

CHAPTER 6: LIQUOR AND BEER

(amended and adopted on May 14, 2014)

Part 1. Intoxicating Liquor Licensing

- 601.01 Provisions of state law adopted
- 601.02 License required
- 601.03 Application for license
- 601.04 License fees
- 601.05 Granting of license
- 601.06 Persons ineligible for license
- 601.07 Places ineligible for license
- 601.08 Conditions of license
- 601.09 Restrictions on purchase and
consumption
- 601.10 Suspension and revocation

Part 1. Intoxicating Liquor Licensing

601.01. Provision of state law adopted. The provisions of Minn. Stat. Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility 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 ordinance as if set out in full.

601.02. License required.

Subd. 1. General requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of five kinds: on-sale, temporary on-sale, on-sale wine, off-sale, and club license.

Subd. 2. On-sale licenses. On-sale licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores, and shall permit on-sale of liquor only.

Subd. 3. On-sale wine licenses. “on-sale wine licenses shall be issued only to restaurants meeting the qualification of Minn. Stat. 340A.404, Subd. 5, and shall permit only the sale of wine not exceeding 14percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.”

Subd. 4. Temporary on-sale license. Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable religious or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the license and subject to restrictions imposed by the state liquor act.

Subd. 5. Off-sale licenses. Off-sale licenses shall be issued only to drug stores, bars, taverns, and exclusive liquor stores and shall permit off-sales of liquor only.

Subd. 6. Special club licenses. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans’ organizations which have been in existence at least three years.

601.03. Application for license.

Subd. 1. Form. Every application for a license to sell liquor shall state the name of the applicant, the applicant’s age, representation as to the applicant’s character (with such references as the council may require), citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and such other information as the council may require from time to time. Every application shall also include a copy of each summons received by the applicant under Minn. Stat. 340A.802 during the preceding year. In addition to containing such information, the application shall be in the form prescribed by the bureau of criminal apprehension and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

Subd. 3. Financial responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minn. Stat. 340A.409 with regard to liability under the statutes, Section 340A.801. such proof shall be filed with commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minn. Stat. 340A.409.

Subd. 4. Approval of security. Liability insurance policies required by this ordinance but not by state law shall be approved by the city attorney. Operation of licensed business with having on file with city at all times effective security as required in Subd. 3 is a cause for revocation of the license.

601.04. License fees.

Subd. 1. Fees. The annual fees shall be set forth by the current fee schedule adopted each year, for a liquor license, including on-sale license, temporary on-sale license, on-sale wine license, off-sale license, license for Sunday sales.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the license fee and fixed investigation fee required under Section 5, Subd. 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.

Subd. 3. Term; pro 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 the month being counted as one month. Every license shall expire one year from the date it was issued.

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

601.05. Granting of licenses.

Subd. 1. Preliminary investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with the application an investigation fee set forth by the fee schedule adopted each year (actual cost not to exceed state limits) and the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If an investigation outside that state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and issuance. The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subd. 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No on-sale wine license or off-sale license shall become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

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

601.06. Persons ineligible for license. No license shall be granted to any person made ineligible for such a license by state law. No more than one intoxicating liquor license shall be directly or indirectly issued with the city to any one person.

601.07. Places ineligible for license.

Subd. 1. General prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2. Insurance. Compliance with financial responsibility requirement of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd. 3. Licensee's responsibility. Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 4. Inspections. Every licensee shall allow any peace officer, health officer or proper designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 5. Display during prohibited hours. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

601.09. Restrictions on purchase and consumption.

Subd. 1. Liquor in unlicensed places. No person shall mix or prepare liquor for consumption in any place of business unless it has a license to sell liquor on-sale or a permit from the commissioner of public safety under Minn. Stat. 340A.414 and no person shall consume liquor in any such place.

601.10. Suspension and revocation. The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000.00 for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in case of failure of financial responsibility no suspension or revocation shall take

effect until the licensee has been afforded an opportunity for hearing pursuant to Minn. Stat. 14.57 to 14.70 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities shall effect an immediate suspension of any license issued pursuant to this ordinance with further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, withdrawal or a required deposit, or of suspension or revocation of a license, may request a hearing hereon and if such a request is made in writing to the clerk a hearing shall be granted within 10 days of such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

CHAPTER 6: LIQUOR AND BEER

(amended and adopted on May 14, 2014)

Part 2. Beer Licensing

602.01	Definition of terms
602.02	License required
602.03	License applications
602.04	License fees
602.05	Granting of license
602.06	Persons ineligible for license
602.07	Places ineligible for license
602.08	Condition of license
602.09	Closing hours
602.10	Club
602.11	Restrictions on purchase and consumption
602.12	Suspension and revocation

Part 2. Beer Licensing

602.01. Definition of terms.

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

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

602.02. License required.

Subd. 1. Licenses. No person except wholesaler and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any beer within the city without first having received a license as hereinafter provided. Licenses shall be of three kinds: 1) regular on-sale; 2) temporary on-sale; 3) off-sale.

Subd. 2. Regular on-sale. Regular on-sale licenses shall be granted to clubs, beer stores, exclusive on-sale liquor store, drugs stores, restaurants, hotels, and bowling centers where food is prepared and served for consumption on the premises. On-sale license shall permit the sale of beer for consumption on the premises only.

Subd. 3. Temporary on-sale. Temporary on-sale licenses shall be granted only to clubs, or charitable, religious, or non-profit organizations for the sale of beer for consumption on the premises only.

