. No license shall be issued for sale on any premises where a licensee has been convicted of a violation of this ordinance or where any licensee hereunder has been revoked for cause for at least one year after said conviction or revocation.

Subd. 3. No more than one off-sale non-intoxicating malt liquor license may be directly or indirectly issued to any one person or for any one place in the city. In the event a licensee holder quits business voluntarily or involuntarily or otherwise loses control of the licensed premises, the licensee dies, or the business ceases to be a lawful operation for a reason other than license revocation, or the licensee ceases to carry on the licensed business under the license or the licensee files bankruptcy, the issued license shall become immediately null and void. A pro rata share of the annual license fee for the non-intoxicating malt liquor license may be refunded to the licensee by the city council.

Section 800.40. Inspection of Premises.

All premises where any license hereunder is granted shall be open to inspection by any police or health officer or other properly designated officer or employee of the city at any time during which the place so licensed is open to the public for business.

Section 800.45. No Gambling

No gambling or any gambling device prohibited by law shall be permitted in any licensed premises.

Section 800.50. Granting of License.

Opportunity shall be given to any person to be heard for or against the granting of a license at a regular public meeting. After investigation and hearing, the council shall either grant or refuse the application at its discretion. Licenses issued to the licensee are restricted to the original licensed property and are not transferable within the city without first obtaining the approval of the city council.

Section 800.55. Manufacturer Restrictions.

No license shall be granted to any manufacturer of non-intoxicating malt liquor, nor anyone interested in the control of any such operation, and no equipment or fixture in any licensed place shall be owned in whole or in part by any such manufacturer.

Section 800.60. School and Church Restriction.

No license shall be granted within 400 feet of any public school, nor within 400 feet of any church.

Section 800.65. No Consumption on Premises.

It shall be the duty of every licensee to prevent the consumption of the non-intoxicating malt liquor or intoxicating liquor on their premises and every licensee who shall knowingly permit such consumption shall have their license revoked by the city council on 30 days written notice of public hearing thereon to show cause why the license shall not be revoked.

Section 800.70. No Carrying Intoxicating Liquor into Premises.

No person shall take or carry any intoxicating liquor into the licensed premises nor otherwise consume intoxicating liquor within the licensed premises.

Section 800.75. No Mixing.

It shall be unlawful for any licensee to mix or sell for the purpose of mixing any such malt liquor or to suffer or permit on the premises named in the license any mixing or spiking of malt liquor, soft drinks, or any other liquid or beverage by adding to or with the same any alcohol or other intoxicating liquor.

Section 800.80. Under-Age Persons and Intoxicated Persons.

It shall be unlawful for the holder of any license granted hereunder to sell non-intoxicating malt liquor to any person or persons under the age of 21, any intoxicated person or persons, or to permit any intoxicated person or persons to remain upon the premises occupied by the holder of the licensee.

Section 800.85. Closing Hours.

The city council reserves the right to set opening and closing hours for the sale of malt liquors as defined by this ordinance and allowed by state law.

Section 800.90. Revocation.

Any license granted hereunder may be revoked by the city council without first giving notice to the grantee on findings of violations of any provision of this ordinance or other state law. A hearing shall be scheduled within 30 days of the revocation to allow the licensee to show cause why the license revocation should not become permanent. Violation of any ordinance or any state law in conjunction with the operation of a liquor establishment or false application or false statement made in the application process shall be grounds for revocation and denial of future licenses. In the event of revocation, no portion of a license fee previously paid to the city shall be returned to the licensee.

Section 800.95. No Intoxicating Liquor.

Nothing hereunder shall permit the manufacture, sale, or transportation, or keeping or receiving, or soliciting any order for any liquor of a greater alcoholic content than 3.2% by weight. Any violation of provisions upon any premises licensed hereunder also shall constitute grounds for revocation of the license, and the same shall be automatically revoked upon a conviction of the violation of this provision.

Section 800.99. Penalty.

Any person violating any provision of this ordinance shall be guilty of a misdemeanor.

