

## Chapter 6 ALCOHOLIC BEVERAGES

### ARTICLE I. IN GENERAL

#### Sec. 6-1. State law adopted.

The provisions of M.S.A. ch. 340A are adopted and made part of this chapter as if set out in full. Whenever there is an inconsistency between the provisions of M.S.A. ch. 340A and the provisions of this chapter, the more restrictive provision shall govern where allowed by state law.

(Prior Code, § 6-1)

#### Sec. 6-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*3.2 malt liquor* means any potable malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than 3.2 percent by weight.

*Brewer* means a person who manufactures malt liquor for sale and who holds a brewer's license issued by the state.

*Brewery taproom* means the premises on which malt liquor is produced by a brewer and is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, unless permitted by state law and issued a license by the state department of public safety, alcohol and gambling enforcement division.

*Brewpub* means the premises, operated in conjunction with a bar or restaurant, where malt liquor is produced by a brewer and is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, unless permitted by state law and issued a license by the state department of public safety, alcohol and gambling enforcement division.

*Club* means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, that:

- (1) Has more than 30 members;
- (2) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
- (3) Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.

No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body of the club.

*Cocktail room* means the premises on which distilled spirits are produced by a microdistillery and sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, unless permitted by state law and issued a license by the state department of public safety, alcohol and gambling enforcement division.

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*Commissioner* means the state commissioner of public safety.

*Distilled spirits* means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for industrial use.

*Growler* means a 64-ounce container of malt liquor brewed and sold to an individual on the site of a licensed brewery taproom for consumption off the licensed premises as prescribed for in M.S.A. § 340A.301.

*Hotel* means any establishment having a resident proprietor or manager, where in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than ten guest rooms with bedding and other usual, suitable and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service and which maintains under the same management and control as the rest of the establishment and has, as an integral part therefor, a restaurant.

*Intoxicating liquor* means ethyl alcohol and includes distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

*Liquor* means 3.2 malt liquor, intoxicating liquor, strong beer/malt liquor, and wine.

*Microdistillery* means a distillery producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

*Off-sale* means the sale of liquor in the original package in retail stores for consumption only off or away from the premises where sold.

*On-sale* means the sale of liquor by the glass, or by the drink for consumption on the premises only.

*On-sale wine license* means a license authorizing the sale of wine not to exceed 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food unless otherwise permitted by state law.

*Original package* means the bottle or container in which the liquor is placed at the place of manufacture.

*Principal part of the business* means more than 35 percent of gross sales.

*Restaurant* means any establishment under the control of a single proprietor or manager, having appropriate facilities to serve meals, for seating not less than 25 guests at one time in one or more dining rooms having a net dining area of at least 1,500 square feet, and where in consideration of payment therefore, meals are regularly served at tables to the general public and which employs an adequate staff for the usual and suitable service to its guests and the principal part of the business of which is the serving of foods. The term "restaurant," when used in connection with on-sale wine or on-sale 3.2 malt liquor licenses, means an establishment under the control of a single proprietor or manager, having appropriate facilities for serving meals and seating not fewer than 25 guests at one time, and where, in consideration of payment thereof, meals are regularly served at table to the general public and which employs an adequate staff to provide the usual and suitable service to its guests.

*Sale, sell, and sold* mean all barters and all manner of furnishing intoxicating liquor, including such furnishing in violation or evasion of law.

(Prior Code, § 6-2)

### **Sec. 6-3. Nonapplicability.**

This chapter does not apply to:

- (1) Medicines intended for therapeutic purposes and not intended as a beverage;

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- (2) Industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical, or industrial purposes;  
or
  - (3) Nonpotable compounds or preparations containing alcohol.

(Prior Code, § 6-3)

#### **Sec. 6-4. License required.**

- (a) No person, except wholesalers or manufacturers, to the extent authorized under a state license, shall directly or indirectly deal in, sell or keep for sale any liquor for sale without first having obtained the proper license from the city.
- (b) No person shall mix or prepare intoxicating liquor for on-sale consumption in any public place not licensed in accordance with this Code and state law.

(Prior Code, § 6-4)

#### **Sec. 6-5. Responsibility of licensee.**

Every licensee under this chapter is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by an employee authorized to sell alcoholic beverages in the establishment is the act of the licensee. The following regulations govern all licenses issued under this chapter:

- (1) The licensee shall act in a responsible manner toward the conduct of every persons on the premises;
- (2) The licensee shall not dispense liquor to be consumed off the premises on which it was purchased or received, unless specifically authorized by appropriate licensure through this chapter;
- (3) At all times during the operating hours of the establishment, the licensee shall have appointed an individual to serve as the manager or person in charge of the operation of the establishment;
- (4) The licensee shall require all their employees who are engaged in the selling or serving of alcoholic beverages, or serving as security personnel in the establishment, to abstain from the use of alcohol while working;
- (5) With regard to on-sale licenses, between 11:00 p.m. and closing on Fridays, Saturdays, Sundays, Thanksgiving Eve and Day, July 3 and July 4, and New Year's Eve and Day, no on-sale licensee, responsible party or employee or agent of a licensee shall:
  - a. Sell, offer to sell, or deliver to any person or group of persons any drink containing liquor at a price less than the price charged for such drinks prior to 11:00 p.m.;
  - b. Sell, or offer to sell, or deliver to any person or group of persons multiple drinks containing liquor for a single price;
  - c. Give away a drink containing liquor at no cost;
  - d. Increase the volume of liquor contained in a drink without increasing proportionately the price charged for such drink;
- (6) Between 1:00 a.m. and closing, the performance of live music, disc jockeys, or other live entertainment, is prohibited.

