

## CHAPTER 4

### LIQUOR, WINE AND BEER LICENSING AND REGULATIONS

#### Section 400 - General Regulations

**400.01. Definitions.** As used in this Chapter, the following words and terms shall have the meanings stated:

**Subd. 1. Alcoholic Beverage.** The phrase “alcoholic beverage” means any beverage containing more than one-half of one percent (.5%) alcohol by volume.

**Subd. 2. Applicant.** The term “applicant” means any person making an application for a license under this Chapter.

**Subd. 3. Application.** The term “application” means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his or her request for a license, furnished by the City and uniformly required as a requisite to the consideration of the issuance of a license for a business.

**Subd. 4. Beer.** The term “beer” means non-intoxicating malt liquor containing not less than one-half of one percent (.5%) alcohol by volume nor more than 3.2 percent alcohol by weight.

**Subd. 5. Club.** The term “club” means any corporation duly organized under the laws of this State for civic, fraternal, social, or business purposes, for intellectual improvements or for the promotion of sports, or a congressionally chartered veteran’s organization which shall have more than fifty members, and shall, for more than a year, have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a Board of Directors, Executive Committee, or other similar body at a meeting held for that purpose, none of whose members, officers, agents, or employees are paid directly or indirectly any compensation by way of profit for the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the members or other governing body.

**Subd. 6. Hotel.** The term “hotel” means an establishment where food and lodging are regularly furnished to transients and which has:

A. A dining room serving the general public at tables having facilities for seating at least thirty (30) guests at one time: and

B. At least ten (10) separate guest rooms.

**Subd. 7. Intoxicating liquor.** the phrase “intoxicating liquor” means any ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2 per cent of alcohol by weight.

**Subd. 8. License.** The term “license” means a document, issued by the City, to an applicant permitting him or her to carry on and transact the business stated therein.

**Subd. 9. License fee.** The phrase “license fee” means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business

stated therein.

**Subd. 10. Licensee.** The term “licensee” means an applicant who, pursuant to his or her application, holds a valid, current, unexpired and unrevoked license from the City for carrying on the business stated therein.

**Subd. 11. Low Alcohol Malt Liquor.** The phrase “low alcohol Malt liquor” means a fermented malt beverage containing two percent or less of alcohol by weight. Notwithstanding any law or rule to the contrary, if either; (a) the term “low alcohol” appears on the label of the beverage container; or (b) a brewer has provided written certification to the department of public safety establishing an alcoholic content of two percent or less by weight, no further label shall be required on that container.

**Subd. 12. Manufacturer.** The term “manufacturer” means every person who, by any process of manufacturing, fermenting, brewing, distilling, refining, rectifying, blending or by the combination of different materials, prepares or produces intoxicating liquor for sale.

**Subd. 13. On-Sale.** The term “on-sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

**Subd. 14. Off-Sale.** The term “off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

**Subd. 15. Package.** The term “package” means a sealed or corked container of alcoholic beverages.

**Subd. 16. Restaurant.** The term “restaurant” means 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, and having a minimum seating capacity for guests as prescribed by the appropriate license issuing authority.

**Subd. 17. Sale, Sell and Sold.** the terms “sale”, “sell” and “sold” mean all barter and all manners or means of furnishing alcoholic beverages to persons.

**Subd. 18. Wholesaler.** The term “wholesaler” means any person who sells alcoholic beverages to stores to whom sale is permitted under Minnesota Statutes, Section 340A.310, from a stock maintained in a warehouse in this State.

**Subd. 19. Wine.** The term “wine” means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent (.5%) nor more than 24 percent (24%) alcohol by volume for nonindustrial use.

#### **400.02. Applications and Licenses - Procedures and Administration.**

**Subd. 1. Application.** All applications shall be made at the office of Clerk-Administrator upon forms prescribed by the proper agency of the State of Minnesota together with such additional information as the Council may desire. All questions asked or information required by the applications forms shall be answered fully and completely by the applicant. All applications for licenses shall be accompanied by a payment to the City of the entire license fee, which fee shall be refunded if the application is rejected.

**Subd. 2. False Statements.** It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon

discovery of such falsehood, work a refusal of license, or if issued, shall render any license issued pursuant thereto void and of no effect. No suspension or revocation shall take effect until applicant or licensee is afforded a hearing by the Council.