SECTION 820. INTOXICATING, WINE AND SUNDAY LIQUOR LICENSES.**Section 820.00. Purpose.**

The purpose of this ordinance is to allow the sale and consumption of "on-sale" intoxicating liquor within the city limits, subject to maximum discretion of the council not only to grant or deny an on-sale intoxicating liquor license but also to regulate or delimit use of such a license. Also, this ordinance is designed to control the consumption of intoxicating liquor within the city limits. The public interest and general welfare of the city require that the council, in the exercise of its discretion conferred by this ordinance, consider and take into account the history and character of the city, including but not limited to geography, commercial and residential uses, and financial needs of the city. The council shall not issue any license that does not, or cannot by appropriate delimitation, further the general welfare of the city in its entirety.

Section 820.05. State Law Adopted By Reference.

The provisions of Minnesota statutes chapter 340A, as amended, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on sale, conditions of bonds and licensees, hours of sale, and all other matters pertaining to the "on-sale" retail sale, distribution and consumption of intoxicating liquor are hereby adopted and made a part of this ordinance as if fully set forth herein.

Section 820.10. General.

Subd. 1. General Conditions. No person, except wholesalers or manufacturers to the extent authorized under state license, and except to the extent authorized under city ordinances previously adopted, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance.

Subd. 2. There shall be the following types of intoxicating liquor licenses:

- (a) On-Sale Intoxicating Liquor License
- (b) On-Sale Intoxicating Liquor License - Delimited
- (c) On-Sale Wine License
- (d) Sunday On-Sale Intoxicating Liquor License.

Subd. 3. Delinquent Taxes and Claims. No license shall be issued for any place or any business on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Subd. 4. Licenses, Restrictions, Manufacturers, or Wholesales Interest in Retail Establishment. No manufacturer or wholesaler shall either directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor. No manufacturer or wholesaler shall exact or require by contract, understanding, or otherwise, any licensed retailer or handle or sell only the products of any particular manufacturer or wholesaler.

Subd. 5. Manager. No license shall be granted to an applicant, be it sole proprietorship, partnership, or corporation, which employs a manager who would be ineligible to receive a license as an individual pursuant to the provisions of this section or under state law.

Subd. 6. Party in Real Interest. No license shall be granted to an individual who in the judgment of the city council is not the real party in interest or beneficial owner of the business operated or to be operated under the license.

Subd. 7. Federal Tax Stamps. No applicant for a license or licensee shall apply or possess a federal wholesale liquor dealer special tax stamp or a federal gambling stamp.

Subd. 8. On-Sale Intoxicating Liquor License. On-sale intoxicating liquor licenses may be issued in accordance with Minnesota statutes chapter 340A as amended and as qualified herein.

Subd. 9. On-Sale Wine License. On-sale wine licenses shall be issued only to restaurants meeting the qualifications in Minnesota statutes section 340A.404 subdivision 5 and shall permit only the sale of wine not exceeding 14% alcohol by volume for consumption on the licensed premises only in conjunction with the sale of food.

Subd. 10. Sunday On-Sale Intoxicating Liquor License. A Sunday on-sale intoxicating liquor license shall be issued only to hotels or restaurants as defined in Minnesota statutes section 340A.101 and which already have an on-sale intoxicating liquor license and which have facilities to serve not less than 30 guests at one time. Sunday on-sale intoxicating liquor licenses may be issued in conjunction with an on-sale intoxicating liquor license including delimited licenses.

Subd. 11. Payment. The annual license fee for a new or renewal license shall be paid in full before the license is issued. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license or upon a withdrawal of an application before approval of the issuance by the council, any prepaid license fee shall be refunded to the applicant except where rejection is for a willful misstatement in the license application.

Subd. 12. Proration of Fee. The fee for a license granted if after the commencement of the license year shall be prorated on a monthly basis.

Subd. 13. New Building Proration. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be the date the building is ready for occupancy or the date specified by the council at the time the license is granted, whichever is sooner.

Subd. 14. Refunds. No part of the fee paid for any license shall be refunded except as authorized under Minnesota statutes section 340A.408.

Subd. 15. Change of Ownership: Exception. Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required; however, all investigation fees required by provisions of this ordinance shall not be waived.

Section 820.15. Persons and Places Ineligible for License.