(Prior Code, § 6-5)

State law reference(s)—Authority of municipalities to limit sales hours, M.S.A. § 340A.504, subd. 6.

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## Sec. 6-6. Illegal acts by persons under 21 years of age.

(a) *Consumption.*

- (1) As used in this section, the term "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.
- (2) It is unlawful for any retail intoxicating liquor or 3.2 percent malt liquor licensee or bottle club permit holder under M.S.A. § 340A.414 to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises.
- (3) It is unlawful for any person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this subsection (a)(3) that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian. An offense under this subsection (a)(3) may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

(b) *Purchasing.*

- (1) It is unlawful for any person:
  - a. To sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age;
  - b. Under the age of 21 years to purchase or attempt to purchase any alcoholic beverage unless under the supervision of a responsible person over the age of 21 for training, education, or research purposes; provided, however, that prior notification of the licensing authority is required unless the supervised alcohol purchase attempt is for professional research conducted by postsecondary educational institutions or state, county, or local health departments; or
  - c. To induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, state identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.
- (2) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subsection (b)(1)a of this section that the defendant is the parent or guardian of the person under 21 years of age and that the defendant gave or furnished the alcoholic beverage to that person solely for consumption in the defendant's household.

(c) *Possession.* It is unlawful for a person under the age of 21 years to possess any alcoholic beverage 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 the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

(d) *Entering licensed premises.* It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage. This section does not prohibit a person 18, 19, or 20 years old from entering an establishment licensed under this chapter to:

- (1) Perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by M.S.A. § 340A.412(10);
- (2) Consume meals; and
- (3) Attend social functions that are held in a portion of the establishment where liquor is not sold.

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(e) *Misrepresentation of age.*

- (1) It is unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages. With respect to purchasing, possessing, consuming, selling, furnishing, and serving alcoholic beverages, a person is not 21 years of age until 8:00 a.m. on the day of that person's 21st birthday. Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the following:
  - a. A valid driver's license or identification card issued by any state or by a province of Canada, and including the photograph and date of birth of the licensed person;
  - b. A valid military identification card issued by the federal department of defense;
  - c. A valid passport issued by the federal government;
  - d. A valid instructional permit issued under M.S.A. § 171.05 to a person of legal age to purchase alcohol which includes a photograph and the date of birth of the person issued the permit; or
  - e. In the case of a foreign national, by a valid passport.
- (2) In a prosecution under subsection (e)(1)a of this section, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in this section in selling, bartering, furnishing, or giving the alcoholic beverage.

(f) *Seizure of false identification.* A licensed retailer may seize a form of identification listed under subsection (e) of this section if the retailer has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer or municipal liquor store that seizes a form of identification as authorized under this subsection must deliver it to a law enforcement agency within 24 hours of seizing it.

(g) *Prosecution; immunity.* A person is not subject to prosecution under subsection (a)(2) or (a)(3) of this section if the person contacts a 911 operator to report that the person or another person is in need of medical assistance for an immediate health or safety concern, provided that the person who initiates contact is the first person to make such a report, provides a name and contact information, remains on the scene until assistance arrives, and cooperates with the authorities at the scene. The person who receives medical assistance shall also be immune from prosecution and immunity also applies to one or two persons acting in concert with the person initiating contact provided that all the requirements of this section are met.

(Prior Code, § 6-6)

### **Sec. 6-7. Other restrictions on purchase or consumption.**

No person shall give, sell, procure or purchase liquor for any person to whom the sale of liquor is forbidden by law.

(Prior Code, § 6-7)

### **Sec. 6-8. Effective area of license.**

No license issued under this chapter shall be effective beyond the building space and attached courtyards, patios or gardens as approved by the city and as shown in the application for such license.

(Prior Code, § 6-8)

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### **Sec. 6-9. Enlargement, alteration, or extension of premises.**

Proposed enlargement, alteration or extension of premises previously licensed shall be reported to the city clerk at or before the time of application is made for a building permit for any such change and the licensee shall also give such other information as is required by this chapter.

(Prior Code, § 6-9)

### **Sec. 6-10. Display of license.**

Every license issued under this chapter shall be posted in a conspicuous place on the licensed premises at all times.

