

ALCOHOLIC BEVERAGES

Chapter 6

ALCOHOLIC BEVERAGES*

*State law reference—Alcoholic beverages, Minn. Stats. ch. 340A; local restrictions on sale and possession of alcohol authorized, Minn. Stats. § 340A.509.

ARTICLE I. IN GENERAL

Secs. 6-1—6-17. Reserved.

ARTICLE II. INTOXICATING LIQUOR

DIVISION 1. GENERALLY

Sec. 6-18. Definitions.

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

Club means as defined in state statutes.

Dining room means restaurant.

Hotel means as defined in state statutes and which in addition conducts its business in such a manner that, of that part of the total business attributable to or derived from the serving of foods and intoxicating liquors, the principal part of the business for a license year is the serving of food, as measured by dollar volume of sales.

Restaurant means an establishment under the control of a single proprietor or manager, having appropriate facilities to serve meals, for seating not less than 40 guests at one time having a total area of at least 254 square feet, and where in consideration of payment therefore, meals are regularly prepared on the premises and served at tables to the general public, and which employs an adequate staff for the usual and suitable service to its guests and more than 50 percent of the dollar volume of sales comes from the sale of food. For the purpose of meeting the 50 percent dollar volume requirement, the aggregate dollar volumes of restaurants which are adjacent, and which are under the majority control and ownership of the same individual may be combined.

(Code 1987, § 800.01, subd. 2; Ord. No. 10-2003, 10-26-2003; Ord. 05-2011, 1-1-2012; Ord. No. 04-2013, 4-21-13)

Sec. 6-19. Provisions of state law adopted by reference.

Unless otherwise provided in this article, the provisions of state statutes relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this article as if set out in full.

(Code 1987, § 800.01, subd. 1; Ord. No. 06-2003, 8-24-2003)

Sec. 6-20. Restrictions on purchase and consumption.

(a) *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" and/or a permit from the commissioner of public safety under Minn. Stats. § 340A.414, and no person shall consume liquor in any such place.

(b) *Consumption in public places.* No person shall consume liquor on a public highway, public park, or other public place.

(c) *Liquor in hotel guestrooms.* No sale of intoxicating liquor shall be made to or in guestrooms of hotels, unless the rules of such hotels provide for the service of food in guestrooms; nor

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unless the sale of such intoxicating 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 guestrooms are fully set out in the application for a license.

(d) *Proof of age.* Any person who may appear to the licensee, his employees or agents, to be under the minimum age allowed by Minn. Stats. ch. 340A shall upon demand of the licensee, his employee or agent, produce and permit to be examined a valid driver's license, a current state identification card issued pursuant to Minn. Stats. § 71.07 or in the case of a foreign national, a valid passport.

(e) *Hours of sale restriction.* No intoxicating liquor shall be sold, served, or consumed on the licensed premises during the time when a sale is prohibited by law.

(Code 1987, § 800.40; Ord. No. 65-1993, 8-30-1993)

Sec. 6-21. Bottle clubs and locker clubs, setups – Repealed (Ord. 05-2011, 1-1-2012)

Secs. 6-22—6-45. Reserved.

DIVISION 2. LICENSE

Sec. 6-46. Required.

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 and paying a fee as provided in this article. Intoxicating liquor licenses shall be of six types:

(a) *On-sale Liquor.* On-sale licenses shall be issued only to hotels and restaurants and shall permit liquor to be sold as on-sale only.

(b) *On-sale Sunday Liquor.* On-Sale Sunday licenses authorizing intoxicating liquor sales in conjunction with the serving of food may be issued to any club, hotel or restaurant which has an On-Sale or Club On-Sale Liquor License. A club, hotel, or restaurant holding an On-Sale Sunday intoxicating liquor license, may serve alcoholic beverages between the hours of 10:00 a.m. and 2:00 a.m. on Sundays in conjunction with the serving of food, provided the licensee's establishment is in conformance with the Minnesota Clean Indoor Air Act (Minn. Stats. §144.411 et seq.) No licensee may sell intoxicating liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner of Public Safety and paid any applicable fees.

(c) *On-Sale Wine.* On-sale wine licenses shall be issued only to restaurants 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. The holder of an "On-Sale" wine license issued pursuant to state statutes, who is also licensed to sell 3.2 malt liquor at "On-Sale" pursuant to state statutes, and whose gross receipts are at least 60 percent attributable to the sale of food, is authorized to sell intoxicating malt liquors at "On-Sale" without an additional license.

