

## 112.37 NON-INTOXICATING MALT LIQUOR LICENSING AND REGULATION

### SECTION 1. Definition of Terms.

SUbd. 1. Beer. As used in this ordinance, "beer" or "non-intoxicating malt liquor" means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths by weight.

Subd. 2. Beer Store. "Beer Store" means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

### SECTION 2. License Required.

SUbd. 1. Licenses. No person, except wholesalers and Manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall be of three kinds: (1) Regular "on-sale"; (2) Temporary "on-sale"; (3) "Off-sale".

Stbd. 2. Regular on-sale. Regular "on-sale" licenses shall be granted only to bona fide clubs, beer stores, exclusive "on-sale" liquor stores, drug stores, restaurants and hotels where food is prepared and served for consumption on the premises. "On-sale" licenses shall permit the sale of beer for consumption on the premises only.

Subd. 3. Temporary "on-sale". Temporary "on-sale" licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of beer for consumption on the premises only.

SUbd. 4. Off-sale. "Off-sale" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only. SECTION 3. License Applications.

Subd. 1, Form. Every application for a license to sell beer shall be made to the city clerk on a form supplied by the city and containing such information as the clerk or the city council may require.. It shall be unlawful to make any false statement in an application.

Subd. 2. Proof of Financial Responsibility. Prior to the issuance of a beer 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 Commission of Insurance except that if a license is issued prior to March 1, 1983, or involves sales of beer of a prospective vendor who is not required by law to file such proof with the Commissioner of Insurance, such • proof shall be filed with the City Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 340.12.

Subd. 3. Approval of Security. Liability insurance policies required by this ordinance but not by state law Shall be approved as to form by the City Attorney. Operation of a business licensed by this ordinance without having on file with the State Insurance Commissioner or the city at all times effective security as required in Subdivision 2 is a cause for revocation or suspension of the license.

#### SECTION 4. License Fees.

ailed. 1. Payment Required. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a 'license, the treasurer shall refund the amount paid.

Subd. 2, Expiration; pro rata fees. Every license except a temporary license shall expire on the last day of December in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

Subd. 3. Fees. The annual fee for a regular "on-sale" license is \$50,00. The annual fee for an "off-sale" license is \$10.00. The fee for a temporary "on-sale" license is \$1.9) per day.

Subd. 4. Refunds. No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the council within f7 days from the happening of the event: There shall be • refunded a pro rata portion of the fee for the unexpired period of the license, • computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) destruction or damage of the licensed premises by fire or other catastrophe
- (2) the licensee's illness.
- (3) a change in the legal status of the municipality making it unlawful for the licensed business to continue.,
- (4) the licensee's death.

#### SECTION 5. Granting of License.

Subd. 1. Investigation and Hearing. The city council shall investigate all facts set out in the application. 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. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the council.

SECTION 6. Persons Ineligible for License. No license shall be granted to or held by any person who would not be eligible under State law, and, has, within five years prior to the application for such license, been convicted or a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors, and cannot

show competent evidence under Minnesota Statutes Section 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee.

#### SECTION 7. Places Ineligible for License.

SUBD. 1. Conviction or Revocation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this ordinance, or of the State beer or liquor law, or where any license hereunder has been revoked for cause until one year after such conviction or revocation.

Subd. 2, Delinquent Obligations to City. No license shall be granted

for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent and unpaid.

SUBD. 6. Banquet Rooms. A regular "on-sale" license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not fewer than IC persons.

Subd. 7. Closing Hours. No sale of beer shall be made between the hours of one a.m., and eight a.m. on any weekday Monday through Saturday inclusive. Neither shall any sale of such beer be made on any Sunday between the hours of one a.m. and twelve noon.

SECTION 9. Clubs. No club shall sell beer except to members and to guests in the company of members.

#### SECTION 10, Restriction on Purchase and Consumption.

Subd. 1. Age Misrepresentation. No minor shall misrepresent his age for the purpose of obtaining beer.

SUBD. 2. Liquor Consumption and Display. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

SECTION 11. Suspension and Revocation. The council may either suspend for a period not to exceed 60 days or revoke any beer license upon a finding that the licensee or his agent has failed to comply with any applicable statute, regulation, or ordinance relating to beer. Except in the case of any person who holds a

federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at a place licensed to sell beer under this ordinance and except in cases of failure of financial responsibility, no suspension or revocation by the council shall take effect until the license has been afforded notice and an opportunity for a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The council may suspend any license pending a hearing on revocation or suspension.

The holding of a federal liquor dealer's special tax stamp without a license to sell intoxicating liquors or the lapse of required dramshop insurance or bond or withdrawal of a 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. Receipt of a federal retail liquor dealer's special tax stamp without an intoxicating liquor license or notice of cancellation or 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 suspension under the paragraph may request a hearing thereon and if such a request is made 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 and other requirements of this ordinance have again been met.

SECTION 12. -Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700.00 or imprisonment in the county jail for not more than 90 days, or both, plus the cost of prosecution in any case.