

# CHAPTER 10

## LIQUOR CONTROL AND CHARITABLE GAMBLING

**Sec. 10-2. License Required.** No person may directly or indirectly, upon any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the required license or permit.

**Sec. 10-3. Types of Licenses.** Licenses issued under this Chapter shall be of the following general types:

- (1) **On-Sale Intoxicating Liquor License.** An on-sale intoxicating liquor license may only be issued to the following establishments:
  - (a) Hotels;
  - (b) Restaurants, as defined by Minn. Stat., Chap. 340A, having a minimum seating capacity of 30 guests;
  - (c) Bowling centers;
  - (d) Clubs or congressionally chartered veterans' organizations with the approval of the state 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; and
  - (e) Exclusive liquor stores.
  
- (2) **On-Sale Wine License.** An on-sale wine license may only be issued with the approval of the state liquor control commissioner to a restaurant having facilities for seating at least 25 guests at one time. Subject to Council approval, the holder of an On-Sale Wine license, who is also licensed to sell 3.2 Malt Liquor at on-sale and whose gross receipts are at least sixty percent attributable to the sale of food, may be issued an endorsement to said On Sale Wine license permitting the sale of Intoxicating Malt Liquors at on-sale without an additional license.
  
- (3) **Temporary On-Sale License.** A temporary on-sale intoxicating license, authorizing the sale of intoxicating liquor for not more than four consecutive days, may be issued only to the following in connection with a social event occurring within the city sponsored by the licensee:
  - (a) A club or charitable, religious, or other nonprofit organization in existence for at least three years;
  - (b) A political committee registered under Minn. Stat. 10.A14; or
  - (c) A state university.
  
- (4) **Off-Sale Intoxicating Liquor License.** An off-sale intoxicating liquor license may be issued only to an exclusive liquor store in the city with the approval of the state liquor control commissioner.
  
- (5) **On-Sale 3.2 Percent Malt Liquor License.** An on-sale 3.2 percent malt liquor license may only be issued to drugstores, restaurants, hotels, clubs, bowling centers, golf courses, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
  
- (6) **Off-Sale 3.2 Percent Malt Liquor License.** An off-sale 3.2 percent malt liquor license may be issued permitting the sale of 3.2 percent malt liquor for consumption off the licensed premises only.

- (7) **Temporary On-Sale 3.2 Percent Malt Liquor License.** A temporary on-sale license for the sale of 3.2 percent malt liquor may be issued to a club or charitable, religious, or nonprofit organization and may authorize the sale of 3.2 percent malt liquor in any school or school buildings.
- (8) **On-Sale Sunday License.** An On-Sale Sunday license authorizing the sale of intoxicating liquor on Sundays may be issued to 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.
- (9) **Optional On-Sale 2 AM Closing License.** A license may be issued to a licensee permitting the on-sale of intoxicating liquor or 3.2 percent malt liquor between the hours of 1:00 a.m. and 2:00 a.m. with the approval of the state liquor control commissioner.

**Sec. 10-4. Persons eligible.** No retail license may be issued to:

- (1) A person under 21 years of age;
- (2) A person who has had any intoxicating liquor or 3.2 percent malt liquor license revoked within five years of the license application, or to any person who at the time of the violation precipitating the license revocation owns any interest, whether as a holder of more than five percent 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;
- (3) A person not of good moral character and repute; or
- (4) A person who has a direct or indirect interest in any alcohol beverage manufacturer, brewer, or wholesaler.

In addition, no new retail license may be issued to, and the city council may refuse to renew the license of, a person who, within five years of the license application, has been convicted of any felony or any willful violation of a federal or state law or city ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

**Sec. 10-5. Application for License; Initial, Renewal, Change of Ownership or Business Control of Licensed Premises.** A properly completed application for a liquor license shall be required upon initial application, upon license renewal and upon any change of ownership or business control of a licensed premises. No person shall, under penalty of perjury, make a false statement in an application. Aside from such criminal penalties as may attach, the making of a false statement in connection with an application for license under this Chapter shall in and of itself constitute sufficient grounds for the immediate disqualification of the application or revocation of any license subsequently issued in reliance upon such false statement. Every application for a license to sell alcoholic beverages shall be verified and filed with the city licensing authority. Every application for a license under this Chapter shall be made on a form supplied by the City and shall minimally contain the following information:

- (1) If the applicant is a natural person:
  - (a) The name, place and date of birth, residential street address, and telephone number of the applicant.
  - (b) Whether the applicant is a citizen of the United States or a resident alien.

