CHAPTER VI. SALE, CONSUMPTION AND DISPLAY OF LIQUOR, BEER AND WINE

SECTION 600
GENERAL PROVISIONS
(Adopted 2/5/04; amended 1/17/08)

600.01 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340, commonly known as liquor act, with reference to definition of terms, applications for licenses, granting of licenses, conditions of licenses, restrictions on consumption, provisions on sales, conditions of bonds of licenses, hours of sale and all other matters pertaining to the retail sale, license revocation and suspension, distribution and consumption of intoxicating liquor and non-intoxicating malt liquor are hereby adopted and made a part of this Chapter as if fully set out herein.

Where there is an inconsistency between the provisions of Minn. Statutes Chapter 340A and the provisions of this ordinance, the more restrictive provisions shall govern.

Subd. 1 Definitions

In addition to the definitions set forth in Minn. Statutes Chapter 340A, the following words are defined for the purpose of this ordinance as follows:

a. "Liquor" includes all alcoholic beverages.

600.02 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 liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of ~~six~~ eleven (11) kinds: "on-sale," "on-sale" wine, special Sunday "on-sale," special club licenses, "on-sale" 3.2 percent malt liquor ~~and~~ "off-sale" 3.2 percent malt liquor, exclusive liquor store, small brewer, brewer taproom liquor license, 3.2 beer temporary liquor license, and on-sale spirits, wine and beer temporary liquor license.

Subd. 2 On-sale Licenses

"On-sale" licenses shall be issued only to clubs and restaurants and shall permit "on-sale" of liquor only. No more than two "on-sale" licenses shall be granted at one time.

Subd. 3 On-sale Wine Licenses

"On-sale" wine licenses shall be issued only to restaurants meeting the qualifications 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. Said restaurants shall be authorized to sell intoxicating malt liquors at on-sale without an additional license.

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Subd. 4 Special Club Licenses

Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence for 20 years.

Subd. 5 Special License for Sunday Sales

A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least 30 guests at one time, and which has an "on-sale" license.

Subd. 6 On-sale 3.2 percent malt liquor licenses

Licenses issued under this subdivision permit the sale of 3.2 percent malt liquor by the glass or by the drink for consumption on the premises only.

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Subd. 7. Off-sale 3.2 percent malt liquor licenses

Licenses issued under this subdivision permit the sale of 3.2 percent malt liquor at retail in the original package for consumption off the premises only.

Subd. 8. Exclusive liquor store license

Off-sale licenses may be issued to exclusive liquor stores and shall permit sales of those items permitted under Minn. Statute Chapter 340A Section 412, Subd. 14. One license shall be granted in a year.

Subd. 9. Small Brewer License under Minn. Stat. Chapter 340A Section 301 Subd. 6d.

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A Small brewer license shall be granted only to a brewery licensed under Minnesota Statute Chapter 340A Section 301Subd. 6d. License holders shall be allowed Sunday sales of off-sale growlers of malt liquor produced and packaged by the brewer on the licensed premises. No Sunday sales shall be allowed before 8 a.m. or after 10 p.m. Sunday sales shall be prohibited on Easter Sunday, Thanksgiving Day, and Christmas Day. The brewer may refill any growler with malt liquor for off-sale at the request of a customer, but the container must be corked, plugged, stopped, or have a twist-type closure and contain a seal that is unbroken at the time of exiting the premises. One license shall be granted in a year.

Subd. 10. Brewer taproom liquor license

A taproom license shall be granted only to a brewery licensed under Minn. Statute Chapter 340A.301 Subd 6bfor any on-sale of malt liquor produced by the brewer for the consumption on the premises of or adjacent to one brewery location owned or rented by the brewer. The only alcoholic beverage that may be sold or consumed on the premises shall be malt liquor produced by the brewer. The license holder may be open and may conduct on-sale business on Sundays. No Sunday sales shall be allowed before 8 a.m. or after 10 p.m. Sunday sales shall be prohibited on Easter Sunday, Thanksgiving Day and Christmas Day. One brewer taproom liquor license shall be granted in a year.

