

CHAPTER XII

SALE, CONSUMPTION, AND DISPLAY OF LIQUOR, BEER, AND WINE

Section 1200 – Intoxicating Liquor

1200.01 Provision of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale with the exception that no on-sale sales of intoxicating liquor or 3.2 percent malt liquor shall be made after 1:00 a.m., and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this Section as if set out herein in full.

(Amended Ord. 1199 – 2003)

1200.03 License Required. Subdivision 1. General Requirements. No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in the Section. Liquor licenses shall be of ten kinds: on-sale, on-sale wine, off-sale, special club licenses, temporary on-sale, Sunday on-sale, on-sale brewer taproom, off-sale growler, microdistillery/cocktail room, and off-sale distilled spirits.

(Amended Ord 1403 – 2013, Amended Ord 1480 - 2018)

Subd. 2. On-Sale Licenses. On-sale licenses shall be issued only to hotels, clubs, bowling centers, restaurants, and exclusive liquor stores and permit on-sale of liquor only.

a. In order to hold an on-sale license, a restaurant must meet the requirements of Minnesota Statutes Section 340A.101, subdivision 25, have facilities for serving not less than 30 guests at one time, and maintain a Category 3 food establishment license as defined in Minnesota Statutes Section 157.16, subdivision 3.

b. Recipients of on-sale licenses are divided into three (3) classes:

- i. Class 1: bars, pubs, and taverns
- ii. Class 2: restaurants.
- iii. Class 3: other (e.g., clubs, bowling centers, and hotels)

c. The number of Class 1 on-sale licenses (for bars, pubs, and taverns) that may be issued by the City cannot exceed 12.

d. All applicants for an on-sale license shall submit plans and specifications of their proposed building for Council approval.

(Amended Ord. 1483 – 2018)

Subd. 3. On-Sale Wine Licenses. On sale wine licenses shall be issued only to restaurants meeting the qualification of Minnesota Statutes, Section 340A, 404, Subdivision 5.

(Amended Ord. 1199 – 2003, Ord. 1483 - 2018)

Subd. 4. Off-Sale Licenses. Off-sale licenses shall be issued only to drug stores and exclusive liquor stores and permit off-sales of liquor only.

Subd. 5. Special Club Licenses. Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for ten years.

Subd. 6. Temporary Licenses. A temporary on-sale intoxicating liquor license may be issued to any club, charitable, religious, or other non-profit organization which has its principal location within the City of Brainerd, and which has been in existence for a period of not less than three (3) years at the time of making an application for this license. This temporary on-sale intoxicating liquor license shall only be issued for a social event occurring within the City limits of Brainerd and which is being sponsored by the licensee. The license may authorize on-sales on the premises other than the premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the City of Brainerd. The fee for such license shall be \$135.00 per day and shall be issued for not more than three (3) consecutive days. No organization shall be granted more than six (6) such licenses per calendar year. This license shall not be effective unless approved by the Commissioner of Public Safety for the State of Minnesota.

(Amended Ord. 883 – 1989, Ord. 964 – 1994, Ord. 965 – 1994, Ord 1397 – 2012)

Subd. 7 (a). Sunday On-Sale License. Special on sale licenses for the sale of intoxicating liquor on Sunday may be issued to bowling centers and to hotels, restaurants, and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in conjunction with the sale of food. Sunday on-sale licenses may also be issued to Microdistilleries and brewer taprooms, pursuant to the authority granted under Minnesota Statutes sections 340A.22 and 340a.26.

(Added Ord. 1058 – 1998, Amended Ord. 1483 – 2018, Amended Ord. 1491 - 2019)

Subd. 7(b). Sunday Hours. The sale of on sale intoxicating liquor on Sundays is allowed between the hours of 8:00 a.m. on Sunday and 1:00 a.m. on Monday. Establishments serving liquor on Sundays must obtain a special license under subdivision 7(a) above.

(Added Ord. 1058 – 1998, Amended Ord. 1070 – 1999, Amended Ord. 1473 - 2017)

Subd. 8. On-Sale Brewer Taproom Licenses. An on-sale brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the

restrictions of this chapter and Minnesota Statutes, Section 340A.301, Subdivision 6b, as it may be amended from time to time.

(Added Ord. 1403 – 2013)

Subd. 9. Off-sale Growler Licenses. An off-sale growler license authorizes off-sale of malt liquor produced by a brewer and packaged in sixty-four (64) ounce or seven hundred fifty milliliter (750 ml) containers that are designed, sealed and labeled pursuant to Minnesota Statutes, Section 340A.301, as it may be amended from time to time. Only brewers licensed under Minnesota Statutes Section 340A.301, Subdivision 6(d), (i) or (j) are eligible for an off-sale growler license, subject to the limitations set forth in Section 340A.301, as it may be amended from time to time. The off-sale of growlers may be conducted on Sundays between the hours of 10:00 a.m. and 10:00 p.m.

