

600 LIQUOR AND BEER

601. Liquor Licensing.

601.01. PROVISIONS OF STATE LAW ADOPTED.

Subdivision 1. Provisions. The provisions of Minnesota Statutes, Chapter 340, with reference to the definition of terms, applications for license, granting of license, conditions of license, restrictions on consumption, provisions on 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 hereby adopted and made a part of this chapter as if fully set out herein.

Subd. 2. Definitions. Supplementing the list of definitions as prescribed by Minn. Stat. 340A.

- 1) Restaurant means any establishment, other than a hotel, under the control of a proprietor or manager, having appropriate facilities for the serving of meals, and where in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests. There shall be appropriate facilities for serving of not less than 30 guests at one time.
- 2) Sunday On-Sale means the sale of liquor by the glass to persons who are seated at tables for consumption on the premises, in conjunction with the serving of food by the licensee, pursuant to a special license therefor issued by the city as authorized by State law.

(Subd. 2 amended by Ordinance 86-5, passed May 5, 1986.)

601.02. LICENSE REQUIRED.

Subdivision 1. Sale Prohibited. No person, except wholesalers or manufacturers to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor or wine without first having received a license to do so as provided in this ordinance. Licensees shall be of five kinds: "On-sale", "Off-sale", "Club Licenses", Sunday "On-sale", and "On-sale" Wine. (Amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 2. Time of Issue. No more than one new "On-sale" license shall be issued in any thirty-day period. This provision shall not apply to renewals of licenses for existing establishments.

Subd. 3. Combined On and Off Sale. On and Off sale licenses may be issued to the same applicant for use in same building only.

Subd. 4. Club Licenses. Special club licenses shall be issued only to duly incorporated clubs which have been in existence for fifteen (15) years or more or to congressionally chartered veterans' organizations which have been in existence for ten (10) years, and shall permit "On-sales" of liquor to members and bona fide guests only.

Subd. 5. Sunday License. No person shall sell intoxicating liquor on Sunday unless they have applied for and received a special license from the city council authorizing such sale. Such "Sunday On-sale" license may be issued by the council to hotels and restaurants holding "On-sale" licenses from the city. Applications for a "Sunday On-sale" license shall be made to the council in the same manner as applications for an "On-sale" license to sell intoxicating liquor. The license application shall clearly indicate whether the applicant is applying for an "On-sale" liquor license or for a "Sunday On-sale" license. A "Sunday On-sale" license may be suspended or revoked independently of the "On-sale" license, as provided in Section 601.10. No Sunday liquor license shall be valid unless a valid "On-sale" license is also in effect for the premises.

As a condition to the granting of a "Sunday On-sale" license to a restaurant, the council may by resolution restrict the sale and consumption of liquor at any place so licensed to tables where food is served to patrons purchasing and consuming said liquor, and may prohibit or limit the sale or consumption of liquor at a bar, and may prohibit the maintenance of a bar on the premises where liquor is displayed or dispensed. Violation of any such condition shall be grounds for suspension or revocation of the license.

Subd. 6. On-Sale Wine. No person shall sell wine On-sale without an On-Sale Wine License or On-Sale Liquor License. Said license shall not be issued except in accordance with the provisions of Minnesota Statutes Chapter 340A and shall not be issued to any establishment other than a restaurant. (Subd. 6 amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 7. Licensed Area. No license shall be effective beyond the compact and contiguous space named in the license granted. (Subd. 7 amended by Ordinance 86-5, passed May 5, 1986.)

601.03 APPLICATION FOR LICENSE.

Subdivision 1. Application Form. Every application for a license to sell liquor or wine shall be verified and filed with the clerk. It shall state the name of the applicant, his age, representations as to his character, with such reference as may

be required, his citizenship, whether the application is for "On-sale" or "Off-sale", the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he has been in that business in that place, and such other information as the council may require from time to time. In addition, to containing such information, each application for a license shall be in the form prescribed by the Liquor Control Department. No person shall make a false statement in any application. (Subdivision 1 amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 2 Bond. (Subd. 2 deleted by Ordinance 90-12, passed May 21, 1990.)

Subd. 3. Insurance. Every applicant for the issuance or renewal of an "on-sale" or "on-sale" wine or "off-sale" license shall demonstrate proof of financial responsibility in accordance with the provisions of Minn. Stat. 340A.409. Every licensee shall further demonstrate proof of financial responsibility by filing the insurance certificate, surety bond, or state treasurer's certificate with the Commissioner of Public Safety after March 1, 1983, in compliance with Minnesota Statutes Sec. 340A.409.

The liability insurance policy as required above shall provide that it may not be cancelled for any cause by the insured or the insurer without first giving ten days written notice to the city, addressed section shall be approved as to form by the City attorney. (Subd. 3 amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 4. Filing Violation. The operation of an "on sale", "on sale" wine, or "off sale" liquor business without having on file at all times the insurance bond or other security required by Subdivision 2 and 3 of this Section shall be grounds for immediate revocation of the license. (Subd. 4 amended by Ordinance 86-5, passed May 5, 1986.)

601.04. LICENSE FEES.

Subdivision 1. Fee to Accompany Applications. Each application for a license shall be accompanied by 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 Date. All licenses shall expire on the last day of June of each year. Each license shall be issued for a period of one year except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

Subd. 3. Amount of Fees. The annual fee for an "On-sale" license shall be Three Thousand and no/100 (\$3,000.00) Dollars. The annual fee for an "Off-sale" license shall be One Hundred and no/100 (\$100.00) Dollars. The annual fee for a "Special Club License" shall be One Hundred and no/100 (\$100.00) Dollars. The annual fee for a "Sunday On-sale" license shall be Two Hundred and no/100 (\$200.00) Dollars. The annual fee for an "On-sale" Wine License shall be Two Hundred and no/100 (\$200.00) Dollars. (Subd. 3 amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 4. Refunds. No refund of any fee upon an issued license shall be permitted except as authorized under Minn. Stat. 340A.408. (Subd. 4 amended by Ordinance 86-5, passed May 5, 1986.)

601.05. GRANTING OF LICENSES.

Subdivision 1. Investigation. The council shall investigate all facts set out in the application. Opportunity may 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. No "Off-sale" license shall become effective until it, together with the bond furnished by the applicant, has been approved by the Liquor Control Commissioner.

Subd. 2. To Whom Issued. Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license may be transferred to another person or to another place without the approval of the council.

601.06. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or held by any person made ineligible for such a license by State law. No license shall be issued to or held by an individual who is not a resident of the seven (7) county

metropolitan area or of Sherburne or Wright Counties: in the case of a corporate licensee, the registered office of the corporation shall be within the City of Dayton. (Amended by Ordinance 81-1, passed March 16, 1981.)

601.07. PLACES INELIGIBLE FOR LICENSE.

Subdivision 1. State Law Applicable. No license shall be issued for any place of or for any business ineligible for such a license under State law.

Subd. 2. Duration of Business. No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for six (6) months