- (c) Whether the applicant has ever used or been known by another name other than the applicant's current name, and if so, the name or names used and information concerning the dates and places when used.
  - (d) The name of the business if it is to be conducted under a designation, name or style other than the name of the applicant and a certified copy of the certificate as required by Minnesota Statutes, Section 333.01.
  - (e) All street addresses at which the applicant has resided during the preceding five (5) years.
  - (f) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.
  - (g) Whether the applicant has ever been convicted of a felony or misdemeanor level crime, or for the violation of any ordinance other than a traffic ordinance. If so, the applicant shall furnish information as to time, place and description of offense for which convictions were had.
  - (h) The physical description of the applicant.
  - (i) Whether the applicant is married or single. If married, true name, place and date of birth, and street address of the applicant's present spouse.
- (2) If the applicant is a partnership:
- (a) The name(s) and address(es) of all general and limited partners and all information concerning each partner as required in subpart (1) of this section.
  - (b) The name(s) of the managing partner(s) and the individual percentage of ownership for each partner in the liquor business.
  - (c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.
- (3) If the applicant is a corporation or other organization:
- (a) The name of the corporation or business form, and if incorporated, the state of the incorporation.
  - (b) A certified copy of the complete Certificate of Incorporation, Articles of Incorporation or Association Agreement shall be attached to the application. If the application is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached.
  - (c) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent as required under subpart (1) of this section.
  - (d) A list of all persons who control or own any interest in such organization or business form or who are officers of the corporation or business form including the individual percentage of ownership for each affiliated member and all information concerning said persons as required in subpart (1) of this section.
- (4) For all applicants:
- (a) Whether or not the applicant holds a current liquor license from any other governmental unit.

- (b) Whether or not the applicant has ever been engaged in operating or as an employee of a saloon, hotel, restaurant, café, tavern or other business of a similar nature. If so, the applicant shall furnish information as to the time, place and length of time of such engagement.
- (c) Whether or not the applicant has previously been denied a liquor license from any other governmental unit.
- (d) The location of the premises upon which the applicant proposes to sell liquor and an exact description, including the proposed floor plan and seating capacity, for the particular location within the building structure where such sales are proposed.
- (e) The legal description of the business premises.
- (f) Whether or not all real estate and personal property taxes that are due and payable to the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
- (g) Whenever the application 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. If the plans or designs are currently on file with the Oakdale Building Inspection Department, no additional drawings or plans need to be submitted.
- (h) Every application shall include a copy of any summons issued under Minn. Stat. 340A.802 and received by the applicant during the preceding year
- (i) Such other information as the City Council or the state liquor control commissioner may require.

In all cases, the main applicant must be the individual who controls or owns the majority of the interest in the business for which the liquor license is being sought.

**Sec. 10-7. Liability Insurance.** No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by Minn. Stat. 340A.409. The minimum requirement for proof of financial responsibility may be given by filing a certificate of insurance providing coverage as required in state law. The operation of an "on sale" or "off sale" liquor business without having on file at all times with the city, proof of an effective bond, insurance policy, or other security as required, shall be sufficient grounds for immediate revocation of the involved license.

**Sec. 10-8. Payment of Fees.** Each application for a license under this Chapter shall be accompanied by a payment in full of the required license fee. All such license fees shall be paid into the General Fund of this municipality. Upon rejection of any application for a license, the treasurer shall refund to the applicant, the amount paid.

- (1) **Late Fee.** If a renewal application is received after the given due date, a late fee, as determined by the City Council, shall be charged to the applicant. Late renewal applications shall not be processed until the late fee is paid in full. The late fee must be paid separately from the renewal application fee due to accounting purposes.
- (2) **Public Hearing Notice Fee.** New license applicants must pay a public hearing notice fee, per notice posting. The fee is non-refundable and must be paid prior to the public hearing. The amount of the public hearing notice fee shall be determined by the City Council.

