

## Chapter 6 ALCOHOLIC BEVERAGES\*

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\*Cross reference(s)--Businesses, ch. 18; fees, ch. 26;  
taxation, ch. 66; traffic and vehicles, ch. 70.  
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### Article I. In General

Secs. 6-1--6-25. Reserved.

### Article II. Beer

#### Division 1. Generally

Sec. 6-26. Definitions.

Sec. 6-27. State law adopted.

Sec. 6-28. Inspections.

Sec. 6-29. Sale or service to intoxicated persons.

Sec. 6-30. Hours of sale.

Secs. 6-31--6-40. Reserved.

#### Division 2. License

Sec. 6-41. Required.

Sec. 6-42. Applications.

Sec. 6-43. Fees.

Sec. 6-44. Granting.

Sec. 6-45. Distance from schools, churches.

Sec. 6-46. Revocation and suspension.

Sec. 6-47. Unpaid city taxes and charges.

Secs. 6-48--6-70. Reserved.

### **Article III. Intoxicating Liquor**

#### Division 1. Generally

Sec. 6-71. State law adopted.

Sec. 6-72. Security on file with city.

Sec. 6-73. Terms of operation.

Sec. 6-74. Availability of meals.

Sec. 6-75. Licensee's responsibility.

Sec. 6-76. Inspections.

Secs. 6-77--6-85. Reserved.

#### Division 2. Licenses

Sec. 6-86. Required.

Sec. 6-87. Application.

Sec. 6-88. Fees.

Sec. 6-89. Granting.

Sec. 6-90. Persons ineligible for license.

Sec. 6-91. Places ineligible for license.

Sec. 6-92. Conditions.

Sec. 6-93. Revocation or suspension.

## ARTICLE I. IN GENERAL

**Secs. 6-1--6-25. Reserved.**

## ARTICLE II. BEER

### DIVISION 1. GENERALLY

#### **Sec. 6-26. 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:

*Beer or nonintoxicating malt liquor* means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

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

- (1) Has more than 50 members.
- (2) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members.

- (3) Is directed by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted on each year by the governing body.

(Code 1977, §§ 11.02, 11.03(2))

**Cross reference(s)**--Definitions generally, § 1-2.

**State law reference(s)**--Similar provisions, Minn. Stat. § 340A.101.

**Sec. 6-27. State law adopted.**

The provisions of Minn. Stat. ch. 340A, relating to the definition of terms, licensing, consumption, sales, conditions of security, hours of sale and all other matters pertaining to the retail sale, distribution and consumption of beer (nonintoxicating malt liquor) are adopted and made a part of this article as if set out in full.

(Code 1977, § 11.01)

**Sec. 6-28. Inspections.**

Every licensee under this article shall allow any peace officer, health officer or properly designated officer or employee of the city to enter, inspect and search the licensed premises during business hours without a warrant.

(Code 1977, § 11.08)

**Sec. 6-29. Sale or service to intoxicated persons.**

No beer shall be sold or served to any intoxicated person and no intoxicated person shall be permitted to remain upon the licensed premises.

(Code 1977, § 11.09)

**Sec. 6-30. Hours of sale.**

No sale of beer shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday, Monday through Saturday inclusive; nor shall any sale of beer be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon. No business establishment holding an on-sale license for the sale of beer shall remain open for business after 1:30 a.m., and no patron thereof shall be permitted to remain on the premises after such time.

(Code 1977, § 11.11; Mo. of 2-13-85)

**Secs. 6-31--6-40. Reserved.**

DIVISION 2. LICENSE

**Sec. 6-41. Required.**

(a) *Generally.* 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 beer within the city without first having received a license as hereinafter provided. Licenses shall be of two kinds: on-sale and off-sale.

(b) *On-sale.* On-sale nonintoxicating liquor licenses may only be issued to drugstores, restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of nonintoxicating malt liquor with the incidental sale of tobacco and soft drinks. The serving of beer must be incidental to and not the main purpose of the club. On-sale licenses shall permit the sale of beer for consumption on the premises only.

(c) *Off-sale.* Off-sale licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

(Code 1977, § 11.03(1)--(3))

**State law reference(s)**--Similar provisions, Minn. Stat. § 340A.411.

**Sec. 6-42. Applications.**

Every application for a license to sell beer shall be made to the clerk on a form supplied by the city and containing such information as the clerk or the council may require. It shall be unlawful to make any false statement in an application.