No license shall be issued to:

1. A person not citizen of the United States or resident alien.
2. A person under 21 years of age.
3. A person who has had an intoxicating liquor or 3.2% malt liquor license revoked within 5 years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than 5% of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested.
4. A person not of good moral character and repute.
5. A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.
6. No new retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within 5 years of the license application, has been convicted of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage. The Alcohol and Gambling Enforcement Division or licensing authority may require that fingerprints be taken and forwarded to the Federal Bureau of Investigation for purposes of a criminal history check.
7. A person who is not a real party in interest.
8. Foreign corporations, a corporation not chartered in the state of Minnesota, and not otherwise licensed to do business in the state.

9. No license may be issued or renewed unless the applicant makes a bona fide estimation that at least 60% of the gross receipts of the establishment during its first year of business will be attributable to the sale of food. Thereafter license holders shall annually in conjunction with their request to renew their license hereunder submit a verified statement, (subject to audit under section 820.55, subdivision 16), of the percent of the gross receipts of the licensed establishment during the previous 12 months of operations attributable to the sale of food. Failure to demonstrate to the satisfaction of the city that the sale of food was at least 60% of gross receipts of the establishment in the preceding 12 months shall subject the license holder and license to fines, license suspension, and revocation as provided under section 820.70, subdivision 4.

Section 820.20. Application for License.

Subd. 1. Verification. Every application for license shall be signed and verified by sworn statement of the applicant submitting the application. It shall then be accepted for filing with the city clerk.

Subd. 2. Form of Application. In addition to information required by the State Liquor Control Commission and the Minnesota Bureau of Criminal Apprehension, the initial license application also shall contain further information required herein as well as other information that the city council or police department may require from time to time.

Subd. 3. Contents of Application. Subject to the foregoing, the application shall identify the type or types of licenses the applicant seeks and provide the following information for:

1. *Natural Person*. If the applicant is a natural person the following information shall be required:
 - (a) True name; place and date of birth; residential street address, and office street address of applicant (post office box address will not be accepted).
 - (b) Whether applicant has ever used or been known by a name other than their true name listed on the application, and if so, what such name or names were and information concerning dates and places where used.
 - (c) The name of the business to be licensed and whether the business is to be conducted under an assumed name other than that of the individual applicant. In such a case, a copy of the Secretary of State Office certificate of assumed name shall accompany the application.
 - (d) The street addresses at which applicant lived during the proceeding 5 years.
 - (e) Kind, name, and location of every business or occupation that applicant has been engaged in during the preceding 5 years.
 - (f) Name and address of applicant's employers and supervisors or business partners, if any, in the preceding 5 years.
 - (g) Whether the applicant has ever been convicted of any felony, gross misdemeanor, or misdemeanor crime in violation of state law or municipal ordinance; if so the applicant shall furnish information as to the time, place, and offense for which convictions were had.
 - (h) Whether applicant has ever been engaged as an employee manager or operating officer in a saloon, hotel, restaurant, cafe, tavern, bar, or other business licensed to sell intoxicating liquor or non-intoxicating malt liquor; if so the applicant shall furnish information as to the duties of employment, location, and length of employment with said operations.
 - (i) Whether or not a manager or operating supervisor will be employed to manage the day-to-day operation of the planned licensed premises; if so, full details of the prospective manager in conformance with section 820.20, subdivision 3, natural persons applicants shall be submitted.
2. *Partnerships*. If the applicant is a partnership, the applicant shall provide the names and addresses of all partners and all information concerning each partner as required of a natural person single applicant shall be submitted on each individual partner, be they general or limited, as set forth in section 820.20, subdivision 3, subparagraph 1 above. The managing partners and limited partners shall be designated. The relative value of the interest of each partner in the business shall be disclosed. If the partnership has filed a certificate of assumed name, a copy of that filing with the Secretary of State Office shall accompany the application. As to each manager, supervisor, or agent in charge of the premises to be licensed, the applicant shall give full particulars as required in section 820.20, subdivision 3, subparagraph 1 above.
3. *Corporations*. If the applicant is a corporation or other association then the following information shall be provided:
 - (a) Name of corporation or association, date of incorporation, and State of incorporation. Names and addresses of all directors and officers.

- (b) A copy of the certificate of incorporation, articles of incorporation, and by-laws of the corporation; and if a foreign corporation, a certificate of authority as provided in Minnesota statutes chapter 303 shall accompany the application.
- (c) The name of the manager, supervisor, or other agent in charge of the premises to be licensed giving all the information about said person as would be required of a natural person license applicant under section 820.20, subdivision 3, subparagraph 1 above.
- (d) A list of each shareholder in the corporation who holds 5% or more of the issued shares of the corporation, and as to each shareholder the applicant shall provide all information as is required of a natural person single applicant under section 820.20, subdivision 3, subparagraph 1 above.

