

**City of Menahga
Action Memorandum 17-049**

Subject: Direct a Special Election be Held Placing Two Ballot Questions before the City Voters, One Question Regarding Whether the City Should be Provided with the Authority to Issue Liquor Licenses and the Second Question Regarding the Issuance of Sunday On-Sale Licenses

Agenda of: July 10, 2017

Council action: Authorized - special election set for November 2018

Summary statement: Action Memorandum 17-049 directs that a special election be held to address the issue of voter approval to allow the City to issue liquor licenses and Sunday On-Sale licenses. Please note that the title of this action memorandum is not going to be the title of the ballot question. State statute requires the attorney to provide input on the actual title.

Question 1.

Issuing liquor licenses, Minnesota Statute 340A.601 Subdivision 5 states:

Subdivision 5. Issuance of licenses to private persons.

A city owning and operating a municipal liquor store may issue on-sale liquor licenses to hotels, clubs, and restaurants. A city issuing on-sale licenses under this subdivision may continue to operate the municipal liquor store or may resume operation of a municipal liquor store previously discontinued.

The number of on-sale licenses issued under this section by a city is governed by section 340A.413. (Listed below)

A city **may not** issue licenses under this section, other than a license issued to a club under section 340A.404, subdivision 1, clause (4) (Listed below), **until authorized by the voters** of the city voting on the question at a **special election** called for that person.

Question 1 – Result of voter approval.

If the question is approved by the voters, the City is permitted to issue licenses as follows:

- Four on-sale licenses.
- In addition to the four, the City is permitted to issue “an unlimited” amount of on-sale licenses to clubs, restaurants, wine licenses (under section 340A.404, subdivision 5, theaters (under subdivision 340A.404), hotels, and bowling centers.
- For off-sale licenses, the limit on the amount of licenses is set by the City.

Note: there are additional parameters listed in state statute regarding who may obtain a license and the physical location of the license.

Question 2. Issuing licenses for Sunday on-sale sales, Minnesota Statute 340A.504 Subdivisions 2 through 4 states:

Subd. 2. Intoxicating liquor; on-sale.

No sale of intoxicating liquor for consumption on the licensed premises may be made:

- (1) between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (2) after 2:00 a.m. on Sundays, except as provided by subdivision 3.

Subd. 2a. Certain dispensing exempt.

Where a hotel possessing an on-sale intoxicating liquor license places containers of intoxicating liquor in cabinets in hotel rooms for the use of guests staying in those hotel rooms, and a charge is made for withdrawals from those cabinets, the dispensing of intoxicating liquor from those cabinets does not constitute a sale for purposes of subdivision 2.

Subd. 3. Intoxicating liquor; Sunday sales; on-sale.

- (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays.
- (b) **An establishment serving intoxicating liquor on Sundays must obtain a Sunday license.** The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.
- (c) **A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election.** A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (d). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.
- (d) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.
- (e) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$75, plus \$30 for each duplicate.

Questions 1 & 2 – Election date.

The election may be held on a date selected by the council, with at least 74 days' notice to the County and Secretary of State. If the council chooses to put the questions to the voters in 2017, it is a stand-alone special election. If the council chooses to put the questions to the voters in 2018, the issues may be placed on the 2018 ballot. Meaning they will be listed as a special election on the regular ballot.

Menahga Municipal Code.

If the questions are approved, the Menahga Municipal Code would be amended to recognize the voter's approval.

Fiscal information:

Total amount of funds listed in this legislation: \$ 5,000 (estimated)

This legislation (✓):

Has no fiscal impact Creates a positive impact in the amount of: \$ _____
 Creates a negative impact in the amount of: \$ 5,000

Funds are (✓):

Budgeted Line items(s): _____
 Not budgeted Affected line item(s): 101-41410-430