

CHAPTER VI: ALCOHOLIC BEVERAGES.

PART I. IN GENERAL

601.01. PROVISIONS OF STATE LAW ADOPTED: The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licenses, 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. In the event of provision(s) of this ordinance is/are more restrictive than state law then the provision(s) of this ordinance shall take precedence.

601.02. CONSTRUCTION OF WORDS AND PHRASES: Words and phrases defined in section 340A.101 Minnesota Statutes, shall, when used in this chapter, have the same meaning as defined in those sections of the Minnesota Statutes.

601.03. LICENSE REQUIRED: Subdivision 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 or non-intoxicating liquor without a license to do so as provided in this ordinance. Licenses shall be of seven kinds: "on sale intoxicating", "on sale wine", "off sale intoxicating", "special club license", "on sale non-intoxicating", "off sale non-intoxicating" and "temporary non-intoxicating". No one shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating or non-intoxicating liquor without the appropriate license. This shall mean, that a license holding an on-sale or off-sale intoxicating liquor license must make application for and be granted an on-sale or off-sale non-intoxicating liquor license from the city as provided in Minnesota Statutes Chapter 340A.

Subd. 2. ON-SALE INTOXICATING LICENSES: "On-sale intoxicating" licenses shall be issued only to clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only. The number of "on-sale intoxicating" licenses shall be limited to a maximum of four (4) and shall not include on-sale wine licenses or on-sale intoxicating licenses issued to restaurants.

Subd. 3. ON-SALE WINE LICENSES:

- a) "On-sale wine" licenses shall be issued only to a restaurant having facilities for seating at least 25 guests at one time and shall permit the sale of wine of up to 14 percent alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week unless the city restricts the license's authorization to the sale of wine on all days except Sundays.
- b) The holder of an "on-sale wine" license who is also licensed to sell 3.2 percent malt liquors at on-sale, and whose gross receipts are at least 60% attributable to the sale of food shall be permitted to sell intoxicating malt liquors at on-sale without an additional license.
- c) A licensed bed and breakfast facility may be issued an "on-sale wine" license but service will be limited only to registered guests of the facility and, if the facility contains a licensed commercial kitchen, then to guests attending private events at the facility.
- d) The license for the issuance of a wine license shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license.
- e) Temporary off-sale licenses; wine auctions.
 - a. The city may issue a temporary license for the off-sale of wine at an auction with the approval of the commissioner. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than

three consecutive days provided not more than 600 cases of wine are sold at any auction. The license is subject to the terms, including license fee, imposed by the city. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except section 340A.409 and those laws and ordinances which by their nature are not applicable.

- b. As used in the subdivision, "vintage wine" means bottled wine which is at least five years old.

Subd. 4. OFF-SALE INTOXICATING LIQUOR LICENSE: "Off-sale intoxicating liquor" licenses shall be issued only to exclusive liquor stores and shall permit "off-sales" of intoxicating liquor only. No limit.

Subd. 5. SPECIAL CLUB LICENSES: "Special club licenses" shall be issued only to bona fide and incorporated clubs which have been in existence for three (3) years or more or to congressional chartered veteran's organizations which have been in existence for three (3) years and liquor sales will only be to members and bona fide quests.

Subd. 6. ON-SALE 3.2% LIQUOR LICENSES: "On-sale intoxicating liquor" licenses shall be granted only to bona fide clubs, beer stores, restaurants, and hotels where food is prepared and served for consumption on the premises. "On-sale non-intoxicating liquors" are for consumption on the premises only.

Subd. 7. OFF-SALE 3.2% LIQUOR LICENSES: "Off-sale non-intoxicating liquor" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

Subd. 8. TEMPORARY ON-SALE 3.2 % LIQUOR LICENSES: "Temporary on-sale non-intoxicating liquor" licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of non-intoxicating liquor for consumption on the premises only.

Subd. 9. SUNDAY LIQUOR: Special on-sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to a restaurant which holds an on-sale intoxicating liquor license. A "restaurant" for the purposes of this Subdivision shall be defined as an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at table to the general public, and having seating capacity for guest of 30 and which prepared food on site in a kitchen which meets the standards of the State of Minnesota for restaurant facilities. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, Subd 3.