**Subd. 3. Action.**

A. Granting. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter.

B. Issuing. If an application is approved, the Clerk-Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the City or the proper agency of the State of Minnesota, as the case may be, and upon payment of the license fee. All licenses shall expire on the 15th day of April of each year. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

C. License Refund in Certain Cases. In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall carry on the licensed business, or in case the business of the licensee shall cease by reason of his or her illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under his or her license, except when such license is revoked, the City shall, upon the happening of any such event, refund to the licensee, or to his or her estate, such part of the license fee paid by him or her as corresponds to the time such license had yet to run. In the event of death of the licensee, his or her personal representative is hereby authorized to continue operation of said business for not more than ninety (90) days after the death of such licensee.

D. Transfer. No license shall be transferable between persons or to a different location without prior consent of the Council and the filing of a new application. It is unlawful to make any transfer in violation of this subpart.

E. Refusal, Revocation and Termination. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application, or revoke, or suspend for a period not to exceed sixty (60) days, any license granted or application made under the provisions of this Chapter. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violation of any law relating to the sale or possession of alcoholic beverages upon premises of the licensee. If it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided, that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

**Subd. 4. Duplicate License.** Duplicates of all original licenses may be issued by the Clerk-Administrator, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

**Subd. 5. Posting.**

A. All retail licenses to sell alcoholic beverages must be posted in a conspicuous place on the premises for which it is used.

B. A premises licensed for the retail sale of alcoholic beverages and a municipal

liquor store 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 penalties for: (1) driving while under the influence of alcohol; (2) penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and (3) a warning statement regarding drinking alcohol while pregnant.

**400.03. Limitation on Ownership.** No person shall be granted beer or liquor licenses at more than one location. For the purpose of this Section, any person owning an interest of five percent (5%) or more of the entity to which the license is issued, or such ownership by a member of his or her immediate family, shall be deemed to be a licensee.

**400.04. Conditional Licenses.** Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

**400.05. Closing Regulations.** It is unlawful for any on-sale licensee, including a club, to permit any customer or business invitee upon the licensed premises to be in possession of alcoholic beverages during hours or days when sales are not permitted, except by Council permission.

**400.06. Sales to Obviously Intoxicated Persons.** No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.

## **Section 410 - Beer Licenses and Regulations (Non-Intoxicating Malt Liquor)**

**410.01. Beer License Required.** It is unlawful for any person to sell, or keep or offer for on-sale or off-sale, any beer without a license therefor from the City.

### **410.02 Temporary Beer License.**

**Subd. 1. Applicant.** A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota, and having its registered office and principal place of activity within the City, shall qualify for a temporary on-sale beer license, for serving beer on and off school grounds, and in and out of school buildings.

#### **Subd. 2. Conditions.**

A. An application for a temporary license shall state the exact dates and place of proposed temporary sale.

B. No applicant shall qualify for a temporary license for more than a total of ninety (90) days in any calendar year.

C. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, (prior to issuance of the license) a certificate of liability insurance naming the City as an insured during the license period may be required in an amount to be determined by the Council at the time of granting the license.

### **410.03 Beer License Fees.**

**Subd. 1. Annual On-Sale License Fee.** The annual beer license fee for an on-sale license is the amount specified in the City license fee schedule as periodically set by the Council, subject to any restrictions or limitations specified by State law.

**Subd. 2. Annual Off-Sale License Fee.** The annual beer license fee for an off-sale license is the amount specified in the City license fee schedule as periodically set by the Council, subject to any restrictions or limitations specified by State law.

**Subd. 3. Temporary Beer License Fee.** The temporary beer license fee for a temporary license is the amount specified in the City license fee schedule as periodically set by the Council, subject to any restrictions or limitations specified by State law.

The section 410 numbers from 410.03 to 410.07 are all increased by one to show the section headings and numbers for each section as follows:

- 410.03 Beer License
- 410.04 Insurance Required
- 410.05 Persons Eligible
- 410.06 License Restrictions and Regulations
- 410.07 Persons Under 21; Illegal Acts
- 410.08 Unlawful Acts

**410.04. Insurance Required.** Every person desiring a beer license shall file with the City a liability insurance policy in the amount of \$100,000.00 coverage for one person and \$300,000.00 coverage for more than one person, \$50,000.00 because of injury to or destruction of property of others in any one 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, who shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him or her by law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes, Section 340A.801. Such liability insurance policy shall further provide that no cancellation of the same for any cause can be made either by the insured or the insurance company without first given ten (10) days' notice to the City in writing of intention to cancel the same, addressed to the Clerk-Administrator.