**Sec. 10-9. Investigation Required; Fee.** Subject to the monetary limitations imposed under Minnesota Statutes, Section 340A.412, Subdivision 2, each initial application for an "on sale" or "off sale" license shall be accompanied by a nonrefundable investigation fee in an amount as determined by the City Council, provided

however, that said investigation fee may be waived upon an affirmative vote of the City Council. After the completion of the initial investigation, the City Council may determine that further investigation is necessary to determine the applicant's qualifications. When such further investigation is so ordered, an additional fee, not to exceed applicable statutory limitations, may be assessed to cover the reasonable cost and expense of such investigation. At the discretion of the City Council, an investigation with corresponding nonrefundable fee as determined by the City Council may be required prior to the renewal of any existing "on sale" or "off sale" license whenever such investigation is deemed to be in the public interest.

No license may be issued, renewed, or change in ownership or business control permitted if the results of the investigation show, to the satisfaction of the governing body, that issuance, renewal, or change in ownership or business control would not be in the public interest.

**Sec. 10-10. Notice and Hearing.** No initial application for "on sale" licensing by the licensee shall be acted upon by the City Council until a public hearing, preceded by at least ten (10) days published notice, shall have been held. Said notice shall be published once in the legal newspaper designated as such by the city, and shall include the time, place and purpose of the hearing, the name of the applicant, and the description and location of the premises.

**Sec. 10-11. Expiration of License; Prorating.** All licenses issued pursuant to this Chapter shall expire on the last day of March of each year. Each license shall be issued for a period of one year except that if a portion of the license year (April to March following) has elapsed at such time as the application is filed, a license may be issued for the remainder of the license year for a pro rata fee. For the purpose of computing such "pro rata fee", any fraction of a month falling within the license period shall be counted as a full month.

**Sec. 10-12. License Limited to Applicant and Described Premises.** Each license, as provided under this chapter, shall be issued only to the listed applicant and may not be transferred in any way, manner, or form to another holder. Changes in the articles of incorporation or partnership agreements, as the case may be, shall be submitted to the City within 10 days after such changes are made. The licensee shall notify the licensing authority when a person not listed in the application acquires an interest in the partnership or corporation and shall give all information about the person as is required in an initial application. Subsequent investigation determining the ineligibility of a corporate member(s) or partner(s) shall be sufficient grounds for the revocation of the involved license. Unless modified to the contrary, a license issued under this Chapter is valid only for the structural building portion of the premises described in the application, and shall not be transferable to new premises except upon the approval of the City Council.

**Sec. 10-13. Places Ineligible for License.**

- (1) No license required by this Chapter shall be issued for any place or for any business ineligible for such a license under State law.
- (2) No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent or unpaid.
- (3) In those cases where licenses are desired for premises within one thousand (1,000) feet of any school or any church, the city shall cause a notice of a license application hearing to be mailed to all churches and schools located within one thousand (1,000) feet of such premises. In the case of a school, the distance is to be measured in a straight line from the parcel or lot upon which the business to be licensed is located to the nearest point of the parcel or lot upon which the school is located. In the case of a church, the distance shall be measured in the same manner as set forth above, except it is to be measured to the nearest point of the church building itself. The erection of a school or church within one thousand

(1,000) feet of an existing licensed premise, after the granting of the original application, shall not in and of itself render such premises ineligible for renewal of the license.

- (4) No license shall be granted for operation on any premises upon which any city code or state code violations exist, nor which is in violation of any building permit or development agreement entered into between the proposed licensee, or licensees, and the city, except that the city may grant a temporary or restricted license for use on part of the premises or for part of the time, if the City Council determines that it is in the best interest of the city to grant said temporary or restricted license and the facts upon which said determination is made are stated in the resolutions granting the license. "Premises" as used in this section, refers not only to the building for which the license was issued, but also included all land adjoining the building and owned by the licensee.

