

CHAPTER V

LIQUOR AND BEER

PART 1. INTOXICATING LIQUOR LICENSING

Section 5.01. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

Section 5.02. License Required. Subdivision 1. General Requirement. No person shall directly or indirectly deal in, sell, or keep for sale on the Lake any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of two kinds: "on-sale" and "on-sale wine" licenses.

Subd. 2. On-Sale Licenses. "On-sale" licenses shall be issued only to registered charter boats which meet the requirements of Minnesota Statutes, Chapter 340A for clubs, restaurants, or exclusive liquor stores and shall permit "on-sale" of liquor only. On-sale licenses shall only be issued to registered charter boats which provide food service and which have on-demand facilities to serve full meals as well as snacks to all of its patrons.

Subd. 3. On-Sale Wine Licenses. "On-sale" wine licenses shall be issued only to registered charter boats meeting the qualifications for restaurants of Minnesota Statutes, Section 340A.404, Subdivision 5 and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. A holder of an on-sale wine license who is also licensed to sell non-intoxicating malt liquors at on-sale, and whose gross receipts are at least 60 percent attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional license.

Subd. 4. Special Licenses for Sunday Sales. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any registered charter boat meeting the requirements of Minnesota Statutes, Chapter 340A for restaurants or clubs which has facilities for serving at least 30 guests at one time, and which has an on-sale license. A special Sunday license is not needed for sales by wine licensees.

Subd. 5. (Repealed)

Section 5.03. Application for License.

Subd. 1. Form. Every application for a license to sell liquor shall state the name and age of the applicant, representations as to character, with such references as the Board may require, citizenship, the type of license applied for, the charter boat and other business in connection with which the proposed license will operate and their locations including the storage location of the charter boat, whether the applicant is owner and operator of the businesses, how long the applicant has been in the business, a sample menu showing food service to be made available to customers, and such other information as the Board may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the Executive Director. No person shall make a false statement in an application.

Subd. 2. Liability Insurance. Prior to the issuance of a liquor license, the applicant shall file with the Executive Director a liability insurance policy, bond, or other security in compliance with the provisions of Minnesota Statutes, Section 340A.409.

Subd. 3. Approval of Security. The security offered under Subdivision 2 shall be approved by the District and, in the case of applicants for "on-sale" wine licenses, by the state Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the District's attorney. Operation of a licensed business without having on file with the District at all times effective security as required by Subdivision 2 is a cause for revocation of the license.

Subd. 4. Application Due Date. All renewal applications for intoxicating liquor licenses must be submitted no later than February 1st of the license year. Applications must be complete and accompanied by the required fee. Renewal licenses will not be granted to applicants submitting applications that are late, incomplete or not accompanied by the required fee if the number of applications and statements of intent to submit new applications received on or before February 1st exceeds the number of licenses that the district may lawfully issue.

Section 5.04. License Fees.

Subd. 1. Fees. The annual fee for all liquor licenses shall be established from time to time by resolution of the Board.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the Executive Director for payment in full of the license fee and the fixed investigation fee required under Section 5.05, Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the Executive Director shall refund the amount paid as the license fee.

Subd. 3. Term, Pro Rata Fee. Each license shall be issued for a period of one year and shall expire on the last day of December.

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

Section 5.05. Granting of Licenses.

Subd. 1. Preliminary Investigation. On an initial application for an "on-sale" license and on application for transfer of an existing "on-sale" license, the applicant shall pay with the application an investigation fee in an amount to be established from time to time by resolution of the Board and the District shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and contain such additional information as the Board may require. If the Board deems it in the public interest to have an investigation made on a particular application for renewal of an "on-sale" license, it shall so determine. If the Board determines that a comprehensive background investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Board that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged with the actual cost not to exceed \$10,000. The fee, after deducting any initial investigation fee already paid, shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and Issuance. The District shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Board shall, in its discretion, grant or refuse the application. No "on-sale" wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Section 5.06. Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by state law.

Section 5.07. Charter Boats, Watercraft for Hire, and Businesses Ineligible for License.

Subd. 1. General Prohibition. No license shall be issued for any charter boat, watercraft for hire or any business ineligible for such a license under state law, where a licensee has been convicted of the violation of this ordinance, or of the state beer or liquor law, or for any watercraft for hire for which a license allowing adult cabaret or exotic dancing has been issued or requested.