Subd. 11 3.2 Percent malt liquor license, temporary on sale license.

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A club or charitable, or religious or non-profit organization may be issued a temporary on sale license for the sale of 3.2 percent malt liquor subject to the terms set by the City.

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Subd. 12 Temporary license for the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee. ~~On-sale spirits, wine and beer temporary liquor license~~

A club or charitable, or religious or non-profit organization in existence for at least three years may be issued a temporary license for the on-sale of intoxicating liquor in connection with a social event. The license may not be for more than four consecutive days.

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600.03 APPLICATION FOR LICENSE

Subd. 1 Form

Every person desiring a liquor license under this ordinance shall file with the City Administrator a verified written application in the form prescribed and approved by the Commissioner of Public Safety of the State of Minnesota. In addition to the information required on the prescribed application form and information required by any other officer or office of the State of Minnesota, the application made to the City shall include the items listed below. Any false statement or material omission shall be grounds for denying or revoking a license.

~~Every application for a license to sell liquor shall state the name of the applicant, his~~the applicant's ~~age, representations as to his~~the applicant's ~~character (with such references as the council may require), his~~the applicant's ~~citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he~~ the applicant ~~has been in that business at that place, and such other information as the council may require from time to time, including the following:~~

a. True name, place and date of birth, and street address (residence) of applicant.

~~b. Whether applicant is married or single. If married, true name, place and date of birth, and street address (residence) of applicant's spouse.~~

~~c. Whether applicant and spouse are qualified voters of the State of Minnesota.~~

~~d.~~b. Street addresses at which applicant has lived during the preceding 10 years.

~~e.~~c. Kind, name and location of every business or occupation applicant has been engaged in during the preceding 10 years.

~~f.~~d. Names and addresses of applicant's employers for the preceding 10 years.

~~g.~~e. Whether or not applicant has ever been convicted of any felony, crime or ordinance violation. If so, when, where, and for what such convictions were had.

~~h.~~f. Whether applicant has ever been engaged as an employee in operation of a saloon, café, restaurant or other business of similar nature. If so, when, where and for how long.

~~i.~~g. Whether applicant is a natural a person, corporation, partnership or unincorporated association.

~~j.~~h. If applicant is other than a natural person, the name of the manager or proprietor of the premises to be licensed, giving all the information about said manager or proprietor as is required about the applicant by (a) through (h) above.

~~k.~~i. If applicant is other than a natural person, the names of all the members or owners thereof, giving all the information about said members or owners as is required about the applicant by (a) through (h) above.

~~l.~~j. Names and addresses of the owner and any lessees of the land upon which is located the building which houses the premises to be licensed.

~~m.~~k. Names and addresses of all owners, lessees, mortgagors or vendors of fixtures or furniture used or to be used in the premises to be licensed.

~~n.~~l. Name and address of every person who shall have charge, management or control of the place licensed.

~~o.~~m. If applicant is a corporation, partnership, or club, the name and general purpose of such corporation, partnership, unincorporated association, or club, and the names and street addresses of all officers. In addition, corporations shall file with the application one certified copy of the by-laws, articles of incorporation and minutes of the meeting setting forth the officers of the corporation. If applicant is a corporation, the state of incorporation and a complete list of all stockholders with number of shares owned by each.

~~p.~~n. Exact legal description of the premises to be licensed.

~~q.~~o. Such other information as the City Council may require.

Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes Section 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 Financial Responsibility

No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liabilities imposed by 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 Minnesota Statutes Section 340A.409.

Subd. 3 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, by the State Commissioner of Public Safety. 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 licensed business without having on file with the city at all times effective security as required in Subdivision 2 is a cause for revocation of the license.

600.04 LICENSE FEES

Subd. 1 Fees (amended 1/17/08)

The annual fees for licenses shall be established from time to time by the City Council and are set out in Section 402.01 of this code.