(d) *Club On-Sale Liquor.* Club On-sale licenses shall be issued only to 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, except that a club may permit the general public to participate in a wine tasting conducted at the club under Minn. Stats. §340A.419.

(e) *Temporary On-sale Liquor.* Temporary on-sale licenses shall be issued to a club or charitable, religious, or other nonprofit organization in existence for at least three years, to a political committee registered under Minn. Stats. §10A.14, or to a state university, a temporary license for the on-sale or intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies.

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(f) *Consumption and Display Permits.* Consumption and Display Permits are issued by the Commissioner of Safety as regulated in State Statute 340A.414, and the City shall receive a fee, as established by the City, for review and approval of any such permits. One-day permits to a nonprofit organization in conjunction with a special activity in the City sponsored by the organization may also be issued according to statute.

(Code 1987, § 800.05; Ord. No. 32-1989, 7-3-1989; Ord. No. 77-1996, 2-27-1996; Ord. No. 111-2000, 9-23-2000; Ord. No. 08-2004, 10-3-2004; Ord. No. 05-2011, 1-1-2012; Ord. No. 06-2013, 6-23-13)

Sec. 6-47. Application.

(a) *Required; form.* Every application for a license to sell liquor or to allow the consumption of liquor under section 6-46 shall be in the form prescribed by the city and shall be verified and filed with the City Clerk. All questions asked and information required on the application forms shall be answered fully and truthfully by the applicant. Failure to do so is grounds for denial of license. Additional information shall be supplied if requested by the City.

(b) *Renewal application.* Applications for the renewal of an existing license shall be made at least 60 days prior to date of expiration of the license and shall be made in such form as provided by the City. If, in the judgment of the Council, good and sufficient cause is shown by any applicant for his failure to file for a renewal, within the time provided, the Council may, if the other provisions of this article are complied with, waive this requirement and grant the application.

(c) *Accountant's statement.* With the renewal application, the licensee shall file with the City Clerk a statement made 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 the renewal application. The licensee shall also submit the appropriate license fee(s) and certificates of insurance as required in this Chapter.

(d) *Insurance.* Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility with regard to liability imposed by state statutes to the City Clerk and to the commissioner of public safety as a condition of the issuance or renewal of his license. Proof of financial responsibility shall be given by filing a certificate that there is in effect an insurance policy or pool providing the minimum coverage for dram shop liability as required by state statutes. It is the intent of this section to require the minimum insurance coverage and amounts required by state law. Subject to the restrictions set forth in Minn. Stats. § 340A.409, subd. 4, the City Clerk is hereby authorized to waive the foregoing requirements as they pertain to insurance for "On-Sale" wine licenses with sales of less than the amount set forth in the statute if said licensee files an affidavit from a certified public accountant to show that sales are under the amount set forth in the statute. The licensee must also file a written commitment with the City Clerk that if the sales reach the amount set forth in the statute, the licensee will not continue to sell wine until he has filed a certificate of insurance meeting the requirements set forth in this subsection.

(Code 1987, § 800.10; Ord. No. 33-1989, 9-18-1989; Ord. No. 56-1992, 5-11-1992; Ord. No. 05-2011, 1-1-12)

Sec. 6-48. Fees.

(a) *Fees.* The annual fee for liquor licenses shall be as established by the city.

(b) *Payment.* Each application for a license shall be accompanied by the appropriate annual fee and the fixed investigation fee required under section 6-49(a), if any. In renewing the license, the Council may allow the "On-Sale" licensee to pay the fee in two installments, with one-half due on or before June 30 and the balance due on or before December 31. All fees shall be paid into the general fund.

(c) *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 June 30 of each year.

(d) *Refunds.* No refund of any fee shall be made except as authorized by statute. If an application for a license is withdrawn or rejected, the city shall refund the amount paid as the license fee,

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except where rejection or withdrawal is a willful misstatement in the license application.

(Code 1987, § 800.15; Ord. No. 01-2001, 2-25-2001; Ord. No. 05-2011, 1-1-12)

Sec. 6-49. Granting.