Subd. 4. Legal Description. The exact legal description of the premises to be licensed together with a lot plan showing the area dimensions, location of buildings, street access, parking facilities including number of spaces, and locations of and distances to the nearest church buildings and school facilities.

Subd. 5. Street Address. The street number where the sale of intoxicating liquor is to be conducted, specifying, 1) whether or not the applicant has full control of the premises and identifying all other tenants on the property; 2) whether or not the premises are leased or owned by the applicant; and, 3) if leased, a copy of the lease identifying the name and address of the landlord shall accompany the application.

Subd. 6. Floor Plan. Applicant for an on-sale license shall submit a floor plan of the dining room(s) that shall be open to the public, shall show dimensions, and shall indicate the number of persons intended to be served in each of said rooms. Whenever the application for license to sell intoxicating liquor, or for transfer thereof, is for premises either planned or under construction or undergoing substantial alteration the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. The application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed and the exact location of all areas intended for preparing or serving of liquor or food therein.

Subd. 7. Federal Permit. If a permit from the federal government is required by the laws of the United States, the applicant shall state whether or not such a permit has been issued, and if so required, in what name issued and the nature of the permit.

Subd. 8. Financial Interest. The applicant shall give the names and addresses of all persons other than the individual applicant who have a financial interest or security interest in the business, buildings, premises, fixtures, furniture, stock in trade, or who have advanced money or loans to the applicant for the purpose of financing the applicants business venture. As to each such person, the applicant shall identify the nature of such interest, the amount thereof, terms for payment, or other reimbursement, and whether or not the interested parties have an ownership interest or a potential future ownership interest; this shall include, but not be limited to, lessees, lessors, mortgagees, mortgagors, chattel mortgage holders, lenders, lien holders, trustees, trustors, and persons who have co-signed notes or otherwise guaranteed, loaned, pledged, or extended security for any indebtedness of the applicant.

Subd. 9. Financial Interest of the Applicant. No license shall be issued hereto to any person, partnership, or corporation which cannot evidence a 20% unencumbered interest in the assets of the business to be conducted.

Subd. 10. Value of Fixtures. The applicant shall state the value of the fixtures and structures, exclusive of land, on the premises proposed to be licensed.

Subd. 11. Execution of Application. If the application is by a natural person for a sole proprietorship operation it shall be signed and sworn to by the applicant. If the application is by a partnership it shall be signed and sworn to by all partners. If the application is by a corporation it shall be signed and sworn to by the president and secretary of the corporation. If the application is by an unincorporated association the application shall be signed and sworn to by the president or chairperson.

Section 820.25. Annual Renewal of License Application.

Subd. 1. Time for Renewal. Applications for renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license. If, in the judgment of the city council, good and sufficient cause is shown by any applicant for their failure to file a renewal application within the time prescribed, the council may nevertheless receive such application.

Subd. 2. Reaffirmation of Application Materials. At the time of renewal, applicant shall update any information contained in the original license application that is then incorrect or out of date and shall sign a verified renewal application form from the city and such other forms as required by the State Liquor Control Commission and Bureau

of Criminal Apprehension. The renewal application form shall include all information previously required under section 820.20.

Section 820.30. Investigation.

Subd. 1. Initial Investigation. All initial applications for a license hereunder shall be referred to the police department for verification and investigation of the facts set forth in the application. The police department shall cause to be made such investigation of the information requested as shall be considered necessary and shall make a written report to the city council. Said report shall include, but shall not be limited to, a list of all violations of federal, state, or city law committed by the applicant, partners, officers, directors, principal shareholders, and managing agents as disclosed in the application. The police department also shall conduct a preliminary background and financial investigation of the applicant, the partners, corporate officers, directors, and principal shareholders. A principal shareholder is a person holding 5% or more of the stock of the corporation.

Subd. 2. License Renewal Investigation. All renewal applications that reflect a change of status as defined at section 820.30 shall be referred to the police department for verification and investigation of the matters set forth in the renewal application that are updated since the last application.

