

700 Liquor and Beer

701. Liquor

(Title of Chapter amended by Ordinance No. 86-7 passed May 27, 1986)

(Entire Chapter Amended by Ordinance 09-01 passed April 14, 2009)

701.01. Adoption of State Law by Reference. The provisions of M.S. Ch. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. § 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

701.02. City May Be More Restrictive Than State Law. The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. § 340A, as it may be amended from time to time.

701.03. Definitions. In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this Chapter:

LIQUOR. As used in this chapter, without modification by the words "An intoxicating" or "A 3.2 percent malt," includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the State as required by M.S. §157.16, as it may be amended from time to time, and meet the definition of either a "small establishment," "medium establishment" or "large establishment" as defined in M.S. §157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this Chapter unless it meets the definitions of a "small establishment", "medium establishment" or "large establishment".

701.04. Nudity on the Premises of Licensed Establishments Prohibited.

Subd. 1. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this Chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including

prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the City.

Subd. 2. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

Subd. 3. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty.

701.05. Term and Expiration of Licenses. Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms.

701.06. Kinds of Liquor Licenses. The City may issue the following licenses and permits, up to the number specified in M.S. Ch. § 340A.

Subd. 1. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

Subd. 2. 3.2 percent malt liquor off-sale license may be issued only with the approval of the Municipality and Commissioner of Public Safety.

Subd. 3. Temporary 3.2 percent malt liquor licenses may be issued only with the approval of the Municipality and Commissioner of Public Safety; which may be issued only to a club, charitable, religious, or nonprofit organization.

Subd. 4. Off-sale intoxicating liquor licenses may be issued only with the approval of the Municipality and Commissioner of Public Safety; which may be issued only to exclusive liquor stores.

Subd. 5. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Municipality and Commissioner of Public Safety. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time.

Subd. 6. Sunday on-sale intoxicating liquor licenses as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least thirty (30) persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. Sunday on-sale 3.2 malt liquor license requires Council approval.

Subd. 7. Temporary on-sale intoxicating liquor licenses, with the approval of the Municipality and Commissioner of Public Safety; which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three (3) years. No license shall be for longer than four consecutive days, and the City shall issue no more than twelve (12) days worth of temporary licenses to any one organization in one calendar year.

Subd. 8. On-sale wine licenses, with the approval of the Municipality and Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least twenty-five (25) guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with content over 3.2 percent (strong beer) without an additional license.

Subd. 9. Consumption and display licenses, with the approval of the Municipality and Commissioner of Public Safety; authorizes the establishment to allow the consumption and display of intoxicating liquor on the licensed premises. The permit does not authorize the sale of intoxicating liquor.

701.07. License Fees; Pro Rata.

Subd. 1. No license or other fee established by the City shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

Subd. 2. The Council may establish from time to time in the Ordinance Section 212 the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least thirty (30) days before the hearing.

Subd. 3. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis.

Subd. 4. All license fees shall be paid in full at the time the application is filed with the City. If the application is denied, the license fee shall be returned to the applicant.

Subd. 5. A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, subd. 5, as it may be amended from time to time.

Subd. 6. Off-sale intoxicating liquor license fees are subject to a reduction of one hundred dollars (\$100.00) if all of the following conditions are met:

- (1) The licensee agrees to have a private vendor train all employees within sixty (60) days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
- (2) The licensee agrees to post a policy requiring identification checks for all persons appearing to be thirty (30) years old or less; and
- (3) A cash award and incentive program is established by the licensed, to award employees who catch underage drinkers, and a penalty program is established to punish employees in the event of a failed compliance check.

701.08. Council Discretion to Grant or Deny a License. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

701.09. Application for License.

Subd. 1. Application Form. Every application for a license issued under this chapter shall be on a form provided by the City. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Municipality and shall also contain the information required in this section. The form shall be verified and filed with the City. No person shall make a false statement in an application.

Subd. 2. Financial Responsibility (Liability Insurance).

- (1) Prior to the issuance of any license under this chapter for a premises other than that which is owned by the City of Rockford, the applicant shall file with the City:
 - (a) A certificate that there is in effect an insurance policy or pool providing minimum coverage's of (1) \$100,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$300,000.00 because of bodily injury to two (2) or more persons in any one occurrence, and in the amount of \$50,000.00 because of injury to or destruction of property of others in any one occurrence, and (2) \$100,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$300,000.00 for loss of means of support of two (2) or more persons in any one occurrence; an annual aggregate of \$600,000.00 may be included in the insurance coverage; or,
- (2) Prior to the issuance of any license under this Chapter for a premises owned by the City of Rockford, the applicant shall file with the City:
 - (a) A certificate, with the City listed as an additional insured, that there is in effect an insurance policy or pool providing minimum coverage's of (1) \$1,000,000.00 because of bodily injury to any one person in any one

occurrence, and, subject to the limit for one person, in the amount of \$2,000,000.00 because of bodily injury to two (2) or more persons in any one occurrence, and in the amount of \$300,000.00 because of injury to or destruction of property of others in any one occurrence, and (2) \$1,000,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$2,000,000.00 for loss of means of support of two (2) or more persons in any one occurrence; an annual aggregate of \$2,000,000.00 may be included in the insurance coverage.

