

**CHAPTER 6: LIQUOR AND BEER**

Section

**600. INTOXICATING LIQUOR LICENSING**

**605. BEER LICENSING**

**610. MUNICIPAL LIQUOR**



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## Section

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**SECTION 600: INTOXICATING LIQUOR LICENSING**

600.01 Provisions of State Law Adopted. The provisions of Minn. Stat. Ch. 340A, as it may be amended from time to time, 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 hereby adopted and made a part of this section as if set out here in full.

The Council is authorized by the provisions of Minn. Stat. Ch. 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minn. Stat. Ch. 340A, as it may be amended from time to time.

600.02 License Required.

Subd. 1 General Requirement. No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell or keep for sale in the City any intoxicating liquor without a license to do so as provided in this section. Liquor licenses shall be of five (5) kinds: on-sale, on-sale wine, temporary on-sale, special club licenses and special Sunday licenses.

Subd. 2 On-Sale Licenses. On-sale licenses shall be issued only to hotels, restaurants, and other establishments which have a license issued by the State and shall permit the sale of liquor for consumption on the licensed premises only. For the purposes of this Section, a "restaurant" is an establishment under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity of 30 people and shall have sixty (60) percent of its revenue derived from the sale of food as determined over a period of one year. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the City under the provisions of Minn. Stat. 340A.404, Subd. 4b, as may be amended from time to time.

Subd. 3 On-Sale Wine Licenses. On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minn. Stat. § 340A.404, Subd. 5, as it may be amended from time to time, and shall permit only the sale of wine not exceeding fourteen percent (14%) alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. At least sixty (60) percent of its revenue must be derived from the sale of food as determined over a period of one year. The holder of an on-sale wine license who also holds an on-sale 3.2% malt liquor license is authorized to sell malt liquor with a content over 3.2% (strong beer) without an additional license. The Council may in its sound discretion authorize a retail on-sale licensee to dispense on-sale wine and beer off the licensed premises at a community festival held within the City under the provisions of Minn. Stat. 340A.404, Subd. 4b, as may be amended from time to time.

Subd. 4 Temporary On-Sale Licenses. Subject to the approval of the Commissioner of Public Safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious or other non-profit organizations in existence for at least three (3) years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee and subject to restrictions imposed by the State Liquor Act. No license shall be for longer than four (4) consecutive days, and the City shall issue no more than twelve (12) days worth of temporary licenses to any one (1) organization, or for any one (1) location, in one (1) calendar year.

Subd. 5 Special Club Licenses. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence at least three (3) years. No club shall sell liquor, except to members and to guests in the company of members. A "guest" is defined as a person who enters with, accompanies and leaves the premises with the club member.

Subd. 6 Special License for Sunday Sales. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, bowling center, restaurant or club which has facilities for serving at least thirty (30) guests at one time, and which has an on-sale license.

Subd. 7 Compliance checks. Compliance checks shall mean the system the City uses to investigate and ensure that those authorized to sell alcohol, beer, or malt beverages are following and complying with any of the requirements of this ordinance. Compliance checks may involve the use of minors as authorized by the City's ordinance and/or state statute. Compliance checks may also mean the use of minors who attempted to purchase alcohol, beer, or malt beverages for educational, research, and training purposes as authorized by state and federal laws.

Compliance checks and inspections. All licensed premises shall be open to inspection by the City or other authorized City representative during regular business hours and after business hours during the time when customers remain on the premises without a warrant. From time to time, but at least once per year the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of seventeen (17) years but less than twenty-one (21) years old to enter the licensed premises to attempt to purchase alcohol, beer, or malt beverages. Minors used for the purposes of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of alcohol, beer, or a malt beverage when such items are obtained as a part of a compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age.

The results of City conducted alcohol compliance checks can be used by the City to determine whether or not the license holder's application for renewal will be granted.

### 600.03 Application and Requirements for License.

Subd.1 Form. Every application for a license to sell liquor shall state the name of the applicant, the applicant's age, representations as to the applicant's character (with such references as the Council may require), citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place and 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, as it may be amended from time to time, during the preceding year. In addition to containing the information, the application shall be in the form prescribed by the Bureau of Criminal Apprehension and shall be verified and filed with the City Administrator. No person shall make a false statement in an application.

Subd. 2 Financial Responsibility. No liquor license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minn. Stat. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stat. § 340A.801, as it may be amended from time to time. The proof shall be filed with the Commissioner of Public Safety. Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than ten thousand dollars (\$10,000) of wine per year. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minn. Stat. § 340A.409, as it may be amended from time to time.