(Prior Code, § 6-10)

### **Sec. 6-11. Persons eligible.**

(a) No license under this chapter may be issued to:

- (1) A person under 21 years of age;
- (2) A person who has had an intoxicating liquor, 3.2 percent malt liquor, brewery taproom or wine license revoked within five 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 of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a person, association, enterprise, business, or firm in which any such person is in any manner interested;
- (3) A person not of good moral character and repute;
- (4) A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler;
- (5) A person, if an individual, is an illegal alien;
- (6) A person who would be ineligible under law or ordinance for such a license;
- (7) A person directly or indirectly holds an interest in any other establishment in the city to which a license of the same class has been issued under this chapter. The term "interest," as used in this chapter, includes any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment, but does not include 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 ten percent or less in any corporation holding a license. A person who receives money from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefor and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license. In determining bona fide, the reasonable value of the goods or things received as consideration for any 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;
- (8) Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of this chapter;

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- (9) Who is the spouse of a person ineligible for a license under this chapter, who, in the judgment of the city council, is not the real party in interest or beneficial owner of the business operated or to be operated under the license.
  - (b) No license shall be granted, or renewed, for operation on any premises, to an applicant who owes taxes, assessments, or other financial claims to the city which are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of M.S.A. ch. 278 challenging the amount or validity of taxes, the city council may, upon written request by the licensee, waive strict compliance with these provisions; however, no waiver may be granted for taxes, or any portion therefor, which remain unpaid for a period exceeding one year after becoming due.
  - (c) In addition, no retail license shall be issued to, and the city council shall refuse to renew the license of, a person who, within five 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 an alcoholic beverage.
  - (d) Licenses in connection with the premises of another. An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This subsection does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a noncitizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of M.S.A. ch. 340A.

(Prior Code, § 6-11)

## **Sec. 6-12. Premises ineligible for license.**

Existence of any of the following conditions render any premises ineligible for receipt of a license under this chapter:

- (1) No license shall be granted, or renewed, for operation on any premises, to an applicant who owes taxes, assessments or other financial claims to the city which are delinquent and unpaid. In the event an action has been commenced pursuant to the provisions of M.S.A. ch. 278 challenging the amount or validity of taxes, the city council may, upon written request by the licensee, waive strict compliance with this provision; however, no waiver may be granted for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.
- (2) No license shall be granted for a foreign corporation.
- (3) No license shall be granted for any place which has a common entrance or exit between any two establishments, except that a public concourse or public lobby shall not be construed as a common entrance or exit.
- (4) No on-sale intoxicating liquor license shall be granted for a restaurant which does not comply in all respects with the definition of a restaurant as contained in this chapter, nor to any restaurant which does not have a total market value, including land, building and equipment, of at least \$250,000.00, as appraised by the city assessor and based upon current valuations. Brewery taprooms are exempt from this requirement.
- (5) No on-sale license shall be granted for a hotel which does not comply in all respects with the definition of a hotel as contained in this chapter, nor to any hotel which does not have a total market value, including land, building and equipment, of at least \$1,000,000.00, as appraised by the city assessor.
- (6) No on-sale license shall be granted to restaurants, hotels, brewery taprooms, brewpubs or cocktail rooms, unless they are located in a location that is properly zoned for the business.

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(Prior Code, § 6-12)

**Sec. 6-13. Applicability of other laws.**

Every license required by this chapter shall be granted subject to the provisions of this chapter and of any other applicable ordinance or law.

(Prior Code, § 6-13)

**Sec. 6-14. Off-sale license prohibited.**

The number of off-sale intoxicating liquor licenses that shall be issued by the city shall be zero.

(Prior Code, § 6-14)

**Sec. 6-15. Fees; transferability.**

The following provides provisional control as to license fees and related subjects:

- (1) Annual license fees for liquor licenses shall be determined by the city council after notice and hearing on any proposed increase. Notice of a proposed increase must be mailed to all affected licensees at least 30 days before the date set for the hearing.
- (2) The annual license fee shall be paid in full on or before December 15, or at the time of submittal of application for an intoxicating liquor license, by cash or certified funds. All fees shall be paid into the general fund of the city. All licenses shall expire on December 31 of each year. Upon rejection of any application for a license, or upon withdrawal of application before approval of the issuance by the city council, the license fee shall be refunded to the applicant. Once issued, refunds shall be made only under the conditions specified by M.S.A. § 340A.408 and upon request of the licensee.
- (3) The fee for a license granted after the commencement of the license year shall be prorated on a daily basis, except that there shall be no prorating of fees on investigations, renewals or transfers.
- (4) A license may be granted for a premises where the building is not ready for occupancy, contingent upon the license being issued to the premises within 90 days of the initial license approval by the city council. If the license is not issued within the 90 days, the applicant must re-apply for a license as a new application and pay the applicable new application fees. No refunds shall be administered to an applicant when a license has been approved by the city but not issued because the building is not ready for occupancy and has not met the city's requirements to obtain a certificate of occupancy.
- (5) No transfer of a license shall be permitted from place to place or person to person without complying with the requirements of an original application except as provided for by this chapter.
- (6) At the time of each original application for a license, the applicant shall pay in full an investigation fee. Investigation fees shall be determined by the city. No investigation fees shall be prorated or refunded.
- (7) At any time that an additional investigation is required because of a change of ownership or control of a corporation or because of an enlargement, alteration or extension of premises previously licensed, the licensee shall pay an additional investigation fee in the same amount as the original investigation fee.
- (8) Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

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(Prior Code, § 6-15)