**410.05. Persons Eligible.** No retail license may be issued to:

**Subd. 1. Age.** A person under 21 years of age;

**Subd. 2. Prior Violations.** A person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five (5) years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent (5%) 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 person is in any manner interested;

**Subd. 3. Moral Character.** A person not of good moral character or repute; or

**Subd. 4. Manufacturers.** A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

**Subd. 5. Felony Convictions.** No retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within the last five (5) years of the license application, has been convicted of a felony or a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

**410.06. License Restrictions and Regulations.**

**Subd. 1. Conduct.** Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order.

**Subd. 2. Age of Employees.** No person under eighteen (18) years of age shall be employed to sell or serve beer in any on-sale establishment.

**Subd. 3. Inspections.** No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant, and such police or health officer may seize all liquors found on the licensed premises.

**Subd. 4. Gambling.** No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate or permit the keeping, possession, or operation on the licensed premises of any gambling devices except gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is

authorized by Minnesota Statutes Chapter 349 and Section 330 of this Code.

**Subd. 5. No Federal Liquor Dealers.** No beer licensee shall, during the effective period of such license, be the owner or holder of a Federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, and ownership of holding thereof shall be grounds for revocation.

**Subd. 6. No Manufacturers.** No license shall be granted to a manufacturer of beer or to anyone holding a financial interest in such manufacture.

**Subd. 7. Licensees Must Own Business.** All licensees shall be sole or part owner of the business, trade fixtures and personal property used in connection therewith.

**Subd. 8. Licenses for Both On-Sale and Off-Sale Only.** All licenses shall be issued for both on-sale and off-sale.

**Subd. 9. On Sale Licenses.** All on-sale licenses shall be granted only to restaurants and hotels where food is prepared and served for consumption on the premises, or bona fide clubs. For the purpose of this Section, a restaurant is defined as having facilities for seating not less than thirty (30) guests at one time.

**Subd. 10. Location of Business.** No license shall be granted for any business location within 300 feet of any public high school or elementary school structure, or within 100 feet of any church structure, until a public hearing is held. The Public hearing shall be held within thirty (30) days after the license request has been received. Notice of the hearing shall be published in the official newspaper designated by the Council at least 10 ten (10) days prior to the public hearing. The Clerk-Administrator shall mail the same notice to the owners of property within thirty (30) feet of the outside of the business location proposed to be licensed.

**Subd. 11. Hours of Sale.** No sale of beer shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday, inclusive. Neither shall any beer sale be made on any Sunday between the hours of 1:00 o'clock A.M. and 12:00 o'clock Noon. Establishments holding a "2 A.M. Special License", pursuant to Section 430.04 of the Blue Earth City Code, are allowed to conduct beer sales between 1:00 o'clock A.M. and 2:00 o'clock A.M., with beer sales ceasing at 2:00 o'clock A.M. Monday through Sunday.

#### **410.07. Persons Under 21; Illegal Acts.**

**Subd. 1. Consumption.** It is unlawful for any:

A. Retail intoxicating liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414 of Minnesota Statutes, to permit any person under the age of twenty-one (21) years to consume alcoholic beverages on the licenses premises or municipal liquor store; or

B. Person under the age of twenty-one (21) years to consume any alcoholic beverage. If proven by the preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian. As used in this clause, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

**Subd. 2. Purchasing.** It is unlawful for any person:

A. To sell, barter, furnish or give alcoholic beverages to a person under twenty-one (21) years of age; except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the

parent or guardian if proven by a preponderance of the evidence.

B. Under the age of twenty-one (21) years to purchase or attempt to purchase any alcoholic beverage;

C. To induce a person under the age of twenty-one (21) years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, Permit, Minnesota identification card, or other form of identification by a person under the age of twenty-one (21) years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

**Subd. 3. Possession.** It is unlawful for a person under the age of twenty-one (21) years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

**Subd. 4. Entering Licensed Premises.**

A. It is unlawful for a person under the age of twenty-one (21) years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

B. Notwithstanding Section 340A.509 of the Minnesota Statutes, no ordinance enacted by the City Council may prohibit 18, 19 or 20 year olds from entering an establishment licensed under this Section to:

1. Perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by Section 340A.412, subd. 10 of the Minnesota Statutes.;

2. Consume meals; and

3. Attend social functions that are held in a portion of the establishment where liquor is not sold.

**Subd. 5. Misrepresentation of Age.** It is unlawful for a person under the age of twenty-one (21) years to claim to be twenty-one (21) years old or older for the purpose of purchasing alcoholic beverages.