Subd. 3 Approval of Security. The security offered under Subd. 2 shall be approved by the City Council and in the case of applicants for on-sale wine licenses, by the State Commissioner of Public Safety. Liability insurance policies, required by this section, but not by State law, shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security, as required in Subd. 2, shall be cause for suspension or revocation of the license.

Subd. 4 Description of Premises. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk. The license is only effective for the licensed premises specified in the approved license application.

### 600.04 License Fees.

Subd.1 Fees. The fees for annual and temporary liquor licenses under this section shall be as set in the salary and fees schedule adopted by the Council.

Subd. 2 Payment. Each application for a license shall be accompanied by a receipt from the City for payment in full of the license fee and the fixed investigation fee, required under Subsection 600.05, if any. All fees shall be paid into the General Fund. If an application for a license is rejected, the City shall refund the amount paid as the license

fee, but not any investigation fee.

Subd. 3 Term; Pro Rata Fee. Each license, except temporary licenses, shall be issued for a period of one (1) 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 (1) month. Every license shall expire on the last day of December of each year, except temporary licenses shall expire on the date specified on the license.

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

600.05 Granting of Licenses. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this section.

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, as set in the salary and fee schedule adopted by the Council. The investigation fee shall be waived for any temporary license application. 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 additional information as the Council may require. If the City deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall order the investigation to be made. 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 the State is required, the applicant shall be charged the actual cost, not to exceed ten thousand dollars (\$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 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 licensee is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license.

#### 600.06 Persons Ineligible for License.

Subd. 1 Limit. No more than one (1) intoxicating liquor license shall be directly or indirectly issued within the City to any one (1) person.

Subd. 2 Conditions of Issuance. In addition, no license shall be issued to any person who:

- A. Is under twenty-one (21) years of age.
- B. Has within five (5) years prior to the application for such license, been convicted of a felony, or of violating any law of the State or local ordinances or code provisions relating to the manufacture, sale, distribution or possession for sale or distribution of alcoholic beverages and cannot show competent evidence under Minn. Stat. § 364.03, as it may be amended from time to time, of sufficient rehabilitation and present fitness to perform the duties of an intoxicating liquor licensee.
- C. Is a manufacturer of alcoholic beverages or is interested in the control of any place where alcoholic beverages are manufactured.
- D. Is not a citizen or resident alien.
- E. Is not of good moral character.
- F. Is not the proprietor of the establishment for which the license is issued.
- G. Is otherwise prohibited by law from holding a license under this section.

#### 600.07 Places Ineligible for License.

Subd. 1 General Prohibition. No license shall be issued for any place or any business ineligible for a license under State law. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this section or other code provision or local ordinance, or of the State beer or liquor laws, or where any license issued under this section has been revoked for cause until one year has elapsed after conviction or revocation.

Subd. 2 Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.

600.08 Conditions of License. As part of the licensing requirements, the business will be

inspected by the City for fire and safety issues at least annually, or on an as-needed basis.

Subd. 1 In General. Every license shall be subject to the conditions in the following subdivisions and all other provisions of this section and of any other applicable code provision, ordinance, State law or regulation.

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

Subd. 3 Licensee's Responsibility. Every licensee shall be responsible for the conduct in the licensed establishment and the conditions of sobriety and order in it. The act of any employee on the license premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

Subd. 4 Employment of Minors. No person under the age of eighteen (18) years shall be employed on the premises of a liquor store.

Subd. 5 Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of intoxicating liquor shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the provisions of Minn. Stat. § 340A.301, Subd. 7, as it may be amended from time to time. No retail licensee and manufacturer or wholesaler of intoxicating liquor shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of intoxicating liquor and no manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 6 Display During Prohibited Hours. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than thirty (30) minutes after the time when a sale can legally occur.

Subd. 7 Gambling. No slot machines, dice or any other unlawful gambling device shall be kept, operated, permitted, maintained or used on the premises and no unlawful gambling shall be permitted on the premises.

Subd. 8 Nudity. No person shall be on any premises licensed under this section without having his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It shall be unlawful for any licensee to allow a person not properly dressed under this subdivision to be or to remain on the licensed premises.

Subd. 9 Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of the licensee during business hours and after business hours during the time

when customers remain on the premises without a warrant.

