

ORDINANCE NO. , 2ND SERIES
AN ORDINANCE AMENDING THE CITY CODE
Chapter 5: Alcoholic Beverages Licensing and Regulations
Section 5.02: Application and Licenses under This Chapter - Procedure and Administration

The City Council for the City of Golden Valley hereby ordains as follows:

Section 1. City Code Section 5.02, Application and Licenses under This Chapter - Procedure and Administration is hereby deleted in its entirety and replaced with the following:

Section 5.02: Applications and Licenses Under This Chapter - Procedure and Administration

Subdivision 1. Application

- A. *Form.* Every application for a license issued under this ordinance shall be on a form provided by the City at least 60 days prior to the projected effective date. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the City may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the City may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this Section. The form shall be verified and filed with the City.
- B. *Financial responsibility.* Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stat. § 340A.801, as it may be amended from time to time. This proof shall be filed with the City and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minn. Stat. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this ordinance without having on file with the City at all times effective proof of financial responsibility is a cause for revocation of the license.

Subdivision 2. Limitations on Licenses

Off-sale licenses shall be issued only to exclusive liquor stores and drug stores. On-sale licenses shall be issued to hotels, clubs, restaurants or organizations with the approval of the Commissioner of Public Safety or congressionally chartered veterans, provided the organization has been in existence for at least three (3) years and liquor sale will only be to members and bona fide guests. These limitations shall not apply to pre-existing licenses.

Subdivision 3. 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 of any information called for on such application form shall, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part thereof.

Subdivision 4. Investigation

In accordance with the requirements of Minn. Stat. § 340A.402, the City shall conduct a background and financial investigation on all new application, applications to transfer a license, and requests for approval of a new operating manager under this Chapter. The City may conduct a background and financial check on an application for a renewal of a license if it is in the public interest to do so.

Subdivision 5. 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. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.
- B. Issuing. If an application is approved, the City Clerk shall issue a license pursuant thereto in the form prescribed by the City or the Commissioner, as the case may be. Except as otherwise specifically provided, all licenses shall be on a fiscal year basis, July 1 through June 30. For on-sale licenses issued and which are to become effective other than on the first day of the licensed year, the full fee shall be paid with the application but may be prorated after issuance. Licenses shall be valid only at one location and on the premises therein described. There shall be no prorations for off-sale licenses.
- C. Transfer. No license issued under this ordinance may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval shall be cause for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.
- D. Refusal and Termination. No license shall be issued: 1) to a person of questionable moral character or business reputation; 2) to a person or establishment not eligible for a license under state law or this Chapter; 3) for any establishment upon which sale of alcoholic beverages is prohibited; 4) to a person that is not eligible to receive a license under state law or ordinance or to who state law or ordinance prohibits issuing a license. Licenses shall terminate only by expiration, revocation, or ceasing to do business.

- E. Council Discretion to Grant or Deny a License. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this Chapter.
- F. License Denial: If a license application is denied, the earliest an applicant may reapply is twelve (12) months from the date the license is denied.
- G. Public Interest. No license under this Chapter may be issued, transferred, or renewed if the results of any investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest.
- H. Revocation or Suspension. In addition to any criminal penalty provided by State Statute or this Code, the following civil penalties shall apply to violations of this Chapter or the conditions of any license issued hereunder:
 - 1. Revocation on the first violation for the following types of offenses:
 - a. Commission of a felony related to the licensed activity;
 - b. Sale of alcoholic beverages while license is under suspension.
 - 2. The following matrix applies to these violations:
 - a. Sale to underage person;
 - b. Sale after/before hours;
 - c. Consumption after hours;
 - d. Illegal gambling, prostitution, adult entertainment on premises;
 - e. Sale to obviously intoxicated person;
 - f. Sale of liquor that is not permitted by the license;
 - g. Licensee permits illegal acts upon the licensed premises;
 - h. Licensee has knowledge of illegal acts upon the licensed premises, but failed to report same to police;
 - i. Licensee fails to cooperate fully with Police in investigating illegal acts upon licensed premises;
 - j. Activities of licensee creates a serious danger to public health, safety or welfare.