**Sec. 6-16. Liability insurance/proof of financial responsibility.**

- (a) No license required by this chapter may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility for liability that might be imposed under M.S.A. § 340A.801. The city shall, pursuant to M.S.A. § 340A.409, if applicable, submit to the commissioner the applicant's proof of financial responsibility.
- (b) The minimum requirement for proof of financial responsibility shall be a certificate that there is in effect for the license period a liquor liability insurance policy providing at least \$300,000.00 of coverage, single limit, or which may be satisfied in the manner provided in M.S.A. § 340A.409.
- (c) A liquor liability insurance policy required by this section must provide that the policy may not be canceled for:
  - (1) Any cause, except for nonpayment of premium, by either the insured or the insurer unless the canceling party has first given 30 days' notice in writing to the city of intent to cancel the policy; and
  - (2) Nonpayment of premium unless the canceling party has first given ten days' notice in writing to the city of intent to cancel the policy.

(Prior Code, § 6-16)

**Sec. 6-17. Council discretion to grant, deny, renew or not renew a license.**

- (a) The city council in its sole discretion may either grant or deny the application for any license or grant or deny a request for the transfer, modification or renewal of any license issued under this chapter. No applicant has a right to a license under this chapter.
- (b) The city council may take into consideration any nuisance call relating to the premises when considering the application, transfer, modification, or renewal of any license. For the purpose of this section, the term "nuisance call" means any activity, conduct, or condition occurring on or related to the premises, which results in a call or report to the city police department or any other law enforcement agency, including, but not limited to, calls and reports related to the following:
  - (1) Any conduct, activity or condition alleged to constitute disorderly conduct, pursuant to M.S.A. § 609.72;
  - (2) Any conduct, activity or condition alleged to constitute a public nuisance, pursuant to M.S.A. § 609.224;
  - (3) Any conduct, activity or condition alleged to constitute an assault, pursuant to M.S.A. § 609.224;
  - (4) Any conduct, activity or condition alleged to constitute a violation of state law relating to prostitution, controlled substances, use of firearms, criminal sexual conduct, and gambling;
  - (5) Any conduct, activity or condition alleged to constitute a violation of this Code.
- (c) Any violation of any provision of this Code, or nuisance call, regardless of whether or not a criminal charge has been brought or a criminal conviction has been obtained, may be used by the city council, at its discretion, when considering the granting, denying, suspension revocation, transfer, modification or renewal of a license.

(Prior Code, § 6-17)

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**Sec. 6-18. License renewal.**

- (a) Applications for the renewal of an existing license shall be made annually on a date determined by the city council and shall be made in such form as the city may require.
- (b) License holders of an on-sale intoxicating liquor or wine license must submit at the time of submittal of an application to renew their license, a statement made and signed by a certified public accountant that shows the total gross sales and the total food sales of the business for the 12-month period immediately preceding the date for filing renewal applications, which verifies that a minimum of 35 percent of the total gross sales is derived from the sale of food for on-sale intoxicating liquor license holders and on-sale wine license holders, unless precluded from this requirement by state law.

(Prior Code, § 6-18)

**Sec. 6-19. Suspension or revocation.**

The city council may suspend or revoke any liquor license for a violation of M.S.A. § 340A.415 and shall revoke such license for any willful violation, which under the state law is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The city council may revoke or suspend any license or impose a civil fine for any violation of this chapter or state law relating to alcoholic beverages. The procedure to be followed shall be as set forth in M.S.A. § 340A.415.

(Prior Code, § 6-19)

**Sec. 6-20. Responsibility for conduct at place of business.**

Every licensee under this chapter shall be responsible for the conduct at his place of business and for the conditions of sobriety and order in the place of business and on the premises.

(Prior Code, § 6-20)

**Sec. 6-21. Inspection of premises.**

All premises where any license under this chapter is granted shall be open to inspection by a licensed police officer or other properly designated officer or employee of the city at any time during which the place so licensed is open to the public for business.

(Prior Code, § 6-21)

**Sec. 6-22. Inspection of records.**

The business records of the licensee, including federal and state tax returns, shall be available for inspection by the city manager, or other duly authorized representative of the city at all reasonable times.

(Prior Code, § 6-22)

**Sec. 6-23. Changes in business organization.**

Changes in the corporate or association officers, corporate charter, articles of incorporation, bylaws or partnership agreement shall be submitted to the city clerk within 30 days after such changes are made.

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(Prior Code, § 6-23)

**Sec. 6-24. Off-sale prohibition.**

No licensee under this chapter shall sell liquor off-sale unless provided for by proper licensure within this chapter.

(Prior Code, § 6-24)

**Sec. 6-25. Age of employment.**

No person under 18 years shall be employed in any rooms in which liquors are sold at retail, unless permitted by state law.

(Prior Code, § 6-25)

**Sec. 6-26. Gambling and gambling devices prohibited.**

- (a) No licensee under this chapter or any of his employees shall keep, possess or operate or permit the keeping, possession or operation of any slot machine, dice or any gambling device or apparatus on the licensed premises, or in any room adjoining the licensed premises.
- (b) Notwithstanding the provisions of this section, lottery tickets may be purchased and sold within the licensed premises as authorized by the lottery director under M.S.A. ch. 349A.