(Code 1977, § 11.04; Ord. No. 142, § 1, 4-11-90)

**Sec. 6-43. Fees.**

(a) *Amounts.* The council may, from time to time, set fees for the various types of beer licenses. Such amounts shall be specified in chapter 26.

(b) *Payment.* All applications for beer licenses shall be accompanied by a check or cash for the total fee required for the license.

(c) *Terms; expiration dates.* 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. Every license shall expire on April 30.

(d) *Refunds.* No refund shall be made except as authorized by statute.

(Code 1977, § 11.05)

**Sec. 6-44. Granting.**

(a) *Investigation.* The council shall investigate all facts and representations set out in the application for a

license under this division. After such investigation the council shall grant or refuse the license in its discretion.

(b) *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 prior approval of the council.

(Code 1977, § 11.06)

**Sec. 6-45. Distance from schools, churches.**

No on-sale license shall be granted for any premises within 400 feet of any public or private school or any church. Such distance shall be measured by a straight line between the nearest public entrances of each premises.

(Code 1977, § 11.07)

**Sec. 6-46. Revocation and suspension.**

The council may suspend or revoke any beer license for cause. Cause shall include, but not be limited to, any violation by the licensee or his agent of any local, state or federal law relating to nonintoxicating malt liquor or intoxicating liquor. The licensee shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing, and the nature of the cause.

(Code 1977, § 11.12)

**Sec. 6-47. Unpaid city taxes and charges.**

No license shall be granted under this division for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid.

(Code 1977, § 11.14)

**Secs. 6-48--6-70. Reserved.**

**ARTICLE III. INTOXICATING LIQUOR\***

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**\*State law reference(s)**--Liquor, Minn. Stat. § 340A.101  
et seq.

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**DIVISION 1. GENERALLY**

**Sec. 6-71. State law adopted.**

The provisions of Minn. Stat. ch. 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 article as if set out in full.

(Ord. of 8-12-87, § 1)

**Sec. 6-72. Security on file with city.**

Operation of a licensed business without having on file with the city at all times effective security as required by the city shall be a cause for revocation of the license under this division.

(Ord. of 8-12-87, § 3; Ord. No. 142, § 2, 4-11-90)

**Sec. 6-73. Terms of operation.**

Any restaurant or hotel issued a license for the sale of intoxicating liquor, except for licensees having a wine license or setup license, shall have its dining facilities open for business a minimum of 48 weeks during each license year, and during its usual hours for not less than four days in each calendar week during which it is open for business.

(Ord. of 8-12-87, § 7)

**Sec. 6-74. Availability of meals.**

Any restaurant or hotel issued a license for the sale of intoxicating liquor, Sunday restaurant license or wine license shall have meals available to patrons in the usual course of business on each business day, commencing not later than the time liquor or wine is made available to patrons, and such meals shall be continuously available to patrons until not more than two hours prior to the termination of sales of liquor or wine.

(Ord. of 8-12-87, § 7)

**Sec. 6-75. Licensee's responsibility.**

Every licensee under this article is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

(Ord. of 8-12-87, § 8)

**Sec. 6-76. Inspections.**

Every licensee under this article 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.

(Ord. of 8-12-87, § 8)

**Secs. 6-77--6-85. Reserved.**

DIVISION 2. LICENSES

**Sec. 6-86. Required.**

(a) *Generally.* 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 division.

(b) *On-sale licenses.* On-sale licenses shall be issued only to hotels, clubs, restaurants, and bowling centers, provided that clubs have been in existence for at least three years and liquor sales will only be to members and bona fide guests.

(c) *On-sale wine licenses.* On-sale wine licenses shall be issued only to restaurants and licensed bed and breakfast facilities meeting the qualifications of Minn. Stat. § 340A.404(5) 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. A license under this subsection authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility. A holder of an on-sale wine license issued pursuant to this subsection, who is also licensed to sell nonintoxicating malt liquors at on-sale pursuant to Minn. Stat. § 340A.411 and whose gross receipts are at least 60 percent attributable to sale of food, may sell intoxicating malt liquor at on-sale without an additional license.