Subd. 2. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which financial claims of the District are delinquent and unpaid.

Section 5.08. Conditions of License.

Subd. 1. General. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.

Subd. 2 Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

Section 5.09. Suspension and Revocation. The Board 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, this chapter, or any license condition. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section 14.57 to 14.69.

PART 2. BEER LICENSING

Section 5.21 Definition of Terms. 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.

Section 5.22 License Required.

Subd. 1. Licenses. No person shall deal in or dispose of by sale or otherwise, or keep or offer for sale, any beer on the Lake without first having received an on-sale license as herein-after provided. "On-sale" licenses shall be granted only to registered charter boats meeting the requirements of Minnesota Statutes Chapter 340A for restaurants, clubs and establishments used exclusively for the sale of non-intoxicating malt liquor with the incidental sale of tobacco and soft drinks. "On-sale" licenses shall permit the sale of beer for consumption on the premises only.

Subd. 2. (Repealed)

Section 5.23 License Applications. Every application for a license to sell beer shall be made to the Executive Director on a form supplied by the District and containing such information as the Executive Director or the Board may require. It shall be unlawful to make any false statement in an application. On an initial application for a license or an application for transfer of an existing license, the applicant shall pay with the application a non-refundable investigation fee in an amount to be determined from time to time by resolution of the Board of Directors, and the District shall conduct a preliminary background and financial investigation of the applicant.

Section 5.24 License Fees.

Subd. 1. Payment Required. Each application for a license shall be accompanied by a receipt from the Executive Director for payment in full of the required fee for the license. All fees shall be paid into the general fund of the District. Upon rejection of any application for a license, the Executive Director shall refund the amount paid.

Subd. 2. Expiration. Every license shall expire on the last day of December in each year. Each license shall be issued for a period of one year or part thereof.

Subd. 3. Fees. The annual fees for a regular "on-sale" license shall be established from time to time by resolution of the Board.

Section 5.25. Granting of License.

Subd. 1. Investigation and Hearing. The Board 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 Board shall grant or refuse the application in its discretion.

Section 5.26. Persons Ineligible for License. No license shall be granted to or held by any person who:

- (1) is ineligible for such a license under state law by reason of age;
- (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 or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;
- (3) is a manufacturer of beer or has an interest in or control of any place where beer is manufactured;
- (4) is an alien;
- (5) is not of good moral character;
- (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; or
- (7) is not the proprietor of the establishment for which the license is issued.

Section 5.27. Charter Boats, Watercraft for Hire, and Businesses Ineligible for License. No license shall be issued for any charter boat, watercraft for hire or any business ineligible for such a license under state law, or 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, or for any watercraft for hire for which a license allowing adult cabaret or exotic dancing has been issued or requested.

Section 5.28. Conditions of License.

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

Subd. 2. Sales to Under Age or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any person under legal age.

Subd. 3. Consumption by Under Age Persons. No person under legal age shall be permitted to consume beer on the licensed premises.

Subd. 4. Interest of Manufacturers 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 state law. 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 of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 5. 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. 6. Sales of Intoxicating Liquor. No beer license 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 licensee 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. 7. Searches and Seizures. Any peace officer may enter, inspect and search the charter boat of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquor found on the licensed premises in violation of Subdivision 6.

Section 5.29. Clubs. No club shall sell beer except to members and to guests in the company of members.

Section 5.30. Restrictions on Purchase and Consumption.

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

Subd. 2. Inducing Purchase. No person shall induce a minor to purchase or procure beer.

Subd. 3. Procurement. No person other than the parent or legal guardian shall procure beer for any minor.

Subd. 4. Possession. No minor 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 minor shall consume beer unless in the company of his parent or guardian.

Subd. 6. Liquor Consumption and Display. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

Section 5.31. Revocation. The violation of any provision or condition of any applicable statute, regulation, or ordinance relating to intoxicating liquor, this chapter or any license condition 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 District in accordance with and in the same manner as revocation or suspension of liquor licenses under Section 5.10.

PART 3. GENERAL PROVISIONS

Section 5.41. Pre-Licensing Inspection. Prior to any public hearing on the issuance of a license under this chapter, the Executive Director or the Executive Director's designee shall inspect the watercraft and the facilities of proposed ports of call and shall report to the Board on recommended modifications, conditions or operating restrictions which may be necessary to protect the safety of the public and of passengers on the watercraft and the enjoyment of the Lake by the public.