600.09 Closing Hours. No sale of liquor shall be made on any Sunday between the hours of 1:00 a.m. and 10:00 a.m., nor between the hours of 1:00 a.m. and 8:00 a.m. on any other day of the week. No sales shall be permitted on days or parts of days on which sales are prohibited by State law.

Subd. 1 No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2% malt liquor in an on-sale licensed premises more than thirty (30) minutes after the time when a sale can legally occur.

Subd. 2 No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than thirty (30) minutes after the time when a sale can legally occur.

Subd. 3 Any violation of any condition of this section may be grounds for revocation or suspension of the license.

600.10 Restrictions on Purchase and Consumption.

Subd. 1 Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the Commissioner of Public Safety under Minn. Stat. § 340A.414, as it may be amended from time to time.

Subd. 2 Consumption in Public Places. No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, highway, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, or where the consumption and display of liquor is lawfully permitted unless a temporary on-sale license has been obtained from the City.

Subd. 3 Consumption by Minors. It shall be unlawful for any person under the age of twenty-one (21) years to consume liquor unless in the household of the person's parent or guardian and with the consent of the parent or guardian. It shall be unlawful for any licensee under this section to allow a minor to consume liquor on the licensed premises.

Subd. 4 Purchasing. It shall be unlawful for any person:

A. To sell, barter, furnish or give liquor to a person under twenty-one (21) years of age, except that a parent or guardian of a person under that age may give or furnish liquor to that person solely for consumption in the household of the parent or guardian.

B. Under the age of twenty-one (21) years to purchase or attempt to purchase liquor.

C. To induce a person under the age of twenty-one (21) years to purchase or procure

liquor.

Subd. 5 Possession. It shall be unlawful for a person under the age of twenty-one (21) years to possess liquor 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 shall be prima facie evidence of intent to consume it at a place other than the household of the parent or guardian.

Subd. 6 Entering Licensed Premises. It shall be unlawful for a person under the age of twenty-one (21) years to enter an establishment licensed under this section in order to purchase liquor or have liquor served or delivered except under the provisions provided within Section 600.02 subd. 7.

Subd. 7 Misrepresentation of Age. It shall be unlawful for a person under the age of twenty-one (21) years to misrepresent his or her age for the purpose of purchasing liquor except under the provisions provided within Section 600.02 subd. 7.

Subd. 8 Proof of Age. Proof of age for purchasing or consuming alcohol beverages may be established only by one of the following: (1) a valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; (2) a valid military identification card issued by the United States Department of Defense; (3) a valid passport issued by the United States; or (4) in the case of a foreign national, by a valid passport.

Subd. 9 Sales to Obviously Intoxicated Persons. No intoxicating liquor shall be sold or served to any obviously intoxicated person.

600.11 Suspension and Revocation.

Subd. 1 Suspension and Civil Fine. If a licensee or an employee of a licensee is found to have sold alcohol, beer, or a malt beverage to a person under the age of 21, or has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor, the licensee shall be subject to two additional compliance checks per year for a period of one year from imposition of any penalties as described below. These additional compliance checks shall be in addition to the annual renewal compliance check and shall be in addition to the range of administrative penalties as described below:

|                                       |   |
|---------------------------------------|---|
| First offense                         | Written reprimand<br>Administrative penalty of \$150.00 - \$750.00                          |
| Second offense<br>Not within one year | A maximum suspension of one day<br>Administrative penalty of \$150.00 - \$750.00            |
| Second offense<br>Within one year     | A maximum suspension of up to three days<br>Administrative penalty of \$500.00 - \$1,500.00 |

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| Third or Fourth offense<br>not within two years | A maximum suspension of up to seven days<br>Administrative penalty of \$1,000.00 - \$2,000.00   |
| Third offense<br>within two years               | A maximum license suspension of up to ten days<br>Administrative penalty of \$1,000.00 - \$2,500.00   |
| Fourth offense<br>within two years              | A suspension greater than 10 days with an administrative<br>penalty of \$2,500 with a maximum penalty of license<br>revocation and a \$2,500 administrative penalty |

Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. §§ 14.57 to 14.70, as they may be amended from time to time, of the Administrative Procedure Act.

Subd. 2 Lapse of Required Insurance; Suspension. 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 section without further action of the City Council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if a request is made in writing to the City Administrator a hearing shall be granted within ten (10) days or a longer period, as may be requested. Any suspension under this subdivision shall continue until the City Council determines that the financial responsibility requirements of this section have again been met.