(a) *Preliminary investigation.* On an initial application for an "On-Sale" license and on an application for transfer of an existing "On-Sale" license, the applicant shall pay with his application a nonrefundable investigating fee in the amount established by the city, 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 contain 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. If the Council determines that a comprehensive background and investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal 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 the expenses of the investigation relating to any application exceed the minimum investigating fee, the city shall notify the applicant of this fact and shall require the applicant to pay an additional investigating fee which the City Manager deems necessary to complete the investigation of the applicant. The applicant shall pay such an additional investigating fee within five days of being so notified. If such additional investigating fee is not paid within such five-day period, the city shall discontinue consideration of the application. If an investigation outside the state is required, the applicant shall be charged the actual cost not to exceed \$10,000.00. Such additional investigating fee, after deducting the minimum investigating fee already paid, shall be payable by the applicant whether or not the license is granted. Upon completion of the city's investigation, the additional investigating fee, if any, shall be refunded to the applicant after deducting the city's actual costs of investigation.

(b) *Referral to Chief of Police for recommendation.* All applications for a license shall be referred to the Chief of Police and to such other city departments as the City Manager shall deem necessary, for verification and investigation of the facts set forth in the application. The Chief of Police shall cause to be made such investigation of the information requested in section 6-47 as shall be necessary and shall make a written recommendation and report to the Council which shall include a list of violations of federal or state law or municipal regulations.

(c) *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 the 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 license.

(Code 1987, § 800.20)

Sec. 6-50. Ineligible persons.

No license shall be granted to any person made ineligible for such a license by state law.

(Ord. No. 56-1992, § 800.25, 5-11-1992)

Sec. 6-51. Ineligible places.

(a) *General prohibition.* No license shall be issued for any place or any business ineligible for such a license under state law. In addition, the existence of any of the following conditions render the applicant and the following premises ineligible for receipt of an on-sale liquor license:

- (1) 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 county assessor. The foregoing valuation provision shall not apply to the existing municipal "On-Sale" liquor dispensary or to the terms established by the Council.
- (2) Any hotel which does not have a total market value, including land, building, and equipment, of at least \$500,000.00 as appraised by the county assessor.

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- (3) Any restaurant or hotel located in any zoning district other than a commercial or commercial use district.
- (4) *Delinquent taxes and charges.* No license shall be granted for operation on any premises on which state or city taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(Code 1987, § 800.30; Ord. No. 05-2011, 1-1-12)

Sec. 6-52. Conditions.

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

- (1) *Changes in corporate form—Notification requirements.* Changes in the corporate or association officers, corporate charter, articles of incorporation, bylaws, or partnership agreement, as the cases may be, shall be submitted to the City Clerk within 30 days after such changes are made. 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 said person as is required of a person pursuant to the provisions of section 6-47(b).
- (2) *Same—Early termination of license.* Any change of ownership or beneficial interest or sales of stock entitled to be voted at any meeting of the stockholders of a corporation which result in a 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 30 days after any such change in ownership or beneficial interest of shares, unless the Council shall have been notified of such change in writing and shall have approved thereof.
- (3) *Changes in physical condition of licensed premises; notification requirements.* Proposed enlargement, alteration, or extension of premises previously licensed shall be reported to the City Clerk at or before the time application is made for a building permit for any such change, and the licensee shall also give such information as is required by section 6-47(b).
- (4) *Licensee's responsibility.* Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this article and the law equally with the employee.
- (5) *Inspection.* 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. In addition, 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 or the City Council, at all reasonable times.
- (6) *Display during prohibited hours.* No "On-Sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (7) *Hours of operation.* No sale of liquor may be made between the hours of 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, and between the hours of 2:00 a.m. and 10:00 a.m. on Sunday. No licensee may sell intoxicating liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner of Public Safety and paid any applicable fees. A room, place, or premises where liquor is permitted to be sold,

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including cafe, restaurant, or dining room operated in connection therewith, pursuant to an "On-Sale" license, may remain open to the public for a period of not more than 30 minutes after the times when the sale of liquor is prohibited under this subsection. During said hours, when the premises are required to be closed, no person shall be allowed to be or remain within such room, place or premises, for any purpose whatsoever, except that the owner or licensee, his agents, servants, or employees, may be and remain there for the purpose only of cleaning, preparation of meals, necessary repairs, or other work in connection therewith.

- (8) *Federal stamps.* No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.
- (9) *Club licenses; no sales to nonmembers.* The sale of liquor under a Club license is restricted to members of the club which holds the license, and no licensee holding a Club license shall sell liquor to persons who are not members or bona fide guests of members of the licensed club.
- (10) *Employment of underage persons.* Except as authorized or provided by Minn. Stats. ch. 340A, no person under the age of 18 years shall be employed on any licensed premises.
- (11) *Additional conditions.* The City Council may impose, in addition to those standards and requirements expressly specified by this section, additional conditions which the City Council considers necessary to protect the best interest and welfare of the community as a whole.