(Prior Code, § 6-26)

**Sec. 6-27. Display of liquor.**

No licensed liquor establishment shall display liquor to the public during hours when the sale of liquor is prohibited by this chapter.

(Prior Code, § 6-27)

**Sec. 6-28. Ownership of equipment and fixtures.**

No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor except such as shall be expressly permitted by state law. In the case of a corporation, the licensee shall notify the city clerk when a person not listed in the application acquires an interest which, together with that of his spouse, parent, brother, sister or child, exceeds five percent, and shall give all information about such person as is required of a person pursuant to the provisions of this chapter.

(Prior Code, § 6-28)

**Sec. 6-29. Sale of ethyl alcohol or similar products.**

The retail sale for beverage purposes of ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma and characteristics generally attributed to ethyl alcohol or neutral spirits, as such, is prohibited. Nothing in this section shall be construed to prohibit the sale of other products obtained by the use of ethyl alcohol or neutral spirits as defined in M.S.A. § 340A.506.

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(Prior Code, § 6-29)

State law reference(s)—Similar provision, M.S.A. § 340A.506.

### **Sec. 6-30. Restaurants, hotels, and brewpubs.**

A restaurant, hotel or brewpub which holds an on-sale intoxicating liquor or on-sale wine license shall be conducted in such a manner that the principal part of the business is the serving of food. The principal part of the business for a license year must be the serving of food, which means that not less than 35 percent of the total gross sales in a consecutive 12-month period prior to submittal of the license is attributed to the sale of food (for renewal licenses only).

(Prior Code, § 6-30)

### **Sec. 6-31. Notice posting.**

Premises licensed for the retail sale of alcoholic beverages shall display the notice required under M.S.A. § 340A.410, subd. 4b.

(Prior Code, § 6-31)

### **Sec. 6-32. Original packaging and composition.**

No licensee shall sell, offer for sale or keep for sale, liquors in any original package, which has been refilled or partly refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any intoxicating liquor in the original package differing in the composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package has been diluted, changed or tampered with.

(Prior Code, § 6-32)

State law reference(s)—Tampering or refilling bottles, M.S.A. § 340A.508.

### **Sec. 6-33. Service in guest rooms and with meals at hotels.**

No sale of liquor shall be made to or in guest rooms of hotels, unless the rules of such hotels provide for the service of food in guest rooms; nor unless the sale of such liquor is made in the manner on-sale are required to be made; nor unless such sale accompanies and is incident to the regular service of meals to guests therein; nor unless the rules of such hotel and the description, location and number of such guest rooms are fully set out in the application for a license.

(Prior Code, § 6-33)

### **Sec. 6-34. Prohibition for places of public gathering for entertainment or amusement.**

No license issued under this chapter shall give permission to sell liquor or wine in any theater, recreation hall or center, dance hall, ballpark or other place of public gathering for the purpose of entertainment or amusement, and no such liquor shall be consumed thereon, unless provided for by law and issued a license by the city.

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(Prior Code, § 6-34)

**Sec. 6-35. Interests of manufacturers, affiliates and subsidiaries.**

No license holder or manufacturer of liquor nor any affiliate or subsidiary company of such manufacturer shall sell liquor except as allowed by law. An affiliate or subsidiary company shall be one in which such manufacturer or its stockholders own a majority of the stock.

(Prior Code, § 6-35)

State law reference(s)—Interests of brewers in retail, M.S.A. § 340A.301; prohibited transactions between brewers, wholesalers and retailers, M.S.A. § 340A.508.

**Secs. 6-36—6-58. Reserved.**

***ARTICLE II. ON-SALE INTOXICATING LIQUOR AND WINE LICENSES***

**Sec. 6-59. Classifications.**

- (a) Licenses addressed within this article shall be of three kinds: on-sale intoxicating, which includes on-sale intoxicating liquor club licenses as defined by state law, temporary-on-sale intoxicating liquor and wine.
  - (1) On-sale licenses within this article shall be granted only to businesses or organizations listed in section 6-60 and shall permit the sale of such liquor for consumption on the premises only.
  - (2) On-sale licenses within this article may be granted to theaters as authorized in M.S.A. § 340A.404(b).
  - (3) Temporary-on-sale licenses may be issued as set forth in this article to permit the sale of liquor for consumption on a specific premises for a specific time period described in the license, subject to such special terms and conditions as the city may prescribe or as required by state law.
- (b) Notwithstanding any other provisions of this chapter or any other ordinance to the contrary, the city may issue a temporary-on-sale license to itself for the dispensing of 3.2 percent malt liquor at city parks.

(Prior Code, § 6-50)

**Sec. 6-60. Businesses and organizations allowed a license.**

On-sale intoxicating liquor licenses shall be issued only to:

- (1) Hotels;
- (2) Restaurants and brewpubs whose principal part of business is the sale of food;
- (3) Bowling centers;
- (4) Clubs or congressionally chartered veterans' organizations with the approval of the commissioner, provided that the organization has been in existence for at least three years and liquor sales will only be to members and bona fide guests;
- (5) Theaters, as authorized in M.S.A. § 340A.404(b);
- (6) Brewery taprooms (see article IV of this chapter);

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(7) Cocktail rooms (see article IV of this chapter).

