

CHAPTER VI - LIQUOR AND BEER

Part 1. Intoxicating Liquor Licensing

Sec. 601.01. LICENSE REQUIRED

- Subd. 1. General Requirement - No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of five kinds: on-sale, temporary on-sale, on-sale wine, club licenses and Sunday on-sale.
- Subd. 2. On-sale Licenses - On-sale licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores, and shall permit on-sale liquor only.
- Subd. 3. On-sale Wine Licenses - "On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minn. Stat. 340A.404, Subd. 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."
- Subd. 4. Temporary On-sale Licenses - Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the state liquor act.
- Subd. 5. Special Club Licenses - Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence at least three years.

Sec. 601.02. APPLICATION FOR LICENSE

- Subd. 1. Form - Every application for a license to sell liquor shall state the name of the applicant, the applicant's age, representations as to the applicant's character (with such references as the council may require), citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long the applicant has been in that business at that place, and such other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minn. Stat. 340A.802

during the preceding year. In addition to containing such information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

- Subd. 2. Bond - Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States government bonds of equivalent market value as provided in Minn. Stat. 340A.412, Subd. 1.
- Subd. 3. Financial Responsibility - No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minn. Stat. 340A.409 with regard to liability under the statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety. (Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year.) Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minn. Stat. 340A.409.
- Subd. 4. Approval of Security - The security offered under Subdivision 2 shall be approved by the city council and in the case of applicants for (on-sale wine licenses and) off-sale licenses, by the state commissioner of public safety. Liability insurance policies required by this ordinance but not by state law and surety bonds required under Subdivision 2 shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

Sec. 601.03. LICENSE FEES

- Subd. 1. Fees - The annual license fees for liquor license, Sunday On-Sale, On-Sale wine, temporary On-Sale, and Special Club License shall be set annually by ~~ordinanceresolution~~ of the city council.
- Subd. 2. Payment - Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the license fee and fixed investigation fee required under Section 5, Subd. 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.
- Subd. 3. Term; Pro Rate Fee - Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the 31st day of July.

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

Sec. 601.04. 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 and the city 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 with such additional information as the council may require. If the council 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. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted. The investigation fee shall be set annually by ~~ordinance~~resolution of the city council.

Subd. 2. Hearing and Issuance - The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subd. 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 council shall, in its discretion, grant or refuse the application. No (on-sale wine license or) off-sale license shall be come effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

Subd. 3. Person and Premises Licensed; Transfer - Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license.

Sec. 601.05. PERSONS INELIGIBLE FOR LICENSE

No license shall be granted to any person made ineligible for such a license by Sstate law. ~~No license shall be issued to an individual who is not a resident of the city.~~ No more than one intoxicating liquor license shall be directly or indirectly issued within the Ccity. ~~to any one person.~~

Sec. 601.06. PLACES INELIGIBLE FOR LICENSE

- Subd. 1. General Prohibitions - No license shall be issued for any place or any business ineligible for such a license under state law.
- Subd. 2. Delinquent Taxes and Charges - No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Sec. 601.07. CONDITIONS OF LICENSE

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

(Minn. Stat. 340A.410, Subd. 4); (Minn. Stat. 340A.410, Subd. 7); (Minn. Stat. 340A.502); (Minn. Stat. 340A.504); (Minn. Stat. 340A.410, Subd. 5); (Minn. Stat. 340A.301, Subd. 7); and (Minn. Stat. 340A.508).
- Subd. 2. Insurance - Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.
- Subd. 3. Licensee's Responsibility - Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by an employee authorized to sell such beverages in the establishment is the act of the licensee.
- Subd. 4. Inspections - Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.
- Subd. 5. Display During Prohibited Hours - No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Sec. 601.08. RESTRICTIONS ON PURCHASE AND CONSUMPTION

- Subd. 1. Liquor in Unlicensed Places - No person shall mix or prepare liquor for

consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the commissioner of public safety under Minn. Stat. 340A.414 and no person shall consume liquor in any such place.

Subd. 2. Consumption in Public Places - No person shall consume liquor on a public highway, public park, or other public place.

Sec. 601.09. SUSPENSION AND REVOCATION

The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. 14.57 to 14.70 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall affect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy of bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of required deposit, or of suspension or revocation of a license, may request a hearing thereon and if such a request is made in writing to the clerk a hearing shall be granted within 10 days or such long period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

Part 2. Beer Licensing

Sec. 602.01. DEFINITION OF TERMS

Subd. 1. Beer - As used in this ordinance, beer or 3.2 percent malt beverage means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Subd. 2. Beer Store - Beer store means an establishment used exclusively for the retail sale of beer, with the incidental sale of tobacco and soft drinks.