Section 5.42. Persons and Watercraft Licensed; Transfer. Each license required under this chapter shall be issued only to the applicant and for the watercraft described in the application. No transfer of a license to another watercraft or to another applicant is authorized without first securing the permission of the Board upon application, payment of fees, and consideration of the application in the same manner as in the granting of a new license. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior Board approval is a ground for revocation of the license. No licenses may be granted except to watercraft holding a charter boat license from the District.

Section 5.425. Mandatory Training. Each year, at the direction of the Board, the Executive Director will conduct one or more training sessions for applicants for new or renewal licenses. Training shall be given in state laws and local ordinances relating to the sale of alcohol and to the operation of charter boats. No new or renewal license shall be granted to an applicant who has not attended a training session for that license year, either personally or by authorized representative.

Section 5.43. General License Conditions.

Subd. 1. General. Every license issued under this chapter is subject to the conditions in the following subdivisions.

Subd. 2. Licensee's Responsibility. Every licensee is responsible for the conduct of the licensee's place of business and the conditions of sobriety and order in it. No watercraft holding a license under this chapter may play any live or amplified music or amplified voice except in fully enclosed areas of the watercraft or in emergency situations. Operations and activities on the watercraft shall be so conducted as not to interfere with the peaceful enjoyment of the Lake and of surrounding properties by riparian owners and by the public. License holders shall be responsible to ensure that operations and activities shall be so conducted as not to violate Section 3.01, Subd. 23. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law

equally with the employee.

Subd. 3. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the District, Hennepin County or the State of Minnesota 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 any alcoholic beverage to the public during hours when the sale of liquor is prohibited.

Subd. 5. Gambling. No gambling or any gambling device shall be permitted on any licensed premises.

Section 5.44. Authorized Ports of Call.

Subd. 1. Designation. At the time of application for any license under this chapter, the applicant shall designate specific docks, moorings or other facilities at which passengers will be embarked and disembarked. Licenses granted by the Board will designate specific authorized ports of call, and no passengers, except law enforcement personnel or employees, may be embarked or disembarked except at either a) authorized ports of call or b) other locations at a frequency of no more than once each year at any one location.

Subd. 2. Certificate. No ports of call shall be authorized by the Board without first securing a certificate from the municipality within which such port of call lies stating that the activities to be conducted by the applicant at the port of call are in compliance with municipal zoning laws. No embarkation or disembarkation at other locations is authorized unless permission for such activity has been secured from appropriate officials of the city in which it occurs.

Subd. 3. Stopping, Mooring, Anchoring Prohibited. No licensed boat shall stop, moor or anchor closer than 300 feet from shore except at authorized ports of call or at any place in the Lake other than authorized ports of call after 6:00 p.m. for more than two hours.

Subd. 4. Additional Ports of Call. The notice of public hearing for consideration of a license shall specify ports of call for which approval is requested by the applicant. Licensees may request approval of additional ports of call upon application, payment of a fee which shall be set from time to time by resolution of the Board, public hearing following at least seven days' published notice and consideration by the Board which may grant or deny approval for additional ports of call, or grant approval with conditions in the same manner as in action on an

application for a new license.

Section 5.45. Operational Rules.

Subd. 1. Distance from Shoreline. No watercraft holding a license under this chapter may pass within 300 feet of the shoreline except at an authorized port of call or in channels having a width of less than 600 feet in which case such watercraft shall remain as nearly in the center of the channel as is consistent with good seamanship and the Rules of the Road.

Section 5.46. Hours of Operation. No sale of intoxicating liquor or non-intoxicating malt liquor may be made except during times established by state law. All boats to which any license has been issued under this chapter must disembark all customers, passengers or patrons by 12:30 a.m. and must return to, and be tied, moored or secured for the night at its home port by 1:00 a.m.

Section 5.47. Restrictions; Vested Rights. Upon granting a license under this chapter, the Board may impose any restrictions on the operations of the licenses deemed by the Board to be necessary or desirable to protect the public safety, the enjoyment of the Lake by the public, or the safety of passengers on the licensed watercraft. The granting of a license shall create no vested rights in the licensee and all rights and operations of the licensee shall continue to be subject to further or additional regulation by the District.