(Prior Code, § 6-51)

### **Sec. 6-61. Application.**

- (a) Application for a license under this article shall be made on the state liquor control division form provided for such licenses and shall be accompanied by an application provided by the city which provides necessary information as determined by the city and state law.
- (b) Every application for a license shall be verified and filed with the city clerk.

(Prior Code, § 6-52)

### **Sec. 6-62. Procedure for issuance.**

The following procedure shall be followed in processing applications for licenses under this article:

- (1) All applications shall be referred to such city departments as the city deems necessary for the verification, investigation and inspection of premises and facts as set forth in the application.
- (2) After receipt of the reports and recommendations by the city staff, the city council shall conduct a public hearing. Prior to such hearing, the city clerk shall publish in the official newspaper a notice of public hearing setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted and such information as the city may determine. Such notice shall be published at least ten days prior to the hearing. At the hearing, opportunity shall be given to any person to be heard for or against the granting of a license. After the hearing, the city council may either grant or deny the license. If the license is granted, the city council may withhold its issuance until the applicant has qualified in all respects for the license. If the premises to be licensed are not complete at the time that the hearing is conducted, the city council may grant the license but shall withhold its issuance until the premises have been completed in accordance with the requirements of this Code and other ordinances of the city and in accordance with the representations made by the applicant.
- (3) Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application.
- (4) The city clerk shall, within ten days after the issuance of any license under this article, submit to the commissioner the full licensee information as required by the commissioner, along with the effective and expiration date of the license. The city clerk shall also submit to the commissioner proof that liquor liability/proof of financial responsibility is in place for the licensed period.

(Prior Code, § 6-53)

### **Sec. 6-63. Bonds.**

- (a) At the time of filing an application for a license under this article, the applicant shall file with the city clerk one of the following:
  - (1) A bond in the amount of \$5,000.00 with corporate surety;
  - (2) A one-time cash security deposit in the form of a cashier's check in the amount of \$5,000.00; or
  - (3) A letter of credit in the amount of \$5,000.00.

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- (b) The surety bond or letter of credit required by this section shall be subject to the approval of the city.
  - (c) The surety on such bonds shall be a surety company duly licensed to do business in the state and the letters of credit shall be a bank duly licensed to do business in the state. The bond or letter of credit shall be approved as to form and execution by the city. All surety bonds and letters of credit, when approved by the proper city officers, shall be deposited with the city clerk.
  - (d) All such bonds, cash security deposits, and letters of credit shall be conditioned as follows:
    - (1) The licensee will obey the laws relating to the licensed business;
    - (2) The licensee will pay to the city when due all taxes, license fees, penalties and other charges provided by law;
    - (3) In the event of violation of any law relating to the business for which the license has been granted for the sale of liquor, the bond, cash security deposit or letter of credit shall be forfeited to the city.
  - (e) All such bonds and letters of credit shall run concurrent with the period of the license, and shall provide that no cancellation for any cause can be made either by the bonding company, the applicant or the bank, without such person first giving 30 days' written notice to the city, addressed to the city clerk, of intention to cancel the bond or letter of credit.

(Prior Code, § 6-54)

#### **Sec. 6-64. Hours of operation and security.**

- (a) *General prohibition.* No on-sale of intoxicating liquor shall be made during the times when such sale is prohibited by state law or:
  - (1) Between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, except as provided within this section;
  - (2) After 1:00 a.m. on Sundays, except as provided by this section.
- (b) *Evacuation of premises.* On-sale intoxicating liquor licensees shall evacuate the premises by 1:30 a.m. every day, except as provided for in this article.
- (c) *Sunday sales; on-sale.*
  - (1) It is unlawful for any establishment, directly or indirectly, to sell or serve intoxicating liquors on Sundays without first having obtained a Sunday license from the state and the city for a fee to be determined by city council. A Sunday license may be revoked by the city council for cause. Application for the Sunday license shall be made to the city in the same manner as applications for other licenses to sell intoxicating liquor are made;
  - (2) Establishments to which a Sunday on-sale license has been issued to or hereafter may be issued to, which are hotels, restaurants, brewpubs or clubs as defined by M.S.A. § 340.07 and this Code, and which have facilities for serving not less than 25 guests at one time, may serve intoxicating liquors during the times as prescribed by state law and in connection with the serving of food, provided that the licensed establishment is in compliance with the Minnesota Clean Indoor Air Act.

(Prior Code, § 6-55; Ord. No. 2018-1700, § 1, 10-15-2018)

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### **Sec. 6-65. Wine licenses.**

- (a) The city may issue an on-sale wine license with the approval of the commissioner to a restaurant having facilities for seating at least 25 guests at one time. A wine license permits the sale of wine of up to 24 percent alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week unless the city council authority restricts the license's authorization to the sale of wine on all days except Sundays.
- (b) The city council may by ordinance authorize the holder of an on-sale wine license issued pursuant to this article, who is also licensed to sell 3.2 percent malt liquors at on-sale, and whose gross receipts are at least 35 percent attributable to the sale of food, to sell strong beer on-sale without an additional license, unless otherwise permitted by state law.
- (c) The city may issue an on-sale wine license with the approval of the commissioner to a licensed bed and breakfast facility. A license under this section authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility.

