

## Chapter 7.01

### Licensing And Regulating The Sale And Consumption Of Non-Intoxicating And Intoxicating Liquor

**Section 1. Provisions of State Law Adopted.** The provisions of Minnesota Statutes Chapter 340A, relating to the definition of the terms licensing, consumption, sales, financial responsibility of licensee, hours of sale, and all other matters that pertain to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as set out in full.

**Section 2. License Required. General Requirement.** No person, except a wholesaler or manufacturer to the extent authorized by a state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance.

Six Kinds of Liquor Licenses:

#### Subdivision 1.

- (a) Intoxicating on-sale licenses shall be issued only to hotels where food is prepared and served for consumption on premises, special clubs, restaurants and exclusive liquor stores, and shall permit “on-sale” of liquor only.
- (b) On-sale non-intoxicating 3.2 malt liquor license is also available by approval of the council. This license may be granted to clubs, restaurants, and hotels.

#### Subdivision 2.

- (a) Temporary On-sale Licenses. Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years.
- (b) A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the state liquor act.

This license may permit sale for not more than three consecutive days and may authorize on-sales on premises not owned or permanently occupied by that licensee.

#### Subdivision 3.

- (a) Intoxicating off-sale licenses shall be issued to an exclusive liquor store and shall permit “off-sales” of liquor only.
- (b) Non-intoxicating off-sale permit shall be granted to grocery, convenience, retail stores as permitted by the council.

Subdivision 4.

- (a) Sunday On-Sale License. Special on-sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to bowling centers and to hotels, restaurants, and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, subd. 3
- (b) Sunday Hours. The sale of on-sale intoxicating liquor on Sundays is allowed between the hours of 10:00 a.m. on Sunday and 1:00 a.m. on Monday. Establishments serving liquor on Sundays must obtain a special license under subdivision 1 (a) above.

Subdivision 5. Wine and Strong Beer Licenses shall be issued only to hotels where food is prepared and served for consumption on premises, special clubs, restaurants and exclusive liquor stores.

**Section 3. Application for License.**

Subdivision 1. Form. Every application for a license to sell beer or liquor shall state the name of the applicant, his or her age, representations as to his character (with such references as the council may require), his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in the business at that place, and such other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes Section 340A. 801 during the proceeding year. No person shall make a false statement in an application. Applications shall be filed with the City Clerk-Treasurer.

Subdivision 2. Bond. Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States government bonds of equivalent market value. Such surety bond or other security shall be the sum of \$2,000 for an off-sale license and \$4,000 for an on-sale license.

The conditions of the bond are as follows:

- (1) That the licensee obey the law:
- (2) That he or she will pay the city when due all taxes, license, and other charges:
- (3) That in case of violation of the liquor law, the bond is forfeited to the city.

Subdivision 3. Financial Responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrated proof of financial responsibility as defined in Minnesota Statutes Sections 340A.409 with regard to ability under the Statutes, Section 340A. 801. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility in the subdivision shall conform to Minnesota Statutes Section 340A.409.

Subdivision 4. Approval of Security. The security offered under Subdivision 2 shall be approved by the city council and in the case of an application for “off-sale” licenses, by the state commissioner of public safety. Subdivision 2 shall be approved as to form by the city attorney.

Operation of a licensed business without having filed with the city at all times effective security as required in Subdivision 2 and 3 is a cause for revocation of the license. The bond for an off-sale license must be approved by the council and the commissioner. The bond for an on-sale license must be approved by the council.

#### **Section 4. License Fees.**

Subdivision 1 Fees. The annual fee for an intoxicating liquor and non-intoxicating malt liquor and wine license shall be determined by the City Council. All fees shall be paid into the general fund of the City of Howard Lake.

Subdivision 2. Payment. Each payment for a license shall be accompanied by a receipt from the city clerk-treasurer for payment in full of the license fee. If an application is rejected, the clerk-treasurer shall refund the amount paid as the license fee.

Subdivision 3. Term; pro rata fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December in each year.

Subdivision 4. Refunds. No refund of any fee shall be made except as authorized by Statute M.S.340A.408.

#### **Section 5. Granting of Licenses.**

Subdivision 1. Preliminary Investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with his application an investigation fee of \$500.00 and the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the council determines that comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be paid by the applicant whether or not the license is granted.

Subdivision 2. Hearing and Issuance. The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No "on-sale" or "off-sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

Subdivision 3. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license.

**Section 6. Persons Ineligible for License.** No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the city. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any person.

The liquor act prohibits granting a liquor license to any person not a citizen or a resident alien, or who is under 21, or who is not of good moral character or repute, or who within five years of his license application has been convicted of a willful violation of a liquor or beer law or ordinance, or who has had a liquor or beer license revoked within five years of his application. (M.S. 340A.402) Also, state law prohibits a person from having more than one off-sale liquor license in the city. (M.S. 340A.412, Subdivision 3.)

**Section 7. Places Ineligible for License.**

Subdivision 1. General Prohibition. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

Subdivision 2. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Subdivision 3. Distance From School or Church. No license shall be granted within 500 feet of any school or within 500 feet of any church.

**Section 8. Condition of License.**

Subdivision 1. In General. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

Subdivision 2. Insurance. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subdivision 3. Licensee's Responsibility. Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages in the establishment is the act of the licensee.

Subdivision 4. Inspections. Every licensee shall allow any peace officer, health officer, or employee of the city to enter, inspect, and search the premises of the licensee during business

hours without a warrant.

Subdivision 5. Display During Prohibited Hours. No “On-sale” establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

**Section 9. Restrictions on Purchase and Consumption.**

Subdivision 1. Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor “on-sale” or a permit from the commissioner of public safety under Minnesota Statutes Section 340A.414 and no person shall consume liquor in any such place.

Subdivision 2. Consumption in Public Places. No person shall consume liquor on a public highway, public park, or other public place.

**Section 10. Suspension and Revocation.** The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.69 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of required deposit. or suspension or revocation of a license, may request a hearing therein and if such a request is in writing to the clerk, a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

**Section 11. Penalty.** Any person violating any provision of this ordinance is guilty of a misdemeanor.