

CHAPTER 5

BEER, WINE AND LIQUOR LICENSING AND REGULATION

SECTION 5.01. PROVISIONS OF STATE LAW ADOPTED. The provisions of Minnesota Statutes, Chapter 340A, are adopted and made a part of this Ordinance as if set forth in full, except as modified by this Ordinance.

Source: Ordinance No. 185
Effective Date: May 21, 2003

SECTION 5.02. LICENSE REQUIRED.

Subd. 1. General Requirements. No person except a wholesales or manufacturer to 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 this ordinance. Liquor licenses shall be four (4) kinds: On-sale, On-sale Wine, Off-sale and Club Licenses.

Subd. 2. On-Sale Licenses. On-sale licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only. Said licenses shall be limited to two (2) in number. To qualify for an on-sale license, a restaurant must be under the control of a single proprietor or manager, have appropriate facilities for serving meals, and seating at least thirty (30) guests at a time, regularly serve meals at tables to the general public for pay, and employ an adequate staff to provide the usual and suitable service to its guests. In addition to qualify, an applicant must have restaurant seating capacity of a minimum of one thousand six hundred (1,600) square feet and off-street parking for a minimum of thirty (30) vehicles.

*Changed from 2
to 3 12/19/12*

Subd. 3. On-Sale Wine Licenses. On-sale wine licenses shall be issued only to restaurants meeting the qualifications of M.S.A. §340A.101, Subd. 25, and shall permit only the sale of wine up to 14% alcohol by volume for consumption with the sale of food. Wine licenses shall be limited to two (2) in number. To qualify for a wine license, a restaurant must be an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public for pay, and employ an adequate staff to provide the usual and suitable services to its guests. In addition, to qualify an applicant must have restaurant seating capacity of at least thirty (30) guests at one time. The fee for a wine license shall be determined annually by council resolution.

It is also authorized that a holder of an on-sale wine license issued pursuant to this subdivision who is also licensed to sell 3.2% malt liquors at on-sale pursuant to this ordinance, and whose gross receipts are at least 60% attributable to the sale of food, may also sell intoxicating malt liquor at on-sale without an additional license during the hours as prescribed under Section 5.20 of this Code.

Subd. 4. Off-Sale Licenses. Two off-sale licenses shall be issued only to exclusive liquor stores as defined by Minnesota Statute §340A.101, Subdivision 10.

Number restricted -> 340A.101 subds

Subd. 5. Special Club Licenses. Special club licenses shall be issued only to incorporated clubs who have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years. Special club license fees shall be set annually by council resolution.

Source: Ordinance No. 137-1
Effective Date: February 19, 1979

Subd. 6. Sunday Sales. A Sunday sale license shall be issued only to a restaurant, club, bowling center, or hotel with a seating capacity for at least thirty (30) persons and which holds an on-sale intoxicating liquor license. A Sunday license holder may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 12:00 midnight on Sundays. An establishment serving intoxicating liquor on Sundays must obtain a Sunday license.

Source: Ordinance No. 186
Effective Date: October 15, 2003

SECTION 5.03. SALE OF LIQUOR AT CONVENTION FACILITIES.

Subd. 1. Special License. Any holder of an on-sale intoxicating liquor license issued by the City of Hallock may apply to the City Council for a special license to dispense intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a convention facility owned by the City of Hallock and located within the City of Hallock.

Subd. 2. Conditions to Granting Special License. Applicants for such special license must make application for each such convention, banquet, conference, meeting or social affair on forms to be prepared and furnished by the City Clerk. The licensee must be engaged to dispense intoxicating liquor at such an event held by a person or organization permitted to use the premises and may dispense intoxicating liquor to any person attending or participating in any amateur athletic event held on the premises. The dispensing of intoxicating liquor shall be subject to all laws and ordinances governing the dispensing of intoxicating liquor as are not inconsistent herewith. The City Council may adopt additional uniform terms and conditions for such special licenses and such terms and conditions may include limitations upon the areas within such facility where intoxicating liquor may be dispensed.

Subd. 3. Licensee. The applicant shall pay a license fee of \$25.00 per day to the City upon the issuance of each such special license.

Subd. 4. Insurance. Prior to receiving such special license, the applicant shall furnish proof in such form as required by the Clerk-Administrator that the insurance required by the provisions of this chapter covers operations on the premises of the convention facility for which application is made.

Subd. 5. Convention Facility Defined. For the purposes of this ordinance, the term convention facility shall mean the Hallock City Hall.

Source: Ordinance No. 153
Effective Date: January 2, 1985

SECTION 5.04. APPLICATION FOR LICENSE.

Subd. 1. Form. Every 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 the 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 liquor control director and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

Subd. 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 value as provided in Minnesota Statutes, Section 340A.412. Such surety bond or other security shall be in the sum of \$5,000.00 for an applicant for an on-sale license or an on-sale wine license and \$3,000.00 for an applicant for an off-sale license.