601.04. LICENSE FEES: Subdivision 1. FEES: All license fees for the sale of alcoholic beverages shall be determined annually by resolution of the council. Fees for a Sunday Liquor License shall not exceed \$200.00 per year.

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. All fees shall be paid into the general fund.

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 an un-expired fraction of a month being counted as one month. Every license shall expired on the last day of December.

601.05. PROHIBITIONS AND RESTRICTIONS RELATING TO MINORS: Subdivision 1. GENERAL: It shall be unlawful for:

A. A person under the age of 21 years to enter any premises licensed for retail sale of intoxicating or 3.2 liquor for the purpose of purchasing, or having served or delivered to him, any alcoholic beverages containing more than one-half of one percent of alcohol by volume. Also, it shall be unlawful for a person under the age of 21 years to enter any premises licensed for the retail sale of intoxicating or non-intoxicating alcoholic beverages unless accompanied by parent or legal guardian.

B. A person under the age of 21 years to consume any intoxicating liquor or to purchase, attempt to purchase or have another purchase for him or her any intoxicating liquor.

C. Any person to misrepresent or misstate his age, or the age of any other person for the purpose inducing any licensee or any employee of any licensee, to sell, serve or deliver any alcoholic beverage to a person under the age of 21 years.

D. A person under the age of 21 years to have in his possession any intoxicating liquor, with intent to consume in at a place other than the household of his parent or guardian. Possession of such intoxicating liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume it at a place other than the household of his [parent or guardian.

E. Any person to sell, serve, or furnish intoxicating liquor, in whatever form, to a person under the age of 21 years.

F. No person under 18 years of age shall be employed in any rooms constituting the place in which intoxicating liquors are sold at retail "on-sale" except that persons under 18 years of age shall be employed in any rooms or to perform the duties of a bus-boy or dishwashing services in places defined as a restaurant or hotel or motel serving food in rooms in which intoxicating liquors are sold at retail "on-sale."

601.06. POSTING OF LICENSES: Each license issued under this chapter shall be posted and maintained in a conspicuous place within the premises licensed.

601.07. LICENSEE RESPONSIBLE FOR CONDUCT OF BUSINESS - ACTS OF EMPLOYEES, ETC: Every licensee under this chapter shall be 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 serve or sell intoxicating liquor or non-intoxicating malt liquors shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Code equally with the employee.

601.08. TRANSFERABILITY OF LICENSES: No licenses granted under this chapter shall be transferable or assignable as to person and may be transferred from one premises to another only with the express approval of the City Council.

601.09. INSPECTIONS: Every license shall allow any peace officer, health officer, or properly designed officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

601.10. HOURS OF OPERATION: Subdivision 1. HOURS OF SALE - IN GENERAL: No sale of intoxicating or non-intoxicating liquor shall be made during any hours prohibited by state law.

Subd. 2. TIME TO LEAVE: All persons excepting licensee or its employees shall vacate the licensed premises no later than (20) twenty minutes after the closing hour as prescribed herein.

Subd. 3. REMOVAL FROM PREMISES: All off-sale items purchased shall be removed from the licensed premises no later than the hour of last sale mandated by state law (currently 10:00 p.m.) of the same day of purchase.

601.11. PROHIBITED ACTIVITIES: Subd. 1. BUSINESS HOURS: The licensed premises shall not be open for business of any kind during the hours when sales of intoxicating and non-intoxicating liquor are prohibited.

Subd. 2. PROHIBITED BUSINESS: No business prohibited by state law is allowed to take place on the premises.

Subd. 3. GAMBLING: Gambling equipment may be kept or operated and raffles and lotteries conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized

under Chapter 349 of the Minnesota Statutes. The definitions and prohibitions pertaining to gambling devices in Minnesota Statutes 349.30 are adopted by reference.

Subd. 4. OTHER ACTIVITIES: A licensee is prohibited from conducting any activity constituting a nuisance as the same is defined by city ordinance.