**SECTION 605: BEER LICENSING****605.01 Definition of Terms.**

Subd.1 3.2% Malt Liquor. "3.2% malt liquor" shall mean any malt beverage with an alcoholic content of more than one-half of one percent (.5%) by volume and not more than 3.2% by weight.

Subd. 2 Beer Store. "Beer store" shall mean an establishment used exclusively for the retail sale of 3.2% malt liquor, with the incidental sale of tobacco and soft drinks.

**605.02 License Required.**

Subd. 1 General Requirements. 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 liquor within the City without first having received a license as hereinafter provided for in this section. Licenses shall be of two (2) kinds: (1) Regular on-sale; (2) Temporary on-sale.

Subd. 2 Regular On-Sale. Regular on-sale licenses shall be granted only to clubs, restaurants, hotels and bowling centers where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of beer for consumption on the licensed premises only. For the purposes of this Section, a "restaurant" is an establishment under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity of 30 people and shall have sixty (60) percent of its revenue derived from the sale of food as determined over a period of one year. The Council may in its sound discretion authorize a retail on-sale licensee to dispense 3.2% malt liquor off the licensed premises at a community festival held within the City under the provisions of Minn. Stat. 340A.404, Subd. 4b, as may be amended from time to time.

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 3.2% malt liquor for consumption on the premises only during a special event and only for the number of days specified on the license. No license shall be for longer than five (5) consecutive days, and the City shall issue no more than twelve (12) days worth of temporary licenses to any one (1) organization, or for any one (1) location, in one (1) calendar year.

#### 605.03 License Applications and Requirements.

Subd. 1 Form. Every application for a license to sell 3.2% malt liquor shall be made to the City Administrator on a form supplied by the City and containing the information as the Administrator or the Council may require. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall include a copy of each summons received by the applicant under Minn. Stat. § 340A.802, as it may be amended from time to time, during the preceding year.

Subd. 2 Proof of Financial Responsibility. Prior to the issuance of a 3.2% malt liquor license, all applicants, including those specified in Minn. Stat. § 340A.409, Subd. 6, as it may be amended from time to time, shall demonstrate proof of financial responsibility, as defined in Minn. Stat. § 340A.409, Subd. 1, as it may be amended from time to time, with reference to liability under the Minn. Stat. § 340A.801, as it may be amended from time to time. The proof shall be filed with the Commissioner of Public Safety. If a license involves sales of 3.2% malt liquor of a vendor who is not required to provide proof of responsibility by Minn. Stat. § 340A.409, Subd. 6, as it may be amended from time to time, that vendor shall nevertheless demonstrate proof of financial responsibility, as defined above, and shall file the proof with the City Administrator. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minn. Stat. § 340A.409, as it may be amended from time to time.

Subd. 3 Approval of Security. Liability insurance policies required by this section, but not by State law, shall be approved as to form by the City Attorney. Operation of a business licensed by this section without having on file with the State Insurance Commissioner or the City at all times effective security as required in Subd. 2 above shall be cause for revocation or suspension of the license.

Subd. 4 Description of Premises. The application shall specifically describe the compact and contiguous premises within which the 3.2% malt liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk. The license is only effective for the licensed premises specified in the approved license application.

#### 605.04 License Fees.

Subd. 1 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.

Subd. 2 Expiration; Pro Rata Fees. Every license, except a temporary license, shall expire on the last day of December in each year. Each license, except a temporary license, shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing a fee, any unexpired fraction of a month shall be counted as one (1) 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 and the period shall be stated on the license.

Subd. 3 Fees. The fee for annual or temporary licenses under this section shall be as set in the salary and fees schedule adopted by the Council.

Subd. 4 Refunds. No part of the fee paid for any license issued under this section shall be refunded, except in the following instances upon application to the Council within seven (7) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, if:

- A. The business ceases to operate because of destruction or damage.
- B. The licensee dies.
- C. The business ceases to be lawful for a reason other than a license revocation.
- D. The licensee ceases to carry on the licensed business under the license.

#### 605.05 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 the 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.

605.06 Persons Ineligible for License.

Subd. 1 Conditions. No license shall be granted to or held by any person who:

- A. Is under twenty-one (21) years of age.
- B. Has within five (5) years prior to the application for the license, been convicted of a felony, or of violating any law of the State or local ordinances or code provisions relating to the manufacture, sale, distribution or possession for sale or distribution of alcoholic beverages and cannot show competent evidence under Minn. Stat. § 364.03, as it may be amended from time to time, of sufficient rehabilitation and present fitness to perform the duties of a beer licensee.
- C. Is a manufacturer of alcoholic beverages or is interested in the control of any place where alcoholic beverages are manufactured.
- D. Is not a citizen or resident alien.
- E. Is not of good moral character.
- F. Is not the proprietor of the establishment for which the license is issued.
- G. Is otherwise prohibited by law from holding a license under this section.