(Code 1987, § 800.35; Ord. No. 77-1996, 2-27-1996; Ord. No. 06-2003, 8-24-2003; Ord. No. 05-2005, 5-8-2005; Ord. No. 08-2005, 7-19-2005; Ord. No. 06-2013, 6-23-13)

Sec. 6-53. Suspension and revocation.

The Council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil penalty as established by the city, or impose any combination of these sanctions, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stats. §§ 340A.415.

(Ord. No. 14-2006, § 800.50, 8-6-2006; Ord. No. 05-2011, 1-1-12)

Secs. 6-54—6-78. Reserved.

ARTICLE III. 3.2 PERCENT MALT LIQUOR

DIVISION 1. GENERALLY

Sec. 6-79. Definitions.

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

3.2 malt beverage or *3.2 malt liquor* means any 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.

Original package means the bottle or sealed container in which the 3.2 malt beverage is placed at the place of manufacture.

Restaurant means an establishment under the control of a single proprietor or manager, having appropriate facilities to serve meals, for seating not less than 40 guests at one time having a total area of at least 254 square feet, and where in consideration of payment therefore, meals are regularly prepared on the premises and served at tables to the general public, and which employs an adequate staff for the usual and suitable service to its guests and more than 50 percent of the dollar volume of sales comes from the sale of

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food. For the purpose of meeting the 50 percent dollar volume requirement, the aggregate dollar volumes of restaurants which are adjacent, and which are under the majority control and ownership of the same individual may be combined.

(Code 1987, § 810.01, subs. 2—5; Ord. No. 05-2011, 1-1-12; Ord. No. 04-2013, 4-21-2013)

Sec. 6-80. State law incorporated by reference.

The provisions of Minn. Stats. ch. 340A relating to the definition of terms, licensing, conditions of bonds of licenses, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of 3.2 percent malt liquor are adopted and made a part of this article as if set out in full.

(Code 1987, § 810.01, subd. 1)

Sec. 6-81. Hours of sale.

(a) No 3.2 malt beverage or 3.2 malt liquor shall be sold, or served, or consumed on the licensed premises between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday. No licensee may sell 3.2 malt beverage or 3.2 malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Commissioner of Public Safety and paid any applicable fees.

(b) A premises where such 3.2 malt beverage or 3.2 malt liquor is permitted to be sold, pursuant to a 3.2 malt beverage "On-Sale" license, may remain open to the public for a period of not more than 30 minutes after the times when the sale of 3.2 malt beverage or 3.2 malt liquor is prohibited under this subsection. During said hours, when the premises is required to be closed, no person shall be allowed to be or remain within such room, place, or premises, for any purpose whatsoever, except that the owner or licensee, his agents, servants, or employees, may be and remain there for the purpose only of cleaning, preparation of meals, necessary repairs, or other work in connection therewith.

(Code 1987, § 810.40; Ord. No. 06-2003, 8-24-2003; Ord. No. 06-2013, 6-23-13)

Sec. 6-82. Clubs.

No club shall sell 3.2 malt beverages except to bona fide members.

(Code 1987, § 810.45)

Sec. 6-83. Restrictions on purchases and consumption.

The following restrictions shall apply to purchases and consumption:

- (1) *Age misrepresentation.* No minor shall misrepresent his age for the purpose of obtaining 3.2 malt beverages.
- (2) *Procurement.* No person other than the parent or legal guardian shall procure 3.2 malt beverages for any person under the minimum age allowed by Minn. Stats. ch. 340A.
- (3) *Possession.* No person under the minimum age allowed by Minn. Stats. ch. 340A shall have 3.2 malt beverages in his possession with the intent to consume it at a place other than the household of his parent or guardian.
- (4) *Consumption.* No minor shall consume 3.2 malt beverages on any licensed premises.
- (5) *Locations where consumption prohibited.* Except as provided in section 6-110(c), no 3.2 malt beverages shall be consumed in any theater, recreation hall or center, dance hall, ball park, or other place of public gathering used for purpose of entertainment, amusement, or playing of games, except bowling alleys. Except as provided in section 6-110(c), no person shall consume 3.2 malt beverages on a public highway, public park, or other public place.
- (6) *Liquor consumption and display.* No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell

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intoxicating liquors or who does not hold a consumption or display permit.