Subd. 3. Investigation Results. Without limiting the discretion of the city council to deny a license application for other reasons, no license shall be issued, transferred or renewed if the results of the investigation show to the satisfaction of the city council that issuance, transfer, or renewal would not be in the public interest.

Section 820.35. Investigation Fees.

Subd. 1. Initial Application Investigation Fee. At the time of each application for a license, the applicant shall pay in full an investigation fee in an amount required or authorized, but not greater than permitted by Minnesota statutes section 340A.412, as amended, as set forth in chapter 5 of this code book. Provided however, should the investigation be required outside of the State of Minnesota, all costs and expenses associated shall be charged to and paid by the applicant, in an amount required or authorized, but not greater than permitted by Minnesota statutes section 340A.412, as amended. Investigation fees are not refundable. All applications shall state that the applicant agrees to assume and pay all costs associated with the investigation to be conducted as provided under this subdivision and the laws of the state of Minnesota.

Subd. 2. Renewal Applications/Change of Status. If at the time of a license renewal application a change of ownership or control of the licensee or a change of the manager of the premises is identified, the licensee shall pay a supplemental investigation fee in the amount set forth in chapter 5 of this code book, but not greater than permitted under Minnesota statutes section 340A.412, as amended.

Subd. 3. Investigation of Change of Status. All licensees as a condition of holding their license shall advise the city within 10 days of a change in the ownership interest of the licensee, be it a natural person or a partnership interest change. In the case of corporation licenses, a change of ownership of 10% interest of the stock of the corporation must be reported in writing to the city clerk within 10 days of the transfer. A change of manager must be reported in writing to the city clerk within 10 days of the change. The licensee shall then pay to the city the fee in the amount set forth in chapter 5 of this code book, but not greater than permitted under Minnesota statutes section 340A.412, as amended.

Section 820.40. License Fees and Delimited Licenses.

Subd. 1. Liquor License Fees. The annual fee for the various types of liquor licenses are set forth in chapter 5 of this code book. The council may adjust these fees after public hearing as required by Minnesota statutes chapter 340A and then memorialize the fee in chapter 5 of this code book.

Subd. 2. Delimited Licenses.

- A. *Public Purpose*. The city council finds that it is beneficial to the public welfare that liquor sales be limited within the city by encouraging shorter periods in which on-sale liquor sales may occur.
- B. *Delimited License Established*. A delimited intoxicating liquor/wine license is established wherein the applicant for on-sale intoxicating liquor/wine license is restricted to providing service no more than 656 hours per year.
- C. *Delimited License Fee and Business Hours*. An applicant for a delimited license shall not operate more than 656 hours per year. The licensee shall state in the application the opening and closing times to be adopted by the business for liquor sales during the license term. Opening and closing times may vary to accommodate seasonal business demand 3 times during the license term (e.g. a business may have differing sets of business hours for

winter/spring vs. summer/fall). In addition to the investigation fee, the applicant shall pay an annual delimited license fee in an amount set from time to time and as memorialized in chapter 5 of this code book. Sunday service hours under a delimited license may not exceed six (6) hours. The hours of operation for liquor service may not be increased during the term of the license without an amended license first obtained. Hours of liquor service operation may be reduced during the license term. A delimited license may be issued in conjunction with any other license provided for under city ordinances including Sunday on-sale intoxicating liquor license, provided that Sunday is included in the 656 hours per year listed in the delimited license application.

Section 820.45. Proof of Insurance.

All licenses shall be granted subject to proof of insurance coverage as specified in chapter 5. Proof of insurance shall be subject to the approval of the city attorney as to form and shall be approved by the city council prior to the issuance of any license.

Section 820.50. Granting of License.

Subd. 1. Public Hearing - Initial License Applications. Upon receipt of the written report and recommendation by the police department the clerk shall cause to be published in the official newspaper 10 days in advance, a notice of hearing to be held by the council, setting forth the day, time, and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business and such other information as the council may direct. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.

Subd. 2. Public Hearing - Renewal Application. In regard to renewal applications, the city council may hold a public hearing. If the council decides to hold a public hearing, notice of the time and place of said meeting, and the fact that the renewal applications will be considered, shall be published in the official newspaper 10 days in advance of the hearing. An opportunity shall be given to any person to be heard for or against the granting of renewal licenses. The council shall grant or refuse the application in its sole discretion.