(Added Ord. 1403 – 2013, Amended Ord. 1451 – 2016)

Subd. 10. Microdistilleries. (a) An on-sale microdistillery license authorizes samples on its premises of distilled spirits manufactured on its premises, in an amount not to exceed 15 milliliters per variety per person. No more than 45 milliliters may be sampled under this paragraph by any person on any day (b) A microdistillery can sell cocktails to the public, pursuant to subdivision 2 of State Statute 340A.22 (c) A microdistillery may not operate a cocktail room under subdivision 2 of State Statute 34A.22 or conduct sales at off-sale under subdivision 4 of State Statutes 340A.22 unless at least 50 percent of the annual production of the license is processed and distilled on premises. (d) Distilled spirits produced or in production prior to July 1, 2017 are not counted as part of the calculations under paragraph (c).

(Added Ord 1480 – 2018)

Subd. 11. Cocktail Rooms. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller, subject to the restrictions in this chapter and Minnesota Statutes, Section 340A.22, Subdivision 2, as it may be amended from time to time. Notwithstanding section 340A.504, subdivision 3, a cocktail room may be open and may conduct on-sale business on Sundays if authorized by the municipality.

(Added Ord 1480 – 2018)

Subd. 12. Off-Sale Distilled Spirits Licenses. An off-sale distilled spirits license authorizes off-sale of distilled spirits of one 375 milliliter bottle per customer per day of product manufactured on site, subject to the following requirements: (2) off-sale hours of sale must conform to hours of sale for retail off-sale licensees in the licensing municipality; and (2) no brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

(Added Ord 1480 – 2018)

1200.05 Application for License. Subdivision 1. Form. An application for a license to sell liquor shall state the name of the applicant, his 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 that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the commission of public safety and shall be verified and filed with the Clerk-Treasurer. No person shall make a false statement in an application.

Subd. 2. Deleted Ord. 888 – 1990

Subd. 3. Financial Responsibility. Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340.11, Subdivision 11, with reference to liability under the Statutes, Section 340.95. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this Subdivision shall conform to Minnesota Statutes, Section 340.12.

Subd. 2. Deleted Ord. 888 – 1990

Subd. 3. Financial Responsibility. Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340.11, Subdivision 11, with reference to liability under the Statutes, Section 340.95. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this Subdivision shall conform to Minnesota Statutes, Section 340.12.

Subd. 4. Approval of Security. The security offered under Subdivision 2 shall be approved by the Council and in the case of applicants for on sale wine licenses and off sale licenses, by the commissioner of public safety. Liability insurance policies required by this Section but not by state law and surety bonds required under Subdivision 2 shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

1200.07 License Fees. Subdivision 1. Fees: Amounts. The annual fees for licenses under this Section are set by Chapter X.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the Clerk-Treasurer for payment in full of the license fee and the fixed investigation fee required by this Section, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the Clerk-Treasurer shall, refund the amount paid as the license fee.

Subd. 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 June.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by Statute

1200.09 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 the application an investigation fee of \$100 and the City shall conduct a preliminary background and financial investigation of the applicant pursuant to Chapter 15 of the Brainerd City Code. The application in such case shall be made on a form prescribed by the Minnesota Bureau of Criminal Apprehension (BCA) 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 a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation pursuant to Chapter 15 of the Brainerd City Code. 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 payable by the applicant whether or not the license is granted. The Council shall estimate the cost of the out of State investigation and said sum shall be payable by the applicant prior to the out of State investigation.

(Amended Ord. 1353 – 2010)

Subd. 2. Hearing and Issuance. The 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 wine license or off sale license shall become effective until it, together with the security furnished by the applicant, has been approved by the commission of public safety.

Subd. 3. Person and Premises Licenses: 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 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 grounds for revocation of the license.

1200.11 Person Ineligible for License. No license shall be granted to any person made ineligible for such license by State law. No more than one on-sale and one off-sale intoxicating liquor license shall be directly or indirectly issued within the City to any one person.

(Amended Ord. 1017 – 1996)

1200.13 Places Ineligible for License. Subdivision 1. General Prohibition. No license shall be issued for any place or business ineligible for such a license under State law.

Subd. 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 or the State of Minnesota are delinquent and unpaid.

(Amended Ord. 1373 – 2010)

1200.15 Condition of a License. Subdivision 1. In General. Every license is subject to the conditions in the following subdivision and all other provision of this Section and of any other applicable provisions of State law or regulation and this Code.

Subd. 2. Insurance. Compliance with financial responsibility requirements of State law and of this Section is a continuing condition of any license.