(d) *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 nonprofit 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 licensee and subject to restrictions imposed by the state liquor act (Minn. Stat. § 340A.101 et seq.). The license may authorize the on-sale of intoxicating liquor for not more than three consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by the city. The license shall be subject to the terms, including a license fee, imposed by the city.

(e) *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. Liquor sales will only be to members and bona fide guests.

(Ord. of 8-12-87, § 2)

**State law reference(s)**--Similar provisions, Minn. Stat. § 340A.404.

**Sec. 6-87. Application.**

(a) *Form.* Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character (with such references as the council may require), his 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 he 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.

(b) *Proof of financial responsibility.* No liquor license, except a wine license as the same is defined in this division, 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 imposed by Minn. Stat. § 340A.801. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this subsection shall conform to Minn. Stat. § 340A.409. No liquor license will be issued unless the term of

the certificate indicating compliance with this section is coterminous with the term of the license.

(Ord. No. 142, § 2, 4-11-90)

**Sec. 6-88. Fees.**

(a) *Amounts.* The fee for each license under this division shall be as set forth in chapter 26. Any fee not codified will be discretionary with the council and in accordance with applicable law.

(b) *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 the fixed investigation fee required under section 6-89(a), 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.

(c) *Term; pro rata fee.* Every license shall expire on April 30. Club licensees shall not be issued for a pro rata fee.

(d) *Refunds.* No refund of any fee shall be made except as authorized by statute.

(Ord. of 8-12-87, § 4)

**Sec. 6-89. Granting.**

(a) *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 his application an investigation fee in such amount as the council may determine is appropriate, 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 commissioner 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 commissioner for the investigation. No license shall be issued, transferred or renewed if the results of the investigation 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 \$10,000.00, 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.

(b) *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 subsection (a). 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.

(c) *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 council approval. Where a license is held by a corporation, a change in ownership of ten percent or more of the stock of the corporation must be reported in writing to the council within ten days of the transfer. 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.

(Ord. of 8-12-87, § 5)

**Sec. 6-90. Persons ineligible for license.**

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

(Ord. of 8-12-87, § 6)

**State law reference(s)**--License restrictions, Minn. Stat. § 340A.412.

**Sec. 6-91. Places ineligible for license.**

(a) *General prohibition.* No license shall be issued under this division for any place or any business ineligible for such a license under state law.

(b) *Delinquent taxes and charges.* No license shall be granted for operation on any premises on which taxes, assessments, debts owed the public utilities commission, or other financial claims of the city are delinquent and unpaid.

(c) *Distance from school or church.* No license shall be granted within 400 feet of any school or within 400 feet of any church.

(Ord. of 8-12-87, § 7)

**Sec. 6-92. Conditions.**

(a) *Generally.* Every license under this division is subject to the following conditions and all other provisions of this article and of any other applicable ordinance, state law or regulation.

(b) *Insurance.* Compliance with financial responsibility requirements of state law and of this article is a continuing condition of any license granted pursuant to this division.

(Ord. of 8-12-87, § 8)

**Sec. 6-93. Revocation or suspension.**

The council shall either suspend for up to 60 days or revoke the license or permit or impose a civil fine not to exceed \$2,000.00 for each violation on a finding that the license or permit holder has failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages. No suspension or revocation takes effect until the license or permit holder has been afforded an opportunity for a hearing under sections 14.57 to 14.69 of the administrative procedure act (Minn. Stat. § 14.001 et seq.). This section does not require the city to conduct the hearing before an employee of the office of administrative hearing. The council or the commissioner may impose the penalties provided in this section on a retail licensee who knowingly sells alcoholic beverages to another retail licensee for the purpose of resale, purchases alcoholic beverages from another retail licensee for the purpose of resale, conducts or permits the conduct of gambling on the licensed premises in violation of the law, or fails to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under Minn. Stat. § 340A.508, subd. 3. Lapse of required dram shop insurance shall effect an immediate suspension of any license issued pursuant to this article without further action of the council. Notice of cancellation, lapse of a current liquor liability policy 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 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 ten days or such longer period as may be requested. Any suspension under this section shall continue until the council determines that the financial responsibility requirements of this division have again been met.

(Ord. of 8-12-87; Ord. No. 142, § 2, 4-11-90)

**State law reference(s)**--License revocation or suspension, Minn. Stat. § 340A.415.