Subd. 3. Liability Insurance. Prior to the issuance of a liquor license, the applicant shall file with the Clerk-Administrator a liability insurance policy providing at least \$50,000.00 of coverage because of bodily injury to any one person in any one occurrence, \$100,000.00 because of bodily injury to two or more persons in any one occurrence, \$10,000.00 because of injury to or destruction of property of others in any occurrence, \$50,000.00 for loss of means of support of any one person in any one occurrence, and \$100,000.00 for loss of means of support of two or more persons in any one occurrence, and the provisions of Minnesota Statutes Section 340A.409 shall otherwise apply.

Subd. 4. Approval of Security. The security offered under Subdivision 2 and 3 shall be approved by the city council and in the case of applicants for on-sale wine licenses and off-sale licenses by the Commissioner of Public Safety. Operation of a licensed business without having on file with the city at all times effective security as required in Subdivision 2 and 3 is a cause of revocation of the license.

SECTION 5.05. LICENSE FEES.

Subd. 1. Fees. The annual fee for a liquor license shall be \$2,000.00 for an on-sale license and \$50.00 for an on-sale wine license, \$100.00 for an off-sale license, and \$300.00 for a special club license. The annual fee for a Sunday license shall be in the amount of \$200.00. Fees may be changed by resolution of the Council in advance at setting a specified sum each year for the various license classifications.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid.

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. All licenses shall expire on the last day of December.

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

340A.408
Subd. 5

SECTION 5.06. GRANTING OF LICENSES.

Subd. 1. Investigation and Issuance. 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 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 security furnished by the applicant has been approved by the Commissioner of Public Safety.

Subd. 2. 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 5.07. PERSON 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.

SECTION 5.08. PLACES INELIGIBLE FOR LICENSE.

Subd. 1. General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2. Time of Business. No license shall be issued to any business, except an exclusive liquor store until it is operational.

Subd. 3. 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.

Subd. 4. Distance from School or Church. No license shall be granted within 100 feet of any school or within 100 feet of any church. In applying this restriction the distance shall be measured between the main front entrance following the route of ordinary pedestrian travel.

SECTION 5.09. CONDITIONS OF LICENSE.

Subd. 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 ordinances, state law or regulation.

Subd. 2. Licensee's Responsibility. Every licensee is responsible for 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. 3. Inspections. Every licensee shall allow any peace officer, health officer or property designated officer or employee of the city

to enter, inspect and search the premises of the licensee during business hours without a warrant.

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

Subd. 5. Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

Subd. 6. Closing Time. All persons except the licensee, its bona fide employees and law enforcement officers shall be excluded from on-sale licensed premises within thirty minutes of closing time. *Sanas Sec 5.10 Subd 2*

SECTION 5.10. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subd. 1. Intoxicating liquor; on-sale. No sale of intoxicating liquor for consumption on the licensed premises may be made:

(1) Between 1:00 a.m. and 8:00 a.m. on the days of Tuesday through Saturday;

(2) Between 12:00 midnight and 8:00 a.m. on Mondays;

(3) After 1:00 a.m. on Sundays, except as provided by Subd. 3.

(4) Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except as provided by Subd. 3.

Subd. 2. Intoxicating liquor; off-sale. No sale of intoxicating liquor may be made by an off-sale licensee:

(1) On Sundays;

(2) Before 8:00 a.m. on Monday through Saturday;

(3) After 10:00 p.m. on Monday through Saturday at an establishment located in a city other than a city of the first class or within a city located within 15 miles of a city of the first class in the same county;

(4) After 8:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday at an establishment located in a city of the first class or within a city located within 15 miles of a city of the first class in the same county, provided that an establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3 unless otherwise prohibited under clause (1);

(5) (Deleted by Ordinance Number 163 effective the 23rd day of June, 1989);

(6) (Deleted by Ordinance Number 163 effective the 23rd day of June, 1989);

(7) On Thanksgiving Day;

(8) On Christmas Day, December 25; or

(9) After 8:00 p.m. on Christmas Eve, December 24.

Subd. 3. Sunday On-Sale. A restaurant, club, bowling center or hotel, as those terms are defined as found in M.S.A. §340A.101, unless modified or amended by this Ordinance, with a seating capacity for at least thirty (30) persons and which holds an on-sale intoxicating liquor license and a Sunday sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 12:00 midnight on Sundays.

Source: Ordinance No. 186

Effective Date: October 15, 2003

Subd. 4. Consumption in Public Places. No person shall consume liquor, wine, beer, or 3.2 beer on a public highway or public sidewalk.

SECTION 5.11. SUSPENSION AND REVOCATION. The Council may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section 15.0418 to 15.0426.

BEER

SECTION 5.12. DEFINITIONS 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 percent 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 5.13. 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:

- A. Regular on-sale;
- B. Temporary on-sale;
- C. Off-sale.

Subd. 2. Regular On-Sale. Regular on-sale licenses shall be granted only to bona fide clubs, beer stores, exclusive on-sale liquor stores, restaurants and hotels where food is prepared and served for consumption on the premises. On-sale license 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 5.14. LICENSE APPLICATIONS. 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.

SECTION 5.15. LICENSE FEES.

Subd. 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 combination on-sale license and off-sale license is \$275.00. The fee for a temporary on-sale license and seasonal club license shall be set by resolution of the City Council.