**Subd. 6. Proof of Age.**

A. For purchasing or consuming alcoholic beverages may be established only by one of the following:

1. A valid driver's license or identification card, issued by Minnesota, another state, or a province of Canada, and including photograph and date of birth of the licensed person;

2. A valid military identification card issued by the United States Department of Defense; or

3. In the case of a foreign national, for a nation other than Canada, by a valid passport.

B. It is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in this subdivision in selling, bartering, furnishing, or giving the alcoholic beverage.

**410.08. Unlawful Acts.**

**Subd. 1. Inducement.** It is unlawful for any person to knowingly induce another to make an illegal sale or purchase of beer.

**Subd. 2. Hours of Sale.** It is unlawful for any licensee to sell beer on any day, during any hour, when such sales are not permitted by Minnesota Statutes.

**Subd. 3. Consumption.** It is unlawful for any licensee to allow consumption of beer on licensed premises on any day, or during any hour, when sales of beer are not permitted by Minnesota Statutes.

**Subd. 4. Purchase of Beer; Illegal Hours.** It is unlawful for any person to purchase or consume beer on licensed premises on any day, or during any hour, when sales of beer are not permitted by Minnesota Statutes.

## Section 420 - Intoxicating Liquor and Wine Licenses and Regulations

### 420.01. Intoxicating Liquor Generally.

**Subd. 1. License Required and Certain Sales and Keeping for Sale Prohibited.** It is unlawful for any person to be a wholesale or manufacturer of liquor without a license therefore from the State of Minnesota. It is unlawful for any person to sell liquor, or to take, receive or solicit any order for the sale of liquor, or to have liquor in his or her possession for sale without a license therefor from the city. This subdivision shall not apply to natural fermented or fruit juices in the home for family use. The only on-sale licenses issued hereunder shall be to persons for sales within an establishment herein defined as a hotel, motel, restaurant or club.

**Subd. 2. Sacramental Wine and Medicinal Liquors Excepted.** The prohibition herein shall not apply to possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony, nor to such potable liquors as are prescribed by licensed physicians and dentists for therapeutic purposes, nor to industrial alcohol and its compounds not prepared or used for beverage purposes.

**420.02. Intoxicating Liquor License Fee.** The annual license fee for a retail on-sale intoxicating liquor license is the fee specified in the City license fee schedule as set by the Council, subject to the limitations specified in Section 340A.408, subd. 2, of the Minnesota Statutes. The annual license fee for an off-sale intoxicating license is the fee specified in the City license fee schedule, as set by the Council, subject to the limitations specified in Section 340A.408, subd. 3, of the Minnesota Statutes. The City Council may not increase the intoxicating liquor license fees without first holding a public hearing on the proposed increase where notice of the hearing has been provided to all affected licensees at least thirty (30) days before the date set for the hearing.

**420.03. Persons Eligible.** No retail license may be issued to:

**Subd. 1. Age.** A person under twenty-one (21) years of age;

**Subd. 2. Prior Violations.** A person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five (5) years of the license application, or to any person who at the time of the violation 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 person is in any manner interested;

**Subd. 3. Moral Character.** A person not of good moral character or repute;

**Subd. 4. Manufacturers.** A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler; or

**Subd. 5. Felony Convictions.** No retail license may be issued to, and the governing body of a municipality may refuse to renew the license of, a person who, within the last five (5) years of the license application, has been convicted of a felony or a willful violation of federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

#### **420.04. Intoxicating Liquor License Restrictions and Regulations.**

**Subd. 1. Manufacturers' or Wholesalers' Interest in Retail Establishment.** A holder of a license as a manufacturer, brewer, or wholesaler may not have any ownership in whole or in part, in a business holding a retail -intoxicating liquor or nonintoxicating malt liquor license, but a manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales if the manufacturer or wholesaler has owned the property continuously since November 1, 1933.

**Subd. 2. Licenses Limited to Certain Areas.** No on-sale license shall be effective beyond the compact and contiguous space named therein for which the same was granted.

**Subd. 3. Federal Permits as a Condition to License.** No license shall be effective until a permit shall be issued to the licensee under the laws of the United States, if such a permit be required under such laws.