Subd. 3. Vote Required. A 3/5 vote shall be required for the granting of any license whatsoever.

Subd. 4. Issuance; Transfer. Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application and for the location of the bars as designated on said application. No license may be transferred to another person, or to another place, or to another location on the licensed premises without the approval of the council and without a new application having been first filed. Transfer of a controlling interest in the stock of a corporation holding a license, is deemed a transfer of the license and may be done only with council approval.

Subd. 5. Report to State. The clerk shall within 10 days after the issuance of any license under this ordinance, submit to the liquor control commissioner the full name and address of each person granted a license, the trade name, the effective license date, and the date of expiration of the license. The clerk also shall submit to the liquor control commissioner any change of address, transfer, cancellation or revocation of any license by the council during the license period.

Subd. 6. Premises Under Construction. If, at the time of granting the license, actual use of said license cannot be made until a future date because the subject premises are under construction, remodeling, or improvement, or are otherwise not ready for occupancy, then the council shall set a date by which actual use of the license must be made. If actual use is not made by the council's specified date, then said license shall be null and void. In no event, shall the city clerk issue the license until notified by the building inspector that the building is ready for occupancy.

Section 820.55. Conditions of License.

Subd. 1. Granting of License. Every license shall be granted subject to the conditions of this ordinance and of any other applicable city ordinance and of every other applicable state law.

Subd. 2. Effective Area of License. No license shall be effective beyond the compact and continuous space named therein for which the same was granted.

Subd. 3. Areas Proscribed. No intoxicating liquor shall be sold in any of the areas proscribed by state law.

Subd. 4. Hours.

- (a) *Hours of Sale.* Sale of intoxicating liquor shall be permitted between the hours of 10am and 11pm for restaurants; 10am and 11:30pm for special events (e.g. wedding receptions, benefit concerts, etc.). Not only must the sale of intoxicating liquor cease at the closing hour appointed by city code but also all persons, other than employees of the licensee, shall vacate the licensed premises within 30 minutes of said closing hour. Notwithstanding anything contained in this subdivision, a licensee may keep his/her premises open for his/her normal business purposes except the sale of liquor, before the liquor serving hours, provided that such licensee has closed off all access to the bar in a manner approved by the council. (UPDATED MAR 2014 ORD 227)
- (b) *Hours for Outdoor Service.* The council may designate the hours of service different from those stated herein elsewhere for any accessory location serving food or liquor outside of the principal structure on any licensed premise.

Subd. 5. Sale to Under-Age Persons and Intoxicated Persons. No intoxicating liquor shall be sold, furnished, or delivered for any purpose to any person under the age of 21, or to any person obviously intoxicated or to any of the persons to whom sale is prohibited by state law.

Subd. 6. Conduct on Premises. Every licensee shall be responsible for the conduct of their place of business and for conditions of sobriety and order therein. No licensee shall keep, possess, or operate, or permit the keeping, possession, or operation of, on the licensed premises, or in any room adjoining the licensed premises, any slot machine, dice, or any gambling device or apparatus, nor permit any gambling therein, nor permit the licensed premises or any room in the same, or in any adjoining building, directly or indirectly under its control to be used as a resort for prostitutes or other disorderly persons. No person under 18 years of age shall be employed in any rooms constituting the place in which intoxicating liquors are sold at retail "on-sale," except that persons under 18 years of age may be employed as musicians or to perform the duties of a busboy or dishwashing services in places defined as a restaurant or hotel or motel serving food in rooms in which intoxicating liquors are sold at retail "on-sale."

Subd. 7. Licenses Posted. Every license shall be posted in a conspicuous place in the premises for which it is issued.

Subd. 8. United States Permit. No license shall be effective until a permit shall be issued to the licensee under the laws of the United States, if such a permit be required under such laws.

Subd. 9. Refilling Bottles Prohibited. It shall be unlawful for any person to sell, offer for sale, or keep for sale intoxicating liquors in any package or intoxicating liquor bottle that has been refilled or partly refilled.

Subd. 10. Tampering with Contents Prohibited. It shall be unlawful for any person holding an intoxicating liquor license, directly or through any agent, employee, or other person, to dilute in any manner tamper with the contents of any original package or bottle so as to change its composition or alcoholic content while in the original package or bottle; and possession on the licensed premises by any licensee of any intoxicating liquor in the original package or bottle, differing in composition or alcoholic content from such liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package or bottle has been diluted, changed, or tampered with.