- (7) *Hours of sale.* No 3.2 malt liquor shall be sold, served, or consumed on the licensed premises during the time when a sale is prohibited by law.

(Code 1987, § 810.50; Ord. No. 65-1993, 8-30-1993; Ord. No. 05-2011, 1-1-12)

Secs. 6-84—6-109. Reserved.

DIVISION 2. LICENSE

Sec. 6-110. Required.

(a) *Types; wholesalers and manufacturers exempt.* 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 3.2 malt beverage 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."

(b) *Regular "On-Sale."* A regular "On-Sale" license shall be granted only to bona fide clubs, restaurants and hotels where food is prepared and served for consumption on the premises. "On-Sale" licenses shall permit the sale of 3.2 malt beverages for consumption on the premises only.

(c) *Temporary "On-Sale."* Subject to the restrictions set forth in Minn. Stats. § 340A.403, a temporary "On-Sale" license shall be granted only to bona fide clubs and charitable, religious, and nonprofit organizations for the sale of 3.2 malt beverages for consumption on the premises only, provided that such club or such organization conducts the greater portion of its activities within the city. Temporary 3.2 malt beverage "On-Sale" licenses shall be granted for one to ten consecutive days only. Other provisions of this article to the contrary notwithstanding, temporary 3.2 malt beverage "On-Sale" licenses may be issued so as to allow consumption and sale of 3.2 malt beverage in theaters, recreation halls, dance halls, ball parks, school property, public property, and other places of public gathering for the purpose of entertainment, amusement, or playing of games; provided that the terms of the waiver of any such restrictions are endorsed upon the face of the temporary "On-Sale" license itself. Only four such temporary "On-Sale" permits shall be granted to any club or charitable, religious, and nonprofit organization within any one calendar year.

(d) *"Off-Sale."* A 3.2 malt beverage "Off-Sale" license shall permit the sale of 3.2 malt beverages at retail, in the original package for consumption off the premises only.

(Code 1987, § 810.05; Ord. No. 11-1988, 6-14-1988)

Sec. 6-111. Applications and insurance.

(a) *Application form.* Every application for a license to sell 3.2 malt beverages shall be made to the City Clerk on a form supplied by the city and containing such information as the clerk or the City Council may require. It shall be unlawful to make any false statement in an application. In the case of any application for a temporary "On-Sale" license to allow sale and consumption of 3.2 malt beverages on public land or public school lands, the applicant shall, prior to issuance of such license, file the written consent of the owner of such lands to such use of its lands.

(b) *Liability insurance.*

- (1) Prior to the issuance of any 3.2 malt beverage license, the applicant shall demonstrate proof of financial responsibility with regard to liability imposed by state statutes to the City Clerk as a condition of the issuance or renewal of his license. Proof of financial responsibility shall be given by filing a certificate that there is in effect an insurance policy or pool providing the minimum coverage for dram shop liability as required by state statutes. It is the intent of this section to

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require the minimum insurance coverage and amounts required by state law.

- (2) Any certificate of insurance filed pursuant to the clause in subsection (b)(1) of this section shall show that the insurance company cannot cancel said insurance until at least 30 days written notice of said cancellation has been served upon the city. If a new certificate of insurance is not filed with the City Clerk during the 30-day period after notice of cancellation, the license to sell at retail 3.2 malt liquor shall be suspended until a new certificate of insurance is filed with the City Clerk and the state commissioner of public safety.
- (3) Subject to the restrictions set forth in state statutes, the City Clerk is hereby authorized to waive the foregoing requirements for 3.2 malt liquor licenses with sales of less than the amounts set forth in the statute if said licensee files an affidavit from a certified public accountant to show that sales are under the amounts set forth in the statute. The licensee must also file a written commitment with the City Clerk that if the sales reach the amounts set forth in the statute, the licensee will not continue to sell 3.2 malt liquor or wine until he has filed a certificate of insurance meeting the requirements set forth in this section.

(Code 1987, § 810.10; Ord. No. 5-1989, 10-23-1989; Ord. No. 56-1992, 5-11-1992)

Sec. 6-112. Fees.

(a) *Payment required.* Each application for a license shall be accompanied by a receipt from the city 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 city shall refund the amount paid.