**Sec. 10-14. Application for License Renewal.** Applications for the renewal of an existing license shall be made at least sixty (60) days prior to the date of the expiration of the license and shall be made in such form as the City may approve. Proposed enlargement, alteration, or extension of premises previously licensed shall be reported to the City at or before the time application is made. If, in the judgment of the City Council, good and sufficient cause is shown by any applicant for that applicant's failure to file an application for license renewal within the time provided, the City Council may, upon a determination of compliance with all other provisions of this Chapter, accept the delinquent application. The City shall investigate the facts set out in the application, as in the case of an initial application for license.

**Sec. 10-15. Compliance Checks.** From time to time, but at least once per year, the city shall conduct compliance checks by using underage persons over the age of 18 years but under the age of 21 years to enter the licensed premise to attempt to purchase alcohol. Designated law enforcement personnel shall supervise the underage persons used for compliance checks. Underage persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of alcohol when such alcohol is obtained or attempted to be obtained as part of the compliance check. No underage person used in the compliance check shall attempt to use a false identification misrepresenting the underage person's age and all underage persons lawfully engaged in a compliance check shall answer all questions about the underage person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal laws for educational, research or training purposes, or required for the enforcement of a particular State or Federal law.

**Sec. 10-16. Conditions of License.**

- (1) **Generally.** Every liquor license issued pursuant to this Chapter shall be granted subject to the terms and conditions set forth in the following subdivisions of this section, in addition to all other provisions of this code and of any other applicable city code section or State Statute.
- (2) **License Posting.** A retail license to sell alcoholic beverages must be posted in a conspicuous place in the licensed premises.
- (3) **Notice Posting.** A premises licensed for the retail sale of alcoholic beverages must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers; one sign 14 ½ inches wide by 8 inches high as designed by the commissioners of health and public safety, which incorporates the following information:
  - (a) the penalties of driving while under the influence of alcohol;

- (b) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and
- (c) a warning statement regarding drinking alcohol while pregnant.

A sign that complies with this subdivision is available for reproduction from the state commissioners of health and public safety. A retail licensee may not modify the sign design but may modify the color.

- (4) **Responsibility of Licensee/Manager.** Every licensee, and in the case of a corporation, the Manager as named on the license, shall be responsible for the conduct of the place of business, the conditions of sobriety and order maintained therein and the observance of all applicable laws. The act of any employee authorized to sell or serve alcoholic beverages under State and/or local law, committed on the licensed premises shall be deemed to be the act of the licensee as well. As such, the licensee shall be liable for and subject to all penalties, as provided under this Chapter, equally with the involved employee(s).
- (5) **Persons Denied Access.** No intoxicating liquor or 3.2 malt liquor shall be sold, furnished, or delivered for any purpose to any obviously intoxicated person, to any habitual drunkard, or to any person under twenty-one (21) years of age.
- (6) **Prostitution Prohibited on Licensed Premises.** No licensee shall permit the licensed premises or any part thereof or any room in any adjoining building, either directly or indirectly under the licensee's control, to be used as a resort or other point of congregation for prostitution.
- (7) **Prohibited Acts; Conduct.** The following acts or conduct on licensed premises are deemed to be contrary to the public welfare and morals, and as such, no "on sale" or "off sale" license shall be held at any premises where such conduct or acts are permitted. *For complete copy of subsection (7), please call (651) 730-2739.*
- (8) **Inspection of Premises.** Any peace officer, health officer, or any other properly designated officer or employee of the city, shall have the unqualified right to enter, inspect and/or search the premises of the licensee during business hours or at other reasonable times without a warrant for same.

**Sec. 10-17. Consumption in Public Places, Automobiles.** No person shall consume, or possess an open container which contains intoxicating liquor or 3.2 malt liquor on a public street or highway, or in an automobile, or in a public park where prohibited and duly posted, or in any other public place, including, but not limited to, the parking lot of the licensed premises or adjoining parking areas not under the control of the licensee. If the open container is, or appears to be, an original package, as defined by State law, or a bottle marked as an original package, the contents will be presumed to be intoxicating liquor or 3.2 malt liquor.