Subd. 11. Delivery. No "off-sale" licensee, his agent, or employee shall deliver any intoxicating liquor to or at any place or premises without obtaining a receipt therefore, signed by the person receiving such liquor and bearing the time, date, and place of delivery. Such receipts shall be kept in the files of the licensee for a period of one year and such files and receipts shall be kept available for inspection by the police department at all hours during which the licensed premises are open for business.

Subd. 12. Ownership of Equipment. No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor except such as shall be expressly permitted by state law.

Subd. 13. Federal Tax Stamps. No licensee shall apply for or possess a federal wholesale liquor dealers special tax or a federal gambling stamp.

Subd. 14. Neutral Spirits. No licensee shall keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.

Subd. 15. Hotel Liquor Sales. No sale of intoxicating liquor shall be made to or in guest rooms of hotels, unless the rules of such hotel provide for the services of meals in guest rooms; nor unless the sale of such intoxicating liquor is made in the manner "on-sales" are required to be made, nor unless such sale accompanies and is incident to the regular service of meals to guests therein; nor unless the rules of such hotel and the description, location, and number of such guest rooms are fully set out in the application for a license.

Subd. 16. Compliance with Section 820.15. The licensee shall at all times be compliant with the terms and conditions imposed under section 820.15.

Subd. 17. Compliance with Section 820.70. The licensee shall at all times be compliant with the terms and conditions imposed under section 820.70.

Subd. 18. Audit. For the purpose of verifying compliance with the requirement of section 820.15, that at least 60% of the gross receipts of the establishment during each year of licensed operations are attributable to the sale of food, all licensees shall be subject to audit by a city representative at the sole expense of the licensee.

Section 820.60. Term of License.

Subd. 1. Uniform Expiration Date. Except as hereinafter provided, all licenses shall expire December 31 of each year.

Subd. 2. Corporate License. Licenses issued to corporations shall become invalid if there is a change in the officers, charter, articles, by-laws, or ownership of the corporation; or if there is a change in the manager designated in the most recent application, unless said change is reported to the city clerk within 10 days and all necessary investigations and fees required hereunder are commenced, in which event, said license shall continue in force and effect until the end of the current license year subject to investigation report.

Subd. 3. Partnership License. Licenses issued to associations or partnerships shall become invalid if there is a change in the partnership or association agreement or in the ownership of said association or partnership unless the change is reported to the city clerk within 10 days and all necessary investigations and fees required hereunder are commenced, in which event, said license shall continue in force and effect until the end of the current license year subject to investigation report.

Subd. 4. Report of Changes. Corporations, partnership, or associations holding licenses shall submit written notice to the city clerk of any of the aforesaid changes within 10 days of the effective date of any such change. Notwithstanding, the definition of interest as given in the case of a corporation, the licensee shall notify the city clerk when a person not listed in the application acquires an interest and shall give all information about said person as required of a person pursuant to this ordinance.

Section 820.65. Right of Inspection.

Any duly authorized law enforcement officer, health officer, or building inspector shall be allowed to inspect the licensed premises at reasonable times and hours to ensure compliance with all provisions of this ordinance. Upon demand by any police officer, any person engaged in providing services in any licensed premises shall identify them self giving their true legal name and their correct address.

Section 820.70. Fines, Revocation or Suspension of License.

Subd. 1. Sale or transfer of alcoholic beverages to an inebriated or under-age individual. Upon evidence that a licensee has failed to comply with any applicable statute, regulation, or ordinance relating to sale or transfer of alcoholic beverages to an inebriated or under-age individual, the city clerk shall impose the following civil penalties and requirements on the licensee:

1. *First* violation in a 24-month period:
 - (a) Civil fine in the amount set forth in chapter 5 of this code book.
2. *Second* violation in a 24-month period:
 - (a) Civil fine in the amount set forth in 5 of this code book; and
 - (b) Requirement that licensee enroll all employees of licensee in an alcohol merchant/employee training program, and provide proof of completion of same to the city clerk within 90 days of city demand for civil fine.
3. *Third* violation in a 24-month period:
 - (a) Civil fine in the amount set forth in chapter 5 of this code book; and
 - (b) Requirement that licensee enroll all employees of licensee in an alcohol merchant/employee training program, and provide proof of completion of same to the city clerk within 90 days of city demand for fine; and
 - (c) Schedule a hearing before the city council for the purpose of determining whether or not to suspend or revoke the license as provided below.
4. *Fourth* violation in a 24-month period:
 - (a) Civil fine in the amount set forth in chapter 5 of this code book; and
 - (b) Requirement that licensee enroll all employees of licensee in an alcohol merchant/employee training program, and provide proof of completion of same to the city clerk within 90 days of demand for civil fine; and
 - (c) Schedule a hearing before the city council for the purpose of determining whether or not to suspend or revoke the license as provided below.

In the event the city council shall find that there has been a third sale of alcoholic beverages to an inebriated or underage individual in a 24-month period, the city council shall suspend the issued license for a period of 3 business days. Upon a finding of a fourth or more sale of alcoholic beverages to an inebriated or underage individual within a 24-month period, the council shall revoke the license. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing provided pursuant to chapter twelve of this code.

Subd. 2. Appearance at Hearings Mandatory. The licensee shall appear at any hearing required hereunder. Failure to appear shall be cause to suspend the license pursuant to subdivision 3 above. The licensee, by accepting a liquor license under section 820.00 et. seq. agrees and accepts the foregoing potential penalties.

Subd. 3. Failure to demonstrate that sale of food was at least 60% of gross receipts.

1. If at the time of liquor license renewal the license holder fails to demonstrate to the satisfaction of the city that the percent of the gross receipts of the licensed establishment during the previous 12 months of operations attributable to the sale of food is at least 60% of total gross receipts, the liquor license at issue may be renewed by the city council on a probationary basis for 1 additional year term on the following conditions: (a) the license holder demonstrates at the next annual liquor license renewal application by audit under section 820.55, subdivision 16 that the percent of the gross receipts of the licensed establishment during the 12 month probationary period attributable to the sale of food was at least 60% of total gross receipts, and (b) payment of the civil fine as provided in chapter 5 of this code book.
2. If at the end of the probationary license term the license holder fails to demonstrate to the satisfaction of the city that the sale of food was at least 60% of gross receipts of the establishment, the liquor license may be renewed on a probationary basis by the city on the following conditions: (a) the license holder demonstrates at the next annual liquor license renewal application by audit under section 820.55, subdivision 16, that the percent of the gross receipts of the licensed establishment during the 12-month probationary period attributable to the sale of food was at least 60% of total gross receipts, (b) payment of the civil fine equal to 2 times the fine provided in chapter 5 of this code book, and (c), in the sole discretion of the city, suspension of the issued liquor license for a period of 7 business days of the city's choice.
3. In the event of a subsequent failure of the licensee in a 10 year period to demonstrate to the satisfaction of the city that the percent of the gross receipts of the licensed establishment during the previous 12 months of operations attributable to the sale of food is at least 60% of total gross receipts, the liquor license holder shall be subject to the following: (a) payment of the civil fine equal to 3 times the fine provided in chapter 5 of this code book, (b) suspension of the issued liquor license for a period of 7 business days of the city's choice, and, (c), in the sole discretion of the city council, revocation of the liquor license in question.
4. A suspended license cannot be administratively reinstated by the city without first payment of the applicable civil fine. A revoked license cannot be administratively reinstated and cannot be reconsidered by the city without first payment of the applicable civil fine. The holder of a revoked license shall reapply and pay all investigation fees and liquor license fees, then applicable.
5. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing provided pursuant to chapter 12 of this code book.

Section 820.75. Enlargement, Alterations, or Extension of Premises.

Proposed enlargement, alteration, or extension of premises previously licensed shall be reported to the clerk at or before the time application is made for a building permit for any such change and the licensee also shall give such information as is required by section 805.06. No building permit shall be issued without the prior approval of the city council. In considering the request for such changes, the city council may consider: 1) potential for public nuisances; 2) adequacy of off street parking; 3) extent and location of proposed changes in relationship to adjacent land uses and any other factors affecting the public health, safety, and general welfare.

Section 820.80. Variances.

The city council may vary any provision of this ordinance consistent with the requirements of state law by a 4/5 vote of the city council after a public hearing. Notice of said public hearing shall be given by published notice at least 10 days prior to said hearing.