605.07 Places Ineligible for License.

Subd.1 Conviction or Revocation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this section or other code provision or local ordinance, or of the State beer or liquor laws, or where any license issued under this section has been revoked for cause until one (1) year has elapsed after the conviction or revocation.

Subd. 2 Delinquent Taxes and Charges. No license shall be granted for operation on any premises upon which taxes, assessments, utility charges, services charges, or other financial claims of the City are delinquent and unpaid.

Subd. 3 Prohibited by Law. No license shall be issued for any place or any business ineligible for a license under State law.

#### 605.08 Conditions of License.

Subd. 1 General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this section and of any other applicable code provision or ordinance of the City or State law.

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

Subd. 3 Employment of Minors. No person under the age of eighteen (18) years shall be employed on the premises of a beer store.

Subd. 4 Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the provisions of Minn. Stat. § 340A.301, Subd. 7, as it may be amended from time to time. 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 manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 5 Licensee's Responsibility. Every licensee shall be responsible for the conduct in the licensed establishment and the conditions of sobriety and order in it. The act of any employee on the license premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

Subd. 6 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 twenty-five (25) persons.

Subd. 7 Nudity. No person shall be on any premises licensed under this section without having his or her buttocks, anus, breasts and genitals covered with a non-transparent material. It shall be unlawful for any licensee to allow a person not properly dressed under this subdivision to be or to remain on the licensed premises.

Subd. 8 Gambling. No slot machines, dice or any other unlawful gambling device shall be kept, operated, permitted, maintained or used on the premises and no unlawful gambling shall be permitted on the premises.

Subd. 9 Searches and Seizures. Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensee's premises in violation of this section.

Subd. 10 Display Hours. No on-sale licensee shall permit any glass, bottle, or other container containing 3.2% malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than thirty (30) minutes after the time when a sale can legally occur.

Subd. 11 Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

605.09 Closing Hours. No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 10:00 a.m., nor between the hours of 1:00 a.m. and 8:00 a.m. on any other day of the week. No sale shall be permitted on any day or partial day on which sales are prohibited by State law.

Subd. 1 No person shall consume nor shall any on-sale licensee permit any consumption of 3.2% malt liquor in an on-sale licensed premises more than thirty (30) minutes after the time when a sale can legally occur.

Subd. 2 Any violation of any condition of this section may be grounds for revocation or suspension of the license.

605.10 Clubs. No club shall sell beer, except to members and to guests in the company of members. A "guest" shall be defined as a person who enters with, accompanies and leaves the premises with the club member.

605.11 Restrictions on Purchase and Consumption.

Subd.1 Consumption. It shall be unlawful for any person under the age of twenty-one (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. It shall be unlawful for any licensee under this section to allow a minor to consume beer on the licensed premises.

Subd. 2 Purchasing. It shall be unlawful for any person:

- A. To sell, barter, furnish or give beer to a person under twenty-one (21) years of age, except that a parent or guardian of a person under that age may give or furnish

beer to that person solely for consumption in the household of the parent or guardian.

B. Under the age of twenty-one (21) years to purchase or attempt to purchase beer except as under the provisions provided within Section 600.02, subd. 7.

C. To induce a person under the age of twenty-one (21) years to purchase or procure beer.

Subd. 3 Possession. It shall be unlawful for a person under the age of twenty-one (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 shall be 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 shall be unlawful for a person under the age of twenty-one (21) years to enter an establishment licensed under this section in order to purchase beer or have beer served or delivered except as under the provisions provided within Section 600.02, subd. 7.

Subd. 5 Consumption by Minors. No person under the age of twenty-one (21) years shall be permitted to consume beer on the licensed premises.

Subd. 6 Misrepresentation of Age. It shall be unlawful for a person under the age of twenty-one (21) years to misrepresent his or her age for the purpose of purchasing 3.2% malt liquor .

Subd. 7 Proof of Age. Proof of age for purchasing or consuming 3.2% malt liquor 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. 8 Sales to Obviously Intoxicated Persons. No 3.2% malt liquor shall be sold or served to any obviously intoxicated person.