(Prior Code, § 6-56)

### **Sec. 6-66. Temporary-on-sale intoxicating liquor licenses.**

Temporary licenses for the on-sale of intoxicating liquor shall be issued on the following terms and conditions, as well as those set forth in this article:

- (1) A club or charitable, religious or other nonprofit organization in existence for a least three years may apply for and be granted a temporary license for the on-sale of intoxicating liquor in connection with a social event within the city. The license shall be issued for not more than four consecutive days, which may authorize sales on premises other than those owned or permanently occupied by the holder of an on-sale liquor license.
- (2) The applicant must have been in existence and actively engaged in programs in the city intended to further and promote the purposes for which organized for a period of at least 18 consecutive months prior to the date of application for such license.
- (3) Application for a license under this section shall be made on the state liquor control division form provided for such licenses and shall be accompanied by application and license fees in the amounts determined by the city council and proof of financial responsibility in the amount of \$300,000.00 single limit coverage. All applications must be submitted to the city clerk at least 30 days in advance of the days for which such license is requested. Upon review of the application, the city council shall approve or disapprove the license in its discretion after considering input from any person heard for or against the granting of the license, based upon consideration of the health, safety and general welfare of the citizens of the city.
- (4) Licenses issued under this section are subject to all laws and ordinances governing the sale of liquor except M.S.A. § 340A.409 and those laws and ordinances which by their nature are not applicable. Licenses under this section are not valid unless approved by the commissioner.

(Prior Code, § 6-57)

### **Sec. 6-67. License renewal.**

At the time of submittal of an application for a renewal of an on-sale intoxicating liquor or wine license, that has been in effect for a full 12 preceding months, the applicant shall file with the city clerk a statement made and

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signed by a certified public accountant that shows the total gross sales and the total food sales of the restaurant for the 12-month period immediately preceding the date for filing renewal applications, which verifies that a minimum of 35 percent of the total gross sales is derived from the sale of food. Licensees that hold a club license as defined by state law are exempt from this requirement. Licensees that have obtained special legislation from the state are exempt from this requirement.

(Prior Code, § 6-58)

**Sec. 6-68. Suspension or revocation.**

The city council may suspend or revoke an on-sale intoxicating, wine, Sunday or temporary-on-sale intoxicating liquor license for the violation of M.S.A. ch. 340A and shall revoke such license for any willful violation which, under state law, is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The city council may revoke or suspend any license or impose a civil fine for any violation of this chapter or state law relating to alcoholic beverages. The procedure to be followed shall be as set forth in M.S.A. § 340A.415.

(Prior Code, § 6-59)

**Secs. 6-69—6-94. Reserved.**

***ARTICLE III. 3.2 PERCENT MALT LIQUOR***

**Sec. 6-95. Classifications.**

Licenses for 3.2 percent malt liquor shall be of three kinds: on-sale, off-sale, and temporary-on-sale.

- (1) On-sale 3.2 malt liquor licenses shall be granted only to cafes, restaurants and hotels where food is prepared and served for consumption on the premises and in bona fide clubs, and shall permit the sale of such liquor for consumption on the premises only.
- (2) Off-sale licenses shall be granted to permit the sale at wholesale or retail of such liquor in the original packages for removal from and consumption off the premises only.
- (3) Temporary-on-sale licenses may be issued as set forth in this article to permit the sale of such liquor for consumption on a specific premises for a specific time period described in the license, subject to such special terms and conditions as the city may prescribe or as required by state law.
- (4) Notwithstanding any other provisions of this article or any other ordinance to the contrary, the city may issue a temporary-on-sale license to itself for the dispensing of 3.2 percent malt liquor at city parks.

(Prior Code, § 6-80)

**Sec. 6-96. Application.**

- (a) Application for a license under this article shall be made on the state liquor control division form provided for such licenses and shall be accompanied by an application provided by the city which provides necessary information as determined by the city and state law.
- (b) Every application for a license shall be verified and filed with the city clerk.

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(Prior Code, § 6-81)

**Sec. 6-97. Procedure for issuance.**

The following procedure shall be followed in processing applications for licenses issued under this article:

- (1) All applications shall be referred to such city departments as the city deems necessary for the verification, investigation and inspection of premises and facts as set forth in the application.
- (2) Upon successful completion of verification, investigation and necessary inspections, all new licenses shall be submitted to the city council for approval.
- (3) The city clerk shall, within ten days after the issuance of any license under this article, submit to the commissioner the full licensee information as required by the commissioner, along with the effective and expiration date of the license. The city clerk shall also submit to the commissioner proof that liquor liability/proof of financial responsibility is in place for the licensed period.