601.12. LIQUOR DEALS STAMP: No licensee shall sell beer while holding or exhibiting in the licensed premises a Federal retail liquor dealers special tax stamp unless he/she is licensed under the laws of Minnesota to sell intoxicating liquor.

601.13. FEDERAL STAMPS: No licensee shall possess a Federal wholesale liquor dealers special tax stamp or a Federal gambling stamp.

PART II. LICENSING PROCEDURE.

602.01. PERSON REQUIRED TO BE LICENSED BY CITY: No person except one authorized under state license for which no corresponding license may be required, shall sell, offer, or keep for sale or otherwise deal in intoxicating or 3.2% liquor without a currently valid city license thereof.

602.02. MINIMUM ELIGIBILITY REQUIREMENTS FOR LICENSE: No retail license issued under this article shall be issued unless the applicant(s) adheres to the criteria in MSA 340A.402.

602.03. APPLICATIONS FOR LICENSE: Subdivision 1. FORM: Every application for a license to sell intoxicating or 3.2% liquor shall state the name of the applicant, his age, representations as to his character, with such references as the council may require, the type of license applies 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 at that place, and such other information as the council may require from time to time.

Subd. 2. LIABILITY INSURANCE: All licensees, including temporary licensees, shall be required to have in force a policy of insurance conforming to the requirements of Minnesota Statutes, Section 340A.409, Subdivision 1 (The Liquor Act). Exceptions to the insurance requirement as permitted under Minnesota Statutes, Section 340A.409, Subdivision 4, shall not apply to licenses issued by the City of Henderson

602.04. GRANTING OF LICENSES: Subdivision 1. PRELIMINARY INVESTIGATION: On an initial application for an on-sale license and on application for transfer of an existing on-sale license, 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 council deems it in the public interest to have an investigation made on a particular applicant 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 the state is required, the applicant shall be charged the cost not to exceed \$100,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2. HEARING AND ISSUANCE: The city council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. The City Council may grant hearing as it deems necessary. Upon completion of

its investigation and such hearings, if any, as may be held, the city council shall, in its discretion, grant or refuse the application. No "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.

602.05. PLACES INELIGIBLE: Subdivision 1. GENERAL PROHIBITION: No license shall be issued for any place or any business ineligible for such a license under state law. No license shall be issued for any place/establishment already holding an adult use or sexually-oriented business license for the same premises.

Subd. 2. DELINQUENT TAXES AND CHARGES: No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

602.06. CONDITIONS OF LICENSE: Subdivision 1. IN GENERAL: Every license is subject to the conditions and all provisions contained in this ordinance and of any other applicable ordinances, state law, or regulation.

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

602.07. RESTRICTIONS ON PURCHASE AND CONSUMPTION: Subdivision 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 an on-sale intoxicating liquor license or a permit from the Commissioner of Public Safety under Minnesota Statutes, Section 340.119, and no person shall consume liquor in any such place without said license.

Subd. 2. CONSUMPTION IN PUBLIC PLACES:

A. INTOXICATING LIQUORS: No person shall consume intoxicating liquor on a public highway, public park, or other public place. EXCEPTION: A person may consume intoxicating liquor in a public park provided the proper permit authorizing this conduct has been procured from the city.

B. 3.2% LIQUORS: No person shall consume 3.2% liquor in a public park or other public place.

EXCEPTION: A person may consume 3.2% liquor in a public park or other public place where said 3.2% liquor was purchased from a Vendor licensed by the city to sell said beverages for consumption on the premises only.

EXCEPTION: A person may consume 3.2% liquor in a public park provided the proper permit authorizing this conduct has been procured for the city.

PART III. SUSPENSION AND REVOCATION OF LICENSES.

603.01. LICENSE REVOCATION AND SUSPENSION. License revocation and suspension procedures shall follow MSA 340A.415 (the Liquor Act).

PART IV. PENALTY FOR VIOLATION.

604.01. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than seven hundred and no/100 (\$700.00), and or imprisonment in the County jail for not more than ninety (90) days, plus costs of prosecution in either case.