Subd. 9 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.

Subd. 10 Consumption in Public Places. No person shall consume intoxicating liquor or 3.2% malt liquor in a public park, on any public street, highway, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, or where the consumption and display of liquor is lawfully permitted unless a temporary on-sale license has been obtained from the City.

Subd. 11 Sales of Intoxicating Liquor. No licensee who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor.

The presence of intoxicating liquors on the premises of 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 section.

605.12 Suspension and Revocation. Subd. 1 Suspension and Civil Fine. If a licensee or an employee of a licensee is found to have sold alcohol, beer, or a malt beverage to a person under the age of 21, or has failed to comply with any applicable statute, regulation, or provision of this chapter relating to 3.2% malt liquor, the licensee shall be subject to two additional compliance checks per year for a period of one year from imposition of any penalties as described below. These additional compliance checks shall be in addition to the annual renewal compliance check and shall be in addition to the range of administrative penalties as described below:

|   |   |
|---|---|
| First offense                                   | Written reprimand<br>Administrative penalty of \$150.00 - \$750.00  |
| Second offense<br>Not within one year           | A maximum suspension of one day<br>Administrative penalty of \$150.00 - \$750.00  |
| Second offense<br>Within one year               | A maximum suspension of up to three days<br>Administrative penalty of \$500.00 - \$1,500.00   |
| Third or Fourth offense<br>not within two years | A maximum suspension of up to seven days<br>Administrative penalty of \$1,000.00 - \$2,000.00   |
| Third offense<br>within two years               | A maximum license suspension of up to ten days<br>Administrative penalty of \$1,000.00 - \$2,500.00   |
| Fourth offense<br>within two years              | A suspension greater than 10 days with an administrative penalty of \$2,500 with a maximum penalty of license revocation and a \$2,500 administrative penalty |

Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing, pursuant to Minn. Stat. §§ 14.57 to 14.69, as they may be amended from time to time, of the Administrative Procedure Act. The lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this section without further action of the City Council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond or withdrawal of a required deposit or of suspension or revocation of a license, may request a hearing thereon, and if a request is made in writing to the City Administrator, a hearing shall be granted within ten (10) days

or a longer period as may be required. Any suspension under this subsection shall continue until the City Council determines that the financial responsibility of this section has again been met.

### **SECTION 610: MUNICIPAL LIQUOR**

610.01 Off-Sale Dispensary Established. The Municipal Off-Sale Dispensary is hereby authorized to be continued within the City for the sale of intoxicating liquors and 3.2% malt liquor.

610.02 Location and Operation. The Municipal Off-Sale Dispensary shall be at the place as the Council shall determine by motion and may be either leased or owned by the City. It shall be in the charge of the person known as the manager, who shall also be selected by the Council and who shall be paid the compensation as the Council shall determine. The manager shall have charge of the operation of the Dispensary and shall have authority to purchase supplies as are necessary and employ additional help as the manager may need at a rate of compensation to be first approved by the Council and under rules to be determined by the Council. No person under age twenty-one (21) shall be employed in the Municipal Dispensary.

610.03 Dispensary Fund Created. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be deposited and from which all operating and purchase expenses shall be paid with the approval of the City Council, provided that the initial costs of rent, fixtures and stock may be paid out of the Dispensary Fund of the municipality, but the amounts shall be reimbursed to the Dispensary Fund out of the first monies coming into the Liquor Dispensary Fund not needed for carrying on the business.

610.04 Regulation and Hours of Sale. No sale of intoxicating liquor or beer shall be made during times prohibited by State law. No opaque windows shall be used and all sales shall be made in full view of the public. No alcoholic beverage shall be sold or furnished to any person obviously under the influence of intoxicating liquor or to any person to whom sale is prohibited by statute.

610.05 Conditions of Operation and Restrictions on Consumption. No slot machines, dice or any other unlawful gambling device shall be kept, operated, permitted, maintained or used on the premises and no unlawful gambling shall be permitted on the premises. No business other than those permitted by law shall be carried on by the Dispensary or by any person employed therein during the time so employed or while the Dispensary is open to the public. The premises occupied by these dispensaries shall be duly inspected by the Council or its designee at least once a month and as many other times as Council or its designee deems necessary to see that the premises are in a sanitary condition. No person shall be on any premises operating as a Municipal Dispensary under this section without having his or her buttocks, anus, breasts and genitals covered with a non-transparent material.