(Prior Code, § 6-82)

**Sec. 6-98. Temporary-on-sale 3.2 malt liquor licenses.**

Temporary licenses for the on-sale of 3.2 percent malt liquor shall be issued on the following terms and conditions, as well as those set forth in this article:

- (1) A club or charitable, religious or other nonprofit organization in existence for a least three years may apply for and be granted a temporary license for the on-sale of 3.2 malt liquor in connection with a social event within the city. The license shall be issued for not more than four consecutive days, which may authorize sales on premises other than those owned or permanently occupied by the holder of an on-sale liquor license.
- (2) The applicant must have been in existence and actively engaged in programs in the city intended to further and promote the purposes for which organized for a period of at least 18 consecutive months prior to the date of application for such license.
- (3) Application for a license under this section shall be made on the state liquor control division form provided for such licenses and shall be accompanied by application and license fees in the amounts determined by the city council and proof of financial responsibility in the amount of \$300,000.00 single limit coverage. All applications must be submitted to the city clerk at least 30 days in advance of the days for which such license is requested. Upon review of the application, the city council shall approve or disapprove the license in its discretion after considering input from any person heard for or against the granting of the license, based upon consideration of the health, safety and general welfare of the citizens of the city.
- (4) Licenses issued under this section are subject to all laws and ordinances governing the sale of liquor except M.S.A. § 340A.409 and those laws and ordinances which by their nature are not applicable. Licenses under this section are not valid unless approved by the commissioner.

(Prior Code, § 6-83)

**Sec. 6-99. Suspension or revocation.**

The city council may suspend or revoke an on-sale 3.2 percent malt liquor, off-sale 3.2 percent malt liquor or temporary-on-sale 3.2 percent malt liquor license for the violation of M.S.A. ch. 340A and shall revoke such license

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for any willful violation which, under state law, is grounds for mandatory revocation, and shall revoke for failure to keep the insurance required by this chapter. The city council may revoke or suspend any license or impose a civil fine for any violation of this chapter or state law relating to alcoholic beverages. The procedure to be followed shall be as set forth in M.S.A. § 340A.415.

(Prior Code, § 6-84)

**Secs. 6-100—6-126. Reserved.**

## ***ARTICLE IV. BREWERY/TAPROOM AND MICRODISTILLERY COCKTAIL ROOM LICENSE***

### **Sec. 6-127. Classifications.**

- (a) A brewer licensed under M.S.A. § 340A.301 may be issued an on-sale brewery taproom license for the on-sale of malt liquor produced on the licensed premises which may also be sold to other bars, restaurants and off-sale liquor stores if permitted by state law and issued a license by the state department of public safety, alcohol and gambling enforcement division, and a microdistillery licensed under M.S.A. § 340A.301 may be issued an on-sale cocktail room license for the on-sale of distilled spirits produced on the licensed premises, which may also be sold to other bars, restaurants and off-sale liquor stores if permitted by state law and issued a license by the state department of public safety, alcohol and gambling enforcement division, subject to the following conditions:
- (1) The on-sale of malt liquor and distilled spirits may only be made during the days and hours that on-sale of liquor may be made, as prescribed by state law or within this chapter;
  - (2) A brewer may only hold one brewery taproom license within the city;
  - (3) A microdistiller may hold only one microdistillery cocktail room license within the city;
  - (4) The only beveraged alcohol that may be sold or consumed on the premises of a licensed brewery taproom or cocktail room will be the malt liquor or distilled spirits produced by the brewer or micro distiller upon the brewery taproom or cocktail room premises;
  - (5) The holder of a brewery taproom license is permitted by this article to sell growlers, as defined in section 6-2, during the times prescribed by state law.
- (b) A brewery taproom license may not be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews or produces more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually, as defined and prescribed by M.S.A. § 340.301.
- (c) A cocktail room license may not be issued to a microdistillery if the micro distiller seeking the license, or any person having an economic interest in the microdistillery seeking the license or exercising control over the microdistillery seeking the license, is a micro distiller that produces more than 40,000 proof gallons of premium, distilled spirits in a calendar year.

(Prior Code, § 6-90)

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**Sec. 6-128. Application.**

- (a) Application for a license under this article shall be made on the application provided by the city which provides necessary information as determined by the city and state law.
- (b) Every application for a license shall be verified and filed with the city clerk.

(Prior Code, § 6-91)

**Sec. 6-129. Procedure for issuance.**

The following procedure shall be followed in processing applications for licenses issued under this article:

- (1) All applications shall be referred to such city departments as the city deems necessary for the verification, investigation and inspection of premises and facts as set forth in the application.
- (2) Upon successful completion of verification, investigation and necessary inspections, all new licenses shall be submitted to the city council for approval.
- (3) Licenses issued under this article are subject to all laws and ordinances governing the sale of liquor except M.S.A. § 340A.409 and those laws and ordinances which by their nature are not applicable.

(Prior Code, § 6-92)

**Sec. 6-130. Suspension or revocation.**

The city council may suspend or revoke a brewery taproom license or cocktail room license for any violation of M.S.A. ch. 340A and shall revoke such license for any willful violation which, under the state law, is grounds for mandatory revocation, and shall revoke such license for failure to keep the insurance required by this chapter. The city council may revoke or suspend any license or impose a civil fine for any violation of this chapter or state law relating to alcoholic beverages. The procedure to be followed shall be as set forth in M.S.A. § 340A.415.

(Prior Code, § 6-93)