**Subd. 4. Number of Licenses.** The Council may issue five (5) on-sale liquor licenses which licenses shall be issued to hotels and restaurants only. For purposes of this Section, a restaurant is defined as having facilities for seating not less than thirty (30) guests at one time.

**Subd. 5. Insurance Required.** Every person desiring a liquor license shall file with the City a liability insurance policy in the amount of \$100,000.00 coverage for one person and \$300,000.00 coverage for more than one person, \$50,000.00 because of injury to or destruction of property of others in any one 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, which shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him or her *by* law for injuries or damage to persons, other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes, Section 340A.801. Such liability insurance policy shall further provide that no cancellation of the same for any cause can be made either by the insured or the insurance company without first given ten days notice to the City in writing of intention to cancel the same, addressed to the Clerk-Administrator.

**Subd. 6. Conduct of Business.** Every licensee shall be responsible for the conduct of his or her place of business and shall maintain conditions of sobriety and order therein, and for compliance, by himself of all agents and employees, with the provisions of the City Code and all laws relating to the operation of his business.

**Subd. 7. Right of Inspection.** No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant.

**Subd. 8. Minors.** No persons under the age of eighteen (18) years of age shall be employed upon licensed premises, or in any rooms constituting the same, except that persons under the age of 18 years of age may be employed as musicians or to perform the duties of a busboy or dishwashing services in places defined as a restaurant, hotel or motel serving food in rooms in which intoxicating liquors are sold.

**Subd. 9. Employees Ineligible.** No person shall be employed on a licensed premises who has been criminally convicted for violating any law relating to the manufacture, sale or transportation of intoxicating liquors or controlled substances punishable as a gross misdemeanor or felony.

**Subd. 10. Ownership.** All licensees shall be sole or part owner of the business, trade fixtures and personal property used in connection therewith.

#### **420.05. Places Ineligible For License.**

**Subd. 1. Property Taxes Owed to City.** No license shall be granted, or renewed for operation on any premises, on which taxes, assessments or other financial claims of the City or of the state are due, delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of Minnesota Statutes, Chapter 278 questioning the amount or validity of the taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

**Subd. 2. Location.** No license shall be granted for premises within 300 feet of any public high school or elementary school structure or 100 feet of any church structure until a public hearing is held. The public hearing shall be held within thirty (30) days after the license request has been received. Notice of the hearing shall be published in the official newspaper designated by the Council at least ten days prior to the public hearing the city Clerk shall mail the same notice to the owners of property within 300 feet of the outside of the building proposed to be licensed.

**Subd. 3. Parking Requirements.** Off-street parking of one suitable parking place for each three customers who can be seated in the normal manner shall be available on or adjacent to the licensed premises.

**Subd. 4. On-Sale Licensees.** Any on-sale licensee must serve meals with a menu and on a regular basis during hours open with a seating capacity of at least thirty (30) persons under ordinary conditions.

#### **420.06. Intoxicating Liquor Sale Regulation.**

**Subd. 1. Gambling.** No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate or permit the keeping, possession, or operation on the licensed premises of any gambling devices except gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by Minnesota Statutes Chapter 349. Lottery tickets may also be purchased and sold within the premises as authorized by the director of the lottery under Minnesota Statutes, Chapter 349A.

**Subd. 2. Prostitution.** No prostitute or person of known immoral character or disorderly person be permitted on such premises.

**Subd. 3. Unlawful Sales.** It is unlawful for any licensee or employee thereof to sell or serve liquor to any person who is obviously intoxicated, or to any minor, or to permit any minor to consume on the licensed premises.

**420.07. Hours and Days of Liquor Sale.** No off-sale liquor sales shall be made on Sundays. No off-sale liquor sales shall be made before 8:00 o'clock A.M. or after 10:00 o'clock P.M. on Monday through Saturday. No on-sale liquor sales shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on Monday through Saturday. No on-sale liquor sales shall be made after 1:00 o'clock A.M. Sunday, or until 8:00 o'clock A.M. on Monday, unless the

establishment holds a “Special Sunday Liquor License” pursuant to Section 430.05 of the Blue Earth City Code. Establishments holding a “Special Sunday Liquor License” shall be allowed to conduct on-sale liquor sales between the hours of 10:00 o’clock A.M. on Sunday and 1:00 o’clock A.M. on Monday. Establishments holding a “2 A.M. Special License” pursuant to Section 430.04 of the Blue Earth City Code, are allowed to conduct on-sale liquor sales between 1:00 o’clock A.M. and 2:00 o’clock A.M., with all on-sale liquor sales ceasing at 2:00 o’clock A.M., Tuesday through Sunday. Those establishments holding both a “2 A.M. Special License” and a “Special Sunday Liquor License” are allowed to conduct on-sale liquor sales between 1:00 o’clock A.M. and 2:00 o’clock A.M. Monday. No off-sale liquor sales shall be made on Thanksgiving Day; or Christmas Day, December 25; and no off-sale liquor sales shall be made on December 24 after 8:00 o’clock P.M.