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 thirty (30) 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:

A. Destruction or damage of the licensed premises by fire or other catastrophe.

B. The licensee's illness.

C. The licensee's death.

SECTION 5.16. 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 5.17. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or held by any person who:

Subd. 1. Is under 21 years of age;

Subd. 2. Has, within five years prior to the application for such license, been convicted of a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes §364.03, of sufficient rehabilitation and present fitness to perform the duties of beer licensee.

Subd. 3. Is a manufacturer of beer or is interested in the control of any place where beer is manufactured.

Subd. 4. Is an alien or a non-resident of the City.

Subd. 5. Is not of good moral character.

Subd. 6. Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place.

Subd. 7. Is not the proprietor of the establishment for which the license is issued.

SECTION 5.18. 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 has elapsed after such conviction or revocation, except upon present fitness of the premises to be determined by the Council to the satisfaction of the Council.

Subd. 2. Distance from Schools and Churches. No license shall be granted for any place within 100 feet of any public school or within 100 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances following the route of ordinary pedestrian travel.

Subd. 3. Eligibility. No on-sale license shall be granted for a business or club which is not in operation and eligible to receive a license.

SECTION 5.19. CONDITIONS OF LICENSE.

Subd. 1. General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all provisions of this ordinance and of any other applicable ordinance of the City or state law.

Subd. 2. Sales to Minor or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any person prohibited by state law.

Subd. 3. Illegal Consumption. No person shall be permitted to consume beer on the licensed premises if a sale to such person is prohibited by law.

Subd. 4. Gambling. No gambling or any gambling device shall be permitted on any licensed premises.

Subd. 5. Interest of Manufacturer or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes §340A.308. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 6. Liquor Dealers' Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.

Subd. 7. Sales of Intoxicating Liquor. No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a license shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.

Subd. 8. Searches and Seizures. Any peace officer may enter, inspect and search the premises of a license during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensed premises in violation of Subdivision 8. ← *Should be Subd. 7*

Subd. 9. Licensee Responsibility. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

Subd. 10. 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 no fewer than 25 persons.

SECTION 5.20. CLOSING HOURS.

Subd. 1. No sale of beer/non-intoxicating malt liquor/3.2% malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday, nor between the hours of 1:00 a.m. and 12:00 midnight on Christmas Day or Easter Sunday.

Subd. 2. All persons, except licensee, his/her bona fide employees and law enforcement officers, shall be excluded from on-sale licensed premises within thirty (30) minutes of closing time. *Same as Sec 5.09 Subd 6*

SECTION 5.21. CLUBS. No club shall sell beer except to members and to guests in the company of members.

SECTION 5.22. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subd. 1. Age Misrepresentation. No person under the age of 21 shall misrepresent his age for the purpose of obtaining beer.

Subd. 2. Including Purchase. No person shall induce a person under the age of 19 to purchase or procure beer.

Subd. 3. Procurement. No person other than the parent or legal guardian shall procure beer for any person under the age of 21.

Subd. 4. Possession. No person under the age of 21 shall have beer in his possession with the intent to consume it at a place other than the household of his parent or guardian.

Subd. 5. Consumption. No person under the age of 21 shall consume beer unless in the household of his parent or guardian and with the consent of the parent or guardian.

Subd. 6. Persons Under 21 Years of Age. A person born before September 1, 1967, shall be treated as a person who is 21 years of age and such person may purchase and consume alcohol beverages.

Subd. 7. Consumption in Public Places. No person shall consume beer on a public highway or public sidewalk.

Subd. 8. Liquor Consumption and Display. No person shall consume or display any intoxication liquor on the premises of a licensee who is not also licensed to sell intoxication liquors or who does not hold a consumption and display permit.

SECTION 5.23. REVOCATION. The violation of any provision or condition of this ordinance by a beer licensee or his agent is grounds for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this ordinance may be revoked or suspended by the Council in accordance with Section 5.01 of this code.

SECTION 5.24. PROVISIONS OF STATE LAW ADOPTED. The provisions of Minnesota Statutes §340 relating to non-intoxicating malt liquor are hereby adopted and made a part of this ordinance as if set out in full. A conflict between this ordinance and state law shall be resolved in favor of state law, provided the state law is more restrictive.

SECTION 5.25. PENALTY.

Subd. 1. Specific mention of a violation of any of the provisions of this Section as being a petty offense shall mean that, upon conviction, the sentence of a fine of not more than \$100.00 may be imposed. In the absence of the designation of a petty offense in connection with any violation, and violation shall be a penal offense and upon conviction thereof shall be punished by a fine of not more than \$300.00 and the cost of prosecution to be added; however, that if a different punishment be prescribed for violation of a specific portion of this code, such provision shall govern the punishment for such violation.

Subd. 2. Violation by a licensee of any provision of this Section or state law, regulating prescribing conditions or establishing requirements relative to licenses held by such licensee shall be grounds for revocation of such license.

SECTION 5.26. EXISTING LICENSES. Any existing licenses presently held by any person governed by this Section shall remain in effect until the expiration date of said license.

Source: Ordinance 137-1
Effective Date: February 19, 1979