Sec. 602.02. LICENSE REQUIRED

- Subd. 1. Licenses - No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall be of three kinds:
1. Regular on-sale;
 2. Temporary on-sale;
 3. Off-sale.
- Subd. 2. Regular On-sale - Regular on-sale licenses shall be granted only to clubs, beer stores, exclusive on-sale liquor stores, drug stores, restaurant, hotels, and bowling centers where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of beer for consumption on the premises only.
- Subd. 3. Temporary On-sale - Temporary on-sale licenses shall be granted only to clubs or charitable, religious, non-profit organizations for the sale of beer for consumption on the premises only.
- Subd. 4. Off-sale - Off-sale licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

Sec. 602.03. LICENSE APPLICATIONS

- Subd. 1. Form - Every application for a license to sell beer shall be made to the city clerk or in the form prescribed by the city council and may contain any information that the Council may require. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall include a copy of each summons received by the applicant under Minn. Stat. 340A.802 during the preceding year.
- Subd. 2. Proof of Financial Responsibility - Prior to the issuance of a beer license, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. 340A.409, Subd. 1, with reference to liability under the Minn. Stat. 340A.801. Such proof shall be filed with the commissioner of public safety except that if a license involves sales of beer of a prospective vendor who is not required by law to file such proof with the commissioner of public safety, such proof shall be filed with the city clerk. Any liability insurance policy filed as proof of financial responsibility under this

subdivision shall conform to Minn. Stat. 340A.409.

- Subd. 3. Approval of Security - Liability insurance policies required by this ordinance but not by state law shall be approved as to form by the city attorney. Operation of a business license by this ordinance without having on file with the state insurance commissioner or the city at all times effective security as required in Subd. 2 is a cause for revocation or suspension of the license.

Sec. 602.04. LICENSE FEES

- Subd. 1. Payment Required - Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the treasurer shall refund the amount paid.
- Subd. 2. Expiration; Pro Rata Fees - Every license except a temporary license shall expire on the 31st day of December in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such a fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale incident is being held and such period shall be stated on the license.
- Subd. 3. Fees - The annual fee for a regular on-sale license for off-sale license and for temporary on-sale license shall be set annually by ordinanceresolution of the city council.
- Subd. 4. Refunds - No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the council within three days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, if:
- (a) The business ceases to operate because of destruction or damage;
 - (b) The licensee dies;
 - (c) The business ceases to be lawful for a reason other than a license revocation; or

- (d) The licensee ceases to carry on the licensed business under the license.

Sec. 602.05. GRANTING OF LICENSE

- Subd. 1. Investigation and Hearing - The city council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.
- Subd. 2. Transfers - Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only to the premises described in the application. No license may be transferred to another place without the approval of the council.

Sec. 602.06. PERSONS INELIGIBLE FOR LICENSE

No license shall be granted to or held by any person who:

- (a) Is under 21 years of age;
- (b) 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 manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors, and cannot show competent evidence under Minn. Stat. 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;
- (c) Is not a citizen or resident alien, is a non-resident or a non-resident of the city;
- (d) Is not of good moral character;
- (e) Is not the proprietor of the establishment for which the license is issued.

Sec. 602.07. PLACES INELIGIBLE FOR LICENSE

- Subd. 1. Conviction or Revocation - No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this ordinance, or of the state beer or liquor law, or where any license hereunder has been revoked for cause until one year has

elapsed after such conviction or revocation.

Sec. 602.08. CONDITIONS OF THE 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 city or state law.
- Subd. 2. Insurance - Compliance with financial responsibility requirements of state law and of this ordinances is a continuing condition of any license granted pursuant to this ordinance.
- Subd. 3. Sales to Minors or Obviously Intoxicated Persons - No beer shall be sold or served to any obviously intoxicated person or to any person under 21 years of age.
- Subd. 4. Consumption by Minors - No person under the age of 21 years shall be permitted to consume beer on the licensed premises.
- Subd. 5. Employment of Minors - No person under the age of 18 years shall be employed on the premises of a beer store.
- Subd. 6. Gambling - No gambling or gambling device shall be permitted on any licensed premises, except as authorized under Minnesota's Charitable Gambling licenses.
- Subd. 7. 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 Minn. Stat. 340A.301, Subd. 7. 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. 8. Sales of Intoxicating Liquor - No licensee who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing the 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 the intoxicating liquors shall be prima facie evidence that intoxicating liquor is

being permitted to be consumed or displayed contrary to this ordinance.

- Subd. 9. Searches and Seizures - Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensed premises in violation of Subd. 8.
- Subd. 10. Licensee's Responsibility - Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell such beverages is the act of the licensee.
- Subd. 11. Banquet Rooms - A regular on-sale license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 40 persons.
- Subd. 12. Nudity and Sexual Conduct Prohibited. The City Council finds that the sale and or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incident exposure and/or sexual assault. In order to protect the health, safety and welfare of City residents, and pursuant to the City Council's authority to regulate alcoholic beverages under Minnesota Statutes Chapter 340A and the Twenty-first Amendment to the United States Constitution, no licensee under this code shall permit the following kinds of conduct on the licensed premises or in areas adjoining the license premises where the following kinds of conduct can be seen by patrons of the licensed premises.
- (a) The performance of acts of simulated acts of sexual intercourse, masturbation bestiality, oral copulation and flagellation; or
 - (b) The actual or simulated touching, caressing, or fondling of the breast, buttocks, anus, genitals, or;
 - (c) The actual or simulated displaying of the public hair, anus, vulva, or genitals; or
 - (d) The displaying of films, videos, still pictures, electronic reproduction, or any other visual reproduction of image depicting the acts described in (a) through (c) above, or
 - (e) The presentation of any female in such manner or attire as to expose to view any portion of the breast below the tope of the areola, or any simulation thereof.

- (f) No licensee or their agent shall allow or permit to remain in or about the licensed premises any person who performs acts as set forth in (a) through (3) above.
- (g) The violation of any of the provisions of this Section 507.01-507.16 by the licensee or their employees, agents shall constitute grounds for the suspension or revocation of any and all intoxicating liquor, non-intoxicating liquor or wine licenses issued to said premises or to said licensee.

Sec. 602.09. CLOSING HOURS

No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, nor between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday.

Sec. 602.10. CLUBS

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

Sec. 602.11. RESTRICTIONS ON PURCHASE AND CONSUMPTION

- Subd. 1. Consumption - It is unlawful for any person under the age of 21 years to consume beer unless in the household of the person's parent or guardian and with the consent of the parent or guardian.
- Subd. 2. Purchasing - It is unlawful for any person:
 - (a) To sell, barter, furnish, or give beer to a person under 21 years of age, except that a parent or guardian of a person under that age may give or furnish beer to the person solely for consumption in the household of the parent or guardian;
 - (b) Under the age of 21 years to purchase or attempt to purchase beer; or
 - (c) To induce a person under the age of 21 years to purchase or procure beer.
- Subd. 3. Possession - It is unlawful for a person under the age of 21 to possess beer 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 a parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

- Subd. 4. Entering Licensed Premises - It is unlawful for a person under the age of 21 years to enter an establishment licensed under this ordinance in order to purchase beer to misrepresent his or her age for the purpose of purchasing beer.
- Subd. 5. Misrepresentation of Age - It is unlawful for a person under the age of 21 years to misrepresent his or her age for the purpose of purchasing beer.
- Subd. 6. Proof of Age - Proof of age for purchasing or consuming beer may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by valid passport.
- Subd. 7. Liquor Consumption and Display - No person shall consume or display any intoxicating liquor on the premises of a licensee who does not hold a consumption and display permit.

Sec. 602.12. SUSPENSION AND REVOCATION

The council shall either suspend for up to 60 days or revoke any beer license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing pursuant to Minn. Stat. 14.57 to 14.69 of the Administrative Procedure Act. The lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the clerk, a hearing shall be granted within 10 days or such longer period as may be required. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility of this ordinance has again been met.

Part 3. Municipal Liquor

Sec. 603.01. ON AND OFF-SALE DISPENSARY ESTABLISHED

A municipal on-sale and off-sale dispensary is hereby authorized to be continued within the city for the sale of intoxicating liquors.

Sec. 603.02. LOCATION AND OPERATION

The said municipal on-sale and off-sale dispensary shall be at such places as the council shall determine by motion and may be either leased or owned by the city. It shall be in the charge of the person known as the manager, who shall also be selected by the council and who shall be paid such compensation as the council shall determine. Said manager shall have charge of the operation of such dispensary and shall have authority to purchase supplies as are necessary and employ such additional help as the manager may need at a rate of compensation to be first approved by the council and under rules to be determined by the council. No person under age 19 shall be employed in the municipal dispensaries.

Sec. 603.03. DISPENSARY FUND CREATED

A liquor dispensary fund is hereby created into which all revenues received from the operation of the dispensary shall be deposited and from which all operating and purchase expenses shall be paid, provided that the initial costs of rent, fixtures, and stock may be paid out of the dispensary fund of the municipality but such amounts shall be reimbursed to the said dispensary fund out of the first monies coming into the said liquor dispensary fund not needed for carrying on the said business.

Sec. 603.04. REGULATION AND HOURS OF SALE

No sale of intoxicating liquor shall be made during times prohibited by state law. No opaque windows shall be used and all sales shall be made in full view of the public. No intoxicating liquors shall be sold or furnished for habitual drunkards or to any person obviously under the influence of intoxicating liquor, or to any person to whom sale is prohibited by statute.

Sec. 603.05. CONDITIONS OF OPERATION AND RESTRICTIONS ON CONSUMPTIONS

No slot machines, dice or any other gambling device shall be kept, operated, permitted, maintained, or used on the premises and no gambling shall be permitted on the premises except as authorized by law. No person of a known immoral character or any disorderly person shall be permitted on the premises. No business other than those permitted by law shall be

carried on by the dispensary or by any person employed therein during the time so employed or while said dispensary is open to the public. The premises occupied by these dispensaries shall be duly inspected by the council or its designee at least once a month and as many other times as council or its designee deems necessary to see that said premises are in a sanitary condition. No person shall be permitted to loaf or loiter habitually about the dispensaries.