(b) *Expiration; pro rata fees.* Every license except a temporary license shall expire on June 30 in each year. Each license except a temporary license shall be issued for a period of one year, except that if eight months of the license year have elapsed when the license is granted, the license shall be issued for the remainder of the year for one-half of the regular fee. In computing such 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 is incident is being held, not to exceed ten days, and such period shall be stated on the license.

(c) *Annual.* The annual fee for a regular 3.2 malt beverage "On-Sale" license and for an 3.2 malt beverage "Off-Sale" license and the daily fee for a temporary 3.2 malt beverage "On-Sale" license shall be as established by the city.

(d) *Refunds.* No part of the fee paid for any license issued under this article shall be refunded except in the following instances upon application to the Council within 30 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, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe;
- (2) The licensee's illness;
- (3) The licensee's death;
- (4) A change in the legal status of the city making it unlawful for the licensed business to continue.

(Code 1987, § 810.15; Ord. No. 01-2001, 2-25-2001)

Sec. 6-113. Granting of license.

(a) *Investigation and hearing.* The city 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 at its discretion.

(b) *Transfers.* Each license shall be issued to the applicant only, and shall not be transferable

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to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place or altered premises without the approval of the Council.

(Code 1987, § 810.20)

Sec. 6-114. Ineligible persons.

No license shall be granted to any person made ineligible for such a license by state law.

(Ord. No. 56-1992, § 810.25, 5-11-1992)

Sec. 6-115. Ineligible places.

(a) Premises where licensee violated article provisions or had license revoked. No license shall be granted for sale from any premises where a licensee has been convicted of the violation of this article, or of the state 3.2 malt beverage or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation.

(b) *Theaters, recreation halls, dance halls, ball parks.* Except as provided in section 6-110(c), no license shall give permission to sell 3.2 malt beverages in any theater, recreation hall or center, dance hall, ball park, or other place of public gathering for the purpose of entertainment, amusement, or playing of games, except bowling alleys.

(c) *Limitation on new locations.* No license shall be granted for any place outside of the central business district as defined in chapter 129, pertaining to zoning, except that establishments validly licensed for the off-sale of 3.2 malt liquor on July 1, 2008, may continue to receive licenses for such sale.

(d) Premises upon which taxes, assessments, etc., are unpaid. No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid.

(Code 1987, § 810.30; Ord. No. 56-1992, 5-11-1992)

Sec. 6-116. Conditions and restrictions.

(a) *Compliance with city and state law.* Every license shall be granted subject to the conditions in subsection (b) of this section and all other provisions of this article and of any other applicable ordinance of the city or state law.

(b) *Sales to underage or intoxicated persons.* No 3.2 malt beverages shall be sold or served to any intoxicated person or to any person under the minimum age allowed by Minn. Stats. ch. 340A.

(c) *Consumption by underage persons.* No person under the minimum age allowed by Minn. Stats. ch. 340A shall be permitted to consume 3.2 malt beverages on the licensed premises unless accompanied by his parent or legal guardian.

(d) *Employment of underage persons.* Except as authorized by Minn. Stats. ch. 340A, no person under 18 years of age shall be employed on the premises of a 3.2 malt beverage store.

(e) *Gambling.* No gambling or any gambling device shall be permitted on any licensed premises without proper permitting from the Minnesota Department of Public Safety.

(f) *Interest of manufacturers or wholesalers.* No manufacturer or wholesaler of 3.2 malt beverages shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minn. Stats. § 340A.308. No retail licensee and manufacturer or wholesaler of 3.2 malt beverages shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of 3.2 malt beverages, and no such manufacturer or wholesaler of 3.2 malt beverages shall confer any benefits contrary to law upon a retail licensee.

(g) *Liquor dealer's stamp.* No licensee shall sell 3.2 malt beverages while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of the state to sell intoxicating liquors.

(h) *Sales of intoxicating liquor.* No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of

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intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this article.

(i) *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 liquor found on the licensed premises in violation of subsection (h) of this section.

(j) *Licensee responsibility.* Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

(Code 1987, § 810.35; Ord. No. 09-2005, 7-19-2005; Ord. No. 05-2011, 1-1-12)

Sec. 6-117. Suspension and revocation; hearing.

The Council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil penalty as established by the city, or impose any combination of these sanctions, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stats. §§ 340A.415.

(Ord. No. 15-2006, § 810.55, 8-6-2006; Ord. No. 05-2011, 1-1-12)

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