Subd. 3. Surety Bond.

- (1) Each application for an off-sale license shall be accompanied by a surety bond, cash or United States government bonds in the sum of three thousand dollars (\$3,000.00). Each application for an on-sale license shall be accompanied by a surety, cash or United States government bonds in the sum of five thousand dollars (\$5,000.00). Each such bond, cash payment, or United States government bond shall be conditioned on the licensee obeying all laws governing the business and paying all taxes, fees, penalties and other charges and must provide that the bond, cash payment, or government bonds are forfeited to the City on a violation of law or non-payment of taxes, fees, penalties or other charges. Surety bonds accompanying an application for an off-sale or on-sale may be reviewed by the City Attorney.

Subd. 4. Workers' Compensation Insurance.

- (1) Every applicant for the issuance of or renewal of an on-sale or off-sale license shall present to the City acceptable evidence of compliance with the workers' compensation insurance coverage requirement of M.S. § 176.182, by providing the name of the insurance company, the policy number, and date of coverage, or the permit to self-insure.
 - (a) The workers' compensation insurance policy required of this section shall provide that it may not be cancelled for cause by the insured or the insurer without first giving ten days written notice to the City, addressed to the Clerk.

701.10. Description of Premises. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

701.11. Applications for Renewal. At least forty-five (45) days before a license issued under this Chapter is to be renewed, an application for renewal shall be filed with the City. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

701.12. Transfer of License. No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the

same as an application for a new license, and all of the provisions of this Code applying to applications for a license shall apply.

701.13. Investigation.

Subd. 1. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the City shall conduct a background investigation of the applicant or it may contract with the Wright County Sheriff's Department for the investigation. The applicant shall pay with the application an investigation fee of two hundred fifty dollars (\$250) which shall be in addition to any license fee. The results of the investigation shall be sent to the Municipality.

701.14. Hearing and Issuance. The Council shall investigate all facts set out in the application and in the background investigation. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation the Council shall in its sound discretion grant or deny the application. If the city denies issuance of a license the applicant may request a hearing within thirty (30) days. No license shall become effective until all fees are paid, insurance and surety bonds certificates have been submitted, has been approved by the Municipality.

701.15. Restrictions on Issuance.

Subd. 1. Each license shall be issued only to the applicant for the premises described in the application.

Subd. 2. Not more than one (1) license shall be directly or indirectly issued within the City to any one person.

Subd. 3. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.

Subd. 4. No license shall be issued for any place or any business ineligible for a license under state law.

Subd. 5. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the State. The provisions of this section shall not apply to any license existing on the effective date of this Chapter or to the renewal of an existing license.

701.16. Conditions of License. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

Subd. 1. Within sixty (60) days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided in writing to the Clerk, by the licensee.

Subd. 2. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Chapter and the law equally with the employee.

Subd. 3. Every licensee shall allow any peace officer, health officer, City employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

Subd. 4. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subd. 5. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

Subd. 6. The liquor license shall be posted in a conspicuous place in the licensed establishment at all times.

701.17. Hours and Days of Sale.

Subd. 1. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than State law allows.

Subd. 2. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

Subd. 3. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than thirty (30) minutes after the time when a sale can legally occur.

Subd. 4. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than thirty (30) minutes after the time when a sale can legally occur.

Any violation of any condition of this section may be grounds for revocation or suspension of the license.

701.18. Minors on Premises.

Subd. 1. No person under the age of eighteen (18) years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of eighteen (18) may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

Subd. 2. No person under the age of twenty-one (21) years may enter a licensed establishment except to work, consume meals or attend a social function and must vacate the premises no later than 10:00 p.m.

701.19. Suspension and Penalties.

Subd. 1. The following are the minimum periods of suspension or penalties which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

- (1) First license violation will incur a two hundred dollar (\$200.00) administrative fine.
- (2) Second violation within any three (3) year period will incur a five hundred dollar (\$500.00) administrative fine and one (1) day suspension with date of suspension to be determined by the city council.
- (3) Third violation within any three-year period shall incur a one thousand dollar (\$1,000.00) administrative fine and one (1) week suspension with the date of suspension to be determined by the City Council.

Subd. 2. Lapse of required proof of financial responsibility shall affect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy 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 of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten (10) days.

Subd. 3. The term "violation" includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three (3) year period. Revocation shall occur within sixty (60) days following a violation for which revocation is imposed.