**Sec. 10-18. Employment of, and Sales by, Minors.**

- (1) It shall be unlawful for any licensee under this Chapter to allow any person under the age of eighteen (18) to sell, serve, or deliver any alcoholic beverage.
- (2) It shall be unlawful for any person under the age of eighteen (18) years to sell, serve or deliver any alcoholic beverage.

**Sec. 10-19. Evacuation of Premises; New Year's Eve Exception.** No "on sale" licensee shall permit any intoxicating liquor or 3.2 malt liquor to be consumed on the licensee's premises during the hours when the sale thereof is by this section, prohibited; provided, however, that the licensee shall be allowed a thirty (30) minute period following the 2:00 a.m. closing hour to clear the premises of customers and any other persons, not including "on-duty" employees, who are on the premises at 2:00 a.m. An exception to this evacuation requirement shall be permitted on New Year's Eve as follows: Patrons who are on the licensed premises prior to

closing time may remain on the licensed premises after closing time until 4:00 a.m. on New Year's Day for the purpose of consuming only food and nonalcoholic beverages.

**Sec. 10-20. Seized Liquor.** Contingent on the final determination of any action pending in a court, the Chief of Police or the Police Chief's designee shall dispose of alcoholic beverages, materials, or apparatus seized by duly licensed peace officers employed by the City of Oakdale in connection with violations of this Chapter by:

- (1) Delivering alcoholic beverages to the bureau of criminal apprehension or state patrol for use in chemical testing programs; or
- (2) Destroying or otherwise disposing of alcoholic beverages or contraband articles that have no lawful use.

**Sec. 10-21. License Suspension; Revocation.**

- (1) **Generally.** The City Council may suspend or revoke a license or permit to sell alcoholic beverages on a finding that the license or permit holder has failed to comply with an applicable statute, regulation, or ordinance relating to alcoholic beverages.
- (2) **Notice and Right to Hearing.** Prior to revoking or suspending any license under this chapter, the City shall provide a license or permit holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by regular mail to the applicant at the address provided in the application and shall inform the applicant of the applicant's right to a hearing. If no request for a hearing is received within ten (10) days following the service of the notice, the matter shall be submitted to the City Council for suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the hearing.
- (3) **Emergency.** If, in the discretion of the City, imminent harm to the health or safety of the public may occur because of the actions of a liquor licensee, the City may immediately suspend the license or permit and provide notice of the right to hold a subsequent hearing as prescribed in part (2) of this section.

**Sec. 10-22. Enforcement and Penalties.**

- (1) **Enforcement.** Violations of the provisions established in this Chapter may be enforced through both criminal and civil sanctions.
- (2) **Criminal Prosecution.** Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor in district court for any violation of this Chapter or criminal prosecution under Minnesota Statutes for violations of other statutes, rules or ordinances.
- (3) **Administrative Penalties.** The following are the administrative penalties for violations of this Chapter:
  - (a) **First violation.** Any licensee found to have violated this Chapter shall be charged an administrative penalty of five hundred dollars (\$500.00).
  - (b) **Second violation.** Any licensee found to have violated this Chapter two (2) times within a twenty-four (24) month period shall be subject to a one thousand dollar (\$1,000.00) administrative penalty.
  - (c) **Third violation.** Any licensee found to have violated this Chapter three (3) times within a twenty-four (24) month period shall be subject to a two thousand dollar (\$2,000.00)



administrative penalty. In addition, a one (1) day suspension of the liquor license shall be imposed.

(d) **Fourth violation.** Any licensee found to have violated this Chapter four (4) times within a twenty-four (24) month period shall be subject to a two thousand dollar (\$2,000.00) administrative penalty. In addition, a ten (10) day suspension of the liquor license shall be imposed, covering ten (10) consecutive business days.

(e) **Fifth violation.** Any licensee found to have violated this Chapter five (5) times within a twenty-four (24) month period shall have their liquor license revoked.

(4) **Other Penalties.** Nothing in this section shall restrict or limit the authority of the City Council to suspend up to sixty (60) days, revoke the license, impose a civil fine not to exceed two thousand dollars (\$2,000), or to impose conditions or take any other adverse action in accordance with law, provided that the license holder has been afforded an opportunity for a hearing as provided under Sec. 10-19.