License Type	1ST Violation	2ND Violation	3RD Violation	4TH Violation
On-sale Liquor	\$500 plus 1 day suspension	\$1,000 plus 3 days suspension	\$2,000 plus 10 days suspension	Revocation
Off-sale Liquor	\$750	\$1,500 plus 1 day suspension	\$2,000 plus 6 days suspension	Revocation
On-sale 3.2 percent malt liquor/wine	\$350 plus 1 day suspension	\$700 plus 3 days suspension	\$1,500 plus 10 days suspension	Revocation
Off-sale 3.2 percent malt liquor	\$250 plus 1 day suspension	\$500 plus 3 days suspension	\$1,000 plus 10 days suspension	Revocation

Violations will be counted over a period of three (3) years.

Any of the foregoing civil penalties may be imposed by an administrative citation under City Code, Sec. 2.90, or in the alternative by action of the Council. If one (1) of the foregoing penalties is imposed by an action of the Council, no fine, suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than fifteen (15) nor more than thirty (30) days prior to the hearing date, stating the time, place and purpose thereof. The licensee may agree to such fine, suspension or revocation imposed by an action of the Council without a hearing by providing the City Manager or his/her designee with a written notice of hearing waiver and acceptance of penalty.

In lieu of the civil penalties and license suspensions imposed above, whether imposed by administrative citation or an action of the Council, the licensee may choose to surrender the license to sell alcohol for a minimum period of twelve (12) months from the date of license surrender.

- I. **Business Applicants and Licensees.** A business applicant, at the time of application, shall furnish the City with a list of all persons that have an interest of five percent (5%) or more in such business and the extent of such interest. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk in writing of any change in legal ownership, or beneficial interest in such business or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, or any other change in ownership or control of a corporation, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty (30) days after any such change in ownership or beneficial interest of shares unless the licensee has notified the Council of the

change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. At any time that an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the Council. The Council, or any officer of the City designated by it, may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of a business licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

Subdivision 6. Duplicate Licenses

Duplicates of all original licenses under this Chapter may be issued by the City Clerk without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subdivision 7. Posting

All licensees shall conspicuously post their licenses in their places of business.

Subdivision 8. Manager or Agent

Before a license is issued under this Chapter, the applicant or applicants shall appoint in writing a natural person as its manager or agent. Such manager or agent shall be primarily located in the state of Minnesota and, by the terms of his/her written consent, (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to act in such capacity for the licensee without appointment of a successor acceptable to the City, the license issued pursuant to such appointment shall be revoked. The licensee shall notify the City of any change of manager or agent. The licensee shall provide the City with all information on the new manager as if licensee was submitting a new application for a license. The City may conduct an investigation into the new manager or agent and the licensee shall pay an additional investigation fee to be determined by the City. The City shall revoke the license if the new manager is determined to be unacceptable to the City and licensee fails to replace the new manager with a manager acceptable to the City. At all times when customers are on licensed premises, there shall also be a person responsible for the conduct thereon, and, upon inquiry by any peace officer of an employee, such person's identity shall be immediately made known.

Subdivision 9. Persons Ineligible for License

- A. State Law. No license shall be granted to or held by any person made ineligible for such a license under Minn. Stat. § 340A.402 subd. 1.

- B. Operating Officer. No License shall be granted to a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this Chapter.
- C. Real Party Interest. No license shall be granted to a person who is the spouse of a person ineligible for a license pursuant to the provision of subsections A and B of this section or who, in the judgement of the Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
- D. Interest Defined. The term interest as used in this section includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, but does not included: bona fide loans; bona fide fixed sum rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to such establishment; or an interest of five percent (5%) in any business holding a liquor license issued by the City. A person who receives monies from time to time directly or indirectly from a licensee in the absence of a bona fide consideration therefore and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retailing license. In determining "bona fide", the reasonable value of the goods or things received as consideration for the payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this section shall be considered.
- E. Outstanding Debts. No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the state are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stat. Ch. 278, questioning the amount or validity of 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 unless such one year period is extended through no fault of the licensee.
- F. No license under this Chapter may be issued to:
1. A person who within five (5) years of the license application has been convicted of a felony or a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages;
 2. A person who has had an intoxicating or 3.2 percent 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 corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
 3. A person under the age of twenty-one (21) years; or

4. A person not of good moral character and repute.

Section 2. City Code Chapter 1 entitled "General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation" and Section 5.99 entitled "Violation a Misdemeanor" are hereby adopted in their entirety, by reference, as though repeated verbatim herein.

Section 3. These amendment shall take effect from and after its passage and publication as required by law.

Adopted by the City Council this 1st day of May, 2018.

/s/Shepard M. Harris
Shepard M. Harris, Mayor

ATTEST:

/s/Kristine A. Luedke
Kristine A. Luedke, City Clerk