#### **420.08. Persons Under 21; Illegal Acts.**

##### **Subd. 1. Consumption.** It is unlawful for any:

A. Retail intoxicating liquor, 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414 of Minnesota Statutes, to permit any person under the age of twenty-one (21) years to consume alcoholic beverages on the licensee premises or municipal liquor store; or

B. Person under the age of twenty-one (21) years to consume any alcoholic beverage. If proven by the preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant’s parent or guardian and with the consent of the parent or guardian. As used in this clause, “consume” includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

##### **Subd. 2. Purchasing.** It is unlawful for any person:

A. To sell, barter, furnish or give alcoholic beverages to a person under twenty-one (21) years of age; except that a parent or guardian of a person under the age of twenty-one (21) years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian if proven by a preponderance of the evidence.

B. Under the age of twenty-one (21) years to purchase or attempt to purchase any alcoholic beverage; or

C. To induce a person under the age of twenty-one (21) years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person’s driver’s license, Permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.

**Subd. 3. Possession.** It is unlawful for a person under the age of twenty-one (21) years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

##### **Subd. 4. Entering Licensed Premises.**

A. It is unlawful for a person under the age of twenty-one (21) years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the

purpose of purchasing or having served or delivered any alcoholic beverage.

B. Notwithstanding Section 340A.509 of the Minnesota Statutes, no ordinance enacted by the City Council may prohibit 18, 19 or 20 year olds from entering an establishment licensed under this Section to:

1. Perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by Section 340A.412, subd. 10 of the Minnesota Statutes.;

2. Consume meals; and

3. Attend social functions that are held in a portion of the establishment where liquor is not sold.

**Subd. 5. Misrepresentation of Age.** It is unlawful for a person under the age of twenty-one (21) years to claim to be twenty-one (21) years old or older for the purpose of purchasing alcoholic beverages.

**Subd. 6. Proof of Age.**

A. For purchasing or consuming alcoholic beverages may be established only by one of the following:

1. A valid driver's license or identification card, issued by Minnesota, another state, or a province of Canada, and including photograph and date of birth of the licensed person;

2. A valid military identification care issued by the United States Department of Defense; or

3. In the case of a foreign national, for a nation other than Canada, by a valid passport.

B. It is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in this subdivision in selling, bartering, furnishing, or giving the alcoholic beverage.

**420.09. On-Sale Wine License.**

**Subd. 1. License Required.** It is unlawful for any person to sell, or keep or offer for sale, any wine seven percent (7%) nor more containing not less than 24 percent (24%) alcohol by volume, without a license therefor from the City.

**Subd. 2. On-Sale Wine License Fee.** The annual on-sale wine license fee is the amount specified in the City license fee schedule as set by the Council, limited to one-half the amount set for the license fee charged for an on-sale intoxicating liquor license, or \$2,000.00, whichever is less.

**Subd. 3. Wine License Restrictions and Regulations.**

A. Insurance Required. Every person desiring a wine license shall file with the City a liability insurance policy in the amount of \$100,000.00 coverage for one person and \$300,000.00 coverage for more than one person, \$50,000.00 because of injury or destruction of property of other in any one 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, which shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obligated to pay by reason of liability imposed upon him by law for injuries or damage to insured by reason of Minnesota Statutes, Section 340A. 801. Such liability insurance policy shall further provide that

no cancellation of the same for any cause can be made either by the insured or the insurance company without first given ten (10) days notice to the City in writing of intention to cancel the same, addressed to the Clerk-Administrator.

B. No license shall be granted to any person made ineligible for such license by State Law, nor to an individual who is not a resident of the City.

C. No wine license shall be issued for any restaurant ineligible for such license under state law. For the purpose of this Section, a restaurant is defined as having facilities for seating not less than thirty (30) guests at one time.