Subd. 3. Licensee's Responsibility. Every licensee is responsible of the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Ordinance and the law equally with the employee.

Subd. 4. Inspections. Every licensee shall allow any peace officer, health officer, or a properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 5. Display During Prohibited Hours and Days. The hours and days of sale of licenses issued pursuant to the terms of this Chapter shall be the same as those set forth in Chapter 340A of the Intoxicating Liquor Act of the State of Minnesota adopted by reference as part of this Chapter

(Amended Ord. 1138 – 2002)

Subd. 6. Restrictive Hours for Patrons, Employees, and Consumption. No patrons of on-sale license holders shall remain on the licensed premises after one-thirty (1:30) A.M., and in any event no persons except bona fide employees of the license holder or a janitorial service shall remain on the licensed premises after one thirty (1:30) A.M., unless they are actively engaged in a clean-up operation for the premises. No person, including employees of the licensed premises or of the cleaning service shall consume any intoxicating liquor or nonintoxicating malt liquor on the licensed premises after one twenty (1:20) A.M., until the licensed premises can next properly be opened for business. Any unconsumed intoxicating liquor or non-intoxicating malt liquor remaining on the premises, other than that necessary for inventory purposes, shall be disposed of at one twenty (1:20) A.M. No unconsumed intoxicating liquor or non-intoxicating malt liquor shall be removed from the premises for consumption at a different place by any employee or patron.

(Amended Ord. 1138 – 2002)

Subd. 7. Possession, Sale, or Distribution of Controlled Substances or Marijuana Prohibited. No licensee or employee or agent of an on-sale licensee shall possess, sell, or distribute controlled substances or marijuana as defined by MN Statute 152.01 while on the licensee's premises.

(Amended Ord. 1138 – 2002)

Subd. 8. Federal Stamps. No licensee shall possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp.

(Amended Ord. 1138 – 2002)

1200.17 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 Commission of Public Safety under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.

Subd. 2. Consumption in Public Places. No person shall consume liquor on a public highway, public park except in compliance with Section 1205.03, Subd. 5, or other public places.

(Amended Ord. 1012 – 1996)

1200.19 Suspension and Revocation. Subdivision 1. Violation of Statute, Regulations, or City Code Relating to Intoxicating Liquor. The City Council may suspend for a period not to exceed 60 days or revoke any liquor license after finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this Code relating to intoxicating liquor. Except in cases of failure of financial responsibility, or where a conviction by a court of competent jurisdiction for such violation has occurred, no sanction under this Ordinance shall be imposed until the licensee has been afforded an opportunity for a full hearing before the City Council or its designee.

Subd. 2. Conviction of Sale to a Minor or Discovery of Non-Compliance During Liquor Compliance Investigation. Upon either the conviction of a licensee or the licensee's employee or agent of sale of alcohol to a minor, or discovery of non compliance during a liquor compliance investigation, the sanctions set out below shall apply.

Subd. 3. First Occurrence. Upon either the first conviction of sale of alcohol to a minor by a licensee or the licensee's employee or agent, or upon the first failure of a liquor compliance check within any three year period, the licensee shall pay a civil penalty to the City of \$500.00 and participate in training concerning liquor and beer sales regulations and restrictions.

Subd. 4. Subsequent Occurrences. In the event of a second conviction of sale of alcohol to a minor by a licensee or the licensee's employee or agent, or a second failure of the liquor compliance check within three (3) years of any such prior conviction or failure, shall pay a civil penalty to the City of \$1,000.00 and participate in training concerning liquor and beer sales regulations and restrictions.

Subd. 5. Additional Penalties for Frequent Violations of this Section. If the licensee or an employee or agent of the licensee is either convicted of sale of alcohol to a minor or fails a liquor compliance check for a third time within any three (3) year period the liquor license shall be suspended for such five (5) day period as shall be determined by the Chief of Police. In addition, the licensee shall pay a civil penalty to the City in the sum of \$2,000.00.

Subd. 6. Extended License Suspension. If the licensee or an employee or agent of the licensee is either convicted of sale of alcohol to a minor or fails a liquor compliance check a fourth time within any three (3) year period, the liquor license shall be revoked.

(Amended Ord. 1097 – 2000)

1200.21 Deleted Ord. 1483 - 2018

1200.23 Off-Sale Liquor Zones and License Limitations. Intoxicating off-sale liquor licenses are subject to the following limitations:

Subd. 1. Every off-sale license holder shall have a place of business with solid walls, floor to ceiling, with no interior openings and with a separate exterior entrance.

Subd. 2. All applicants for an off-sale liquor license shall submit plans and specifications of their proposed building including the proposed off-street parking area for Council approval.

(Amended Ord. 1483 – 2018)