Subd. 4. Off-sale. Off-sale licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

602.03. License applications.

Subd. 1. Form. Every application for a license to sell beer 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. Every application for the issuance or renewal of a license shall include a copy of each summons received by the applicant under Minn. Stat. 340A.802 during the preceding year.

Subd. 2. Proof of financial responsibility. Prior to the issuance of a beer license, the applicant shall demonstrate proof of financial responsibility as defined in MN Stat. 340A.409, Subd. 1, with reference to liability under MN Stat. 340A.801. Such proof shall be filed with commissioner of public safety except that if a license involves sales of beer of prospective vendor who is not required by law to file such proof with the commissioner of public safety, such proof shall be filed with the city clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform in MN Stat. 340A.409.

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

602.04. License fees.

Subd. 1. Payment required. Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the treasurer shall refund the amount paid.

Subd. 2. Expiration; pro rata fees. Every license except a temporary license shall expire on the last day of June in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such a fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specified period in which a special event to which the sale in incident is being held and such period shall be stated on the license.

Subd. 3. Fees. The annual fee for a regular on-sale license and temporary on-sale license are set forth on the fee schedule adopted each year by the city council.

Subd. 4. Refunds. No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the council within 10 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, if:

1. The business ceases to operate because of destruction or damage;
2. The licensee dies;
3. The business ceases to be lawful for a reason other than a license revocation; or
4. The licensee ceases to carry on the licensed business under the license.

602.05. Granting of license.

Subd. 1. Investigation and hearing. The city council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.

Subd. 2. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the council.

602.06. Persons ineligible for license. No license shall be granted to or held by any person who:

1. Is under 21 years of age;
2. Has within five years prior to the application for such license, been convicted of a felony, or of violating any law of this state or local ordinances relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors, and cannot show competent evidence under MN State. 364.03 of sufficient rehabilitation and present fitness to perform the duties of a beer licensee;
3. Is a manufacturer of beer or is interested in the control of any place where beer is manufactured.
4. Is not a citizen or resident alien.
5. Is not of good moral character;
6. Is not the proprietor of the establishment for which the license is issued.

602.07. Places ineligible for license.

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

Subd. 2. Unpaid claims. 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.

602.08. Condition of license.

Subd. 1. General conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provision of this ordinance and of any other applicable ordinance of the city or state law.

Subd. 2. Insurance. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd. 3. Sales to minor or obviously intoxicated persons. No beer shall be sold or serviced to any obviously intoxicated persons and to any person under 21 years of age.

Subd. 4. Consumption by minors. No person under the age of 21 years shall be permitted to consume beer on the licensed premises.

Subd. 5. Employment of minors. No person under the age of 18 years shall be employed on the premises of a beer store.

Subd. 6. Interest of manufacturers or wholesalers. No manufacturer or wholesaler of beer shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the

provision of MN Stat. 340A.301, Subd. 7. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 7. Sales of intoxicating liquor. No licensee who does not hold a consumption and display permit shall see or permit the consumption of display of intoxicating liquor on the license premises or served any ~~liquor-liquid~~ for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquor 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 ordinance.

Subd. 8. 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 Subd. 7.

Subd. 9. Licensee's responsibility. Every licensee is responsible for the conduct in the licensee's establishment and any sale of alcoholic beverages by any employee authorized to sell such beverage is the act of the licensee.

Subd. 10. Banquet rooms. A regular on-sale license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 25 persons.

602.09. Closing hours. No sale of beer shall be made on any Sunday between the hours of 2:00 a.m. and 12:00 noon, nor between the hours of 2:00 a.m. and 10:00 a.m. on any other day of the week.

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

602.11. Restrictions on purchase and consumption.

Subd. 1. Consumption. It is unlawful for any person under the age of 21 years to consume beer unless in the household of the person's parent or guardian and with the consent of the parent or guardian.

Subd. 2. Purchasing. It is unlawful for any person:

1. To sell, barter, furnish, or give beer to a person under 21 years of age, except that a parent or guardian or a person under that age may give or furnish beer to the person solely for consumption in the household of the parent or guardian;
2. Under the age of 21 years to purchase or attempt to purchase beer; or
3. To induce a person under the age of 21 years to purchase or procure beer.

Subd. 3. Possession. It is unlawful for a person under the age of 21 years to possess beer with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of a parent or guardian is prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

Subd. 4. Entering licensed premises. It is unlawful for a person under the age of 21 years to enter an establishment licensed under this ordinance in order to purchase beer or have been served or delivered.

Subd. 5. Misrepresentation of age. It is unlawful for a person under the age 21 years to misrepresent his or her age for the purpose of purchasing beer.

Subd. 6. Proof of age. Proof of age for purchasing or consuming beer may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

Subd. 7. Liquor consumption and display. No person shall consume or display any intoxicating liquor on the premises of a licensee who does not hold a consumption and display permit.

602.12. Suspension and revocation. The council shall either suspend for up to 60 days or revoke any beer license, or impose a civil fine not to exceed \$2,000.00, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in case of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing pursuant MN Stat. 14.57 to 14.69 of the administrative procedure act. Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse or required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the clerk a hearing shall be granted within 10 days or such longer period as may be required. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

CHAPTER 6: LIQUOR AND BEER

Part 3. Municipal Liquor

There is currently no ordinance on the books with regard to a municipal dispensary.