D. No on-sale of wine shall be made between 1:00 o'clock A.M. and 10:00 o'clock A.M. Monday through Saturday, nor between 1:00 o'clock A.M. and 10:00 o'clock A.M. Sunday. Establishments holding a "2 A.M. Special License", pursuant to Section 430.04 of the Blue Earth City Code, are allowed to conduct on-sale wine sales between 1:00 o'clock A.M. and 2:00 o'clock A.M. daily, with all on-sale wine sales ceasing at 2:00 o'clock A.M. Monday through Sunday.

E. 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.

F. No license shall be granted for premises within 300 feet of any public high school or elementary school structure or 100 feet of any church structure until a public hearing is held. The public hearing shall be held within thirty (30) days after the license request has been received. Notice of the hearing shall be published in the official newspaper designated by the Council at least ten (10) days prior to the public hearing. The Clerk-Administrator shall mail the same notice to the owners of property within the 300 feet of the outside of the building proposed to be licensed.

G. No licensee shall display wine to the public during hours when the sale of wine is prohibited

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

I. No licensee, or employee of a licensee, shall hinder or prevent a police or health officer from entering upon and inspecting the premises of the licensee during business hours without a search and seizure warrant.

J. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

**420.10. Temporary "On-Sale" Liquor Licenses.** The City may issue to a club, charitable, religious, or other nonprofit organization in existence for at least three years, or to a political committee registered under Section 10A.14 of the Minnesota Statutes, a temporary license for the on-sale of intoxicating liquor on connection with a social event sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or 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 any municipality. The licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable. Licenses issued under this Section are not valid unless first approved by the commissioner of public safety.

#### **420.11. Administrative Penalties.**

**Subd. 1. Licensees.** If a licensee or an employee of a licensee commits an act enumerated in Minnesota Statute §340A.415, or violates any other sales regulation of this Section, then the licensee shall be charged an administrative penalty of \$200.00. An administrative penalty of \$400.00 must be imposed for a second violation at the same location within twenty-four (24) months after the initial violation. For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of \$600.00 must be imposed.

**Subd. 2. Revocation or Suspension of License.** Nothing in this subsection shall prohibit the City of Blue Earth from suspending or revoking a license holder's license to sell liquor, wine, and/or beer upon finding a violation of Section 320 of the Blue Earth City Code pursuant to Subsection 320.10 thereof.

## Section 430 - Other Licenses and Regulations

### 430.01. Clubs.

**Subd. 1. Club License Required.** It is unlawful for any club to sell or keep or offer for sale any liquor without a license therefor from the City.

**Subd. 2. Club License Fee.** The annual club license fee is the fee as set in the City's fee schedule, as periodically set by resolution of the Council, subject to any limitations imposed by State law.

**Subd. 3. Club License Restrictions and Regulations.**

A. No club shall sell liquor to persons other than its members and their bona fide guests.

B. All liquor license restrictions, liquor sale regulations and hours and days of liquor sales, as stated in this Chapter and relating to the on-sale of liquor, shall be binding upon all club licensees.

### 430.02. Consumption and Display of Liquor.

**Subd. 1. License Required.** It is unlawful for any private club or public place to allow the consumption or display of liquor or the serving of any liquid for the purpose of mixing liquor without a license therefor from the City.

**Subd. 2. License Fee.** The annual consumption and display license fee set in the City's fee schedule, as periodically set by resolution of the Council, subject to any limitation imposed by State law.

**Subd. 3. Consumption and Display Restrictions and Regulations.**

A. It is unlawful to consume or allow consumption or display of liquor in any private club or public place during the days and hours other than those permitted for on-sale liquor by any other on-sale liquor licensee.

B. Any private club or public place allowing the consumption or display of liquor shall be open for inspection at all times by authorized peace officers and it is unlawful to refuse to permit such peace officers to inspect such premises.

C. Liquor sold, served or displayed in violation of this Section shall be subject to seizure for purposes of evidence.

### 430.03. Municipal Liquor Store.

**Subd. 1. Authority.** The City hereby has the authority to own and operate a municipal liquor store which may sell at off-sale only, all items authorized for sale at an exclusive liquor store by Section 340A.413, subd. 14, of the Minnesota Statutes.

**Subd. 2. Continuation.** If the report of the operations of the municipal liquor store shows a net loss prior to interfund transfer in any two (2) of three (3) consecutive years, the City Council shall, not more than forty-five (45) days prior to the end of the fiscal year following the three (3) year period, hold a public hearing on the question of whether the City shall continue to operate a municipal liquor store. Two (2) weeks notice of the hearing must be printed in the City's official newspaper. Following the hearing, the City Council may on its own motion or

shall upon a petition of five percent (5%) or more of the registered voters of the City, submit to the voters at a general or special municipal election the question of whether the City shall continue or discontinue municipal liquor store operations by a date which the City Council shall designate. The date designated for discontinuance shall not be more than thirty (30) months after the date of the election.

**Subd. 3. Financial Responsibility.** The municipal liquor store must demonstrate proof of financial responsibility required of licensees under Section 340A.409 of the Minnesota Statutes. Proof of financial responsibility must be filed with the appropriate state agency by January 15 of each year or operations of the municipal may be subject to suspension by the State.

#### **430.04. 2:00 A.M. Special License.**

**Subd. 1. License Required.** Any licensed on-sale establishment wishing to sell beer, liquor, or wine between the hours of 1:00 o'clock A.M. and 2:00 o'clock A.M. daily must have first obtained a license from the City.

**Subd. 2. License Fee.** The annual 2:00 A.M. Special License fee is set in the City's fee schedule, as periodically set by resolution of the Council, and is subject to any limitation imposed by State law.

**Subd. 3. Restrictions and Regulations.** All beer, liquor, and wine sales conducted with a 2:00 A.M. Special License are subject to all restrictions and regulations in the applicable licensing Sections of the Blue Earth City Code, Sections 410 and 420, and to any limitations imposed by State law.

#### **430.05. Special Sunday Liquor License.**

**Subd. 1. License Required.** No licensed on-sale establishment may sell liquor on Sundays between the hours of 12:00 o'clock Noon and 1:00 o'clock A.M. on Monday without first having obtained a Special Sunday Liquor License.

**Subd. 2. License Fee.** The annual Special Sunday Liquor License fee is set in the City's fee schedule, as periodically set by resolution of the Council, and is subject to any limitation imposed by State law.

**Subd. 3. Restrictions and Regulations.** All liquor sales conducted with a Special Sunday Liquor License are subject to all restrictions and regulations in the applicable licensing Sections of the Blue Earth City Code, Section 420, and to any limitations imposed by State law.

#### **430.06. Social Hosts.**

**Subd. 1. Definitions.** For the purposes of Subsection 430.06, the following terms have the following meanings:

- A. **ALCOHOL**  
Ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits, including dilutions and mixtures thereof, from whatever source or by whatever process produced.

B. ALCOHOLIC BEVERAGE

Alcohol, spirits, liquor, wine, or beer and which contains 1/2 of 1% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other activity.

C. EVENT or GATHERING

Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

D. HOST

To aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

E. PARENT

Any person having legal custody of a juvenile:

1. As natural adoptive parent;
2. As a legal guardian; or
3. As a person to whom legal custody has been given by order of the court.

F. PERSON

Any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

G. RESIDENCE or PREMISES

Any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

H. UNDERAGE PERSON

Any individual under 21 years of age.

**Subd. 2. Purpose and Findings.** The Blue Earth City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or

gatherings where persons less than 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Blue Earth City Council finds that:

- A. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- B. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdoses or alcohol-related traffic collisions.
- C. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- D. Often events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity and, in some circumstances, provide the alcohol
- E. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- F. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

**Subd. 3. Prohibited Acts.**

- A. It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present when the person knows or reasonably should know that an underage person will or does consume any alcohol or alcoholic beverage or possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- B. A person is criminally responsible for violating § 71-14A above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- C. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

**Subd. 4. Exceptions.** This Subsection 430.06 does not apply to:

- A. Conduct solely between an underage person and his or her parents while present in the parent's household.
- B. Legally protected religious observances.
- C. Retail intoxicating liquor or 3.2-percent malt liquor licenses, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. § 340A.503, subdivision 1(a)(1).
- D. Situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

**Subd. 5. Authority.** This Subsection 430.06 is enacted pursuant to Minn. Stat. § 145A.05, subdivision 1.

**Subd. 6. Endorsement.** This Subsection 430.06 can be enforced by any police officer or sheriff's deputy in the county.

**Subd. 7. Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this Subsection is, for any reason, held to be unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

**Subd. 8. Penalty.** A violation of § 71-14 is a misdemeanor.