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 the fixed investigation fee required under Section 600.05, Subdivision 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 Rata 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 last day of December each year.

Subd. 4 Refunds

No refund of any fee shall be made except as authorized by Statute.

600.05 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 his application an investigation fee of $500.00 or the statutory maximum at the time, whichever is greater, 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 Criminal Apprehension 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.

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 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 Council 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~~and 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 license is deemed a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license.

600.06 PERSONS INELIGIBLE FOR LICENSE

No license shall be granted to any person made ineligible for such a license by state law or who is not the proprietor of the establishment for which the license is issued. No more than one liquor license shall be directly or indirectly issued within the City to any one person.

600.07 PLACES INELIGIBLE FOR LICENSE.

Subd. 1 General Prohibition

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.

Subd. 3 Parking

No license shall be granted for operation at any premises which the licensee shall not have provided adequate off-street parking.

600.08 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.

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~~Conduct

Every licensee is responsible for the conduct in the licensed establishment and for conditions of sobriety and order therein. No licensee shall keep, possess, or operate, or permit the keeping, possession, or operation of, on the licensed premises, or in any room adjoining the licensed premises, any slot machine, dice, or any gambling device or apparatus, nor permit any gambling therein, except that which is approved by state statute, nor permit the licensed

premises or any room in the same, or in any adjoining building, directly or indirectly under its control to be used by prostitutes or other disorderly persons.
~~, and a~~Any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

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Subd. 4. Sales prohibited

No intoxicating wine, liquor or malt beverage shall be sold or furnished for any purpose whatever to a person under the age of 21 years, or to a habitual drunkard, or to a person under guardianship, or to any person obviously intoxicated, or to any persons to whom sale is prohibited by statute.

Subd. 5 Posting

Licensed premises shall have the license posted in a conspicuous place therein at all times.

Subd. 6~~4~~ Inspections

Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter and inspect the premises of the licensee during business hours.

Subd. 7~~5~~ Display During Prohibited Hours

No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subd. 8~~6~~ Corporate Ownership and Transfer Requirements

It shall be a condition of every license issued to a corporation that the City Clerk be furnished by the licensee with a correct list of all stockholders of a corporation to whom the license is issued and the number of shares held by each, either individually or beneficially for others; it shall be the continuing duty of each corporate licensee to promptly notify the City Clerk of any change in ownership or beneficial interest of such shares. Any change of ownership or beneficial interest of shares of stock entitled to be voted at any meeting of the stockholders of such corporation which results in change in voting control of the corporation by the persons owning shares of stock therein shall be deemed equivalent to a transfer of the license issued to such corporation, and any such license shall be revoked and terminated thirty days after any such change in ownership or beneficial interest of shares unless the City Council shall have been notified of such change in writing and shall have approved thereof. The City Council or any officer of the city designated by it may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify the names of stockholders and persons voting at meetings of such corporation, and the City Council may cancel and terminate any license issued hereunder to a corporation upon determination by the City Council that any change of ownership of stock in such corporate licensee has actually resulted in change of control of such corporation so as to materially affect the integrity and character of its management and its operation of an "on-sale" liquor business, provided that no action shall be taken until after a hearing by the Council on thirty days notice to the licensee.

600.09 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 Minnesota Statutes Section 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 unless a special event permit has been approved by the City.

600.10 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 liquor. 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 Minnesota Statutes Sections 14.57 to 14.69 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 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 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.

600.11 PENALTY AND VIOLATIONS

Any persons violating any provision of this ordinance are guilty of a misdemeanor.

600.12 SEPARABILITY

Every section, provision or part of this ordinance is declared separable from every other section, provision or part; and if any section, provision or part of any ordinance shall be held invalid, it shall not affect any other section, provision or part thereof.

~~600.13~~**REPEALER**

~~Upon the effective date of this ordinance, Ordinances No. 610, 620 and 630 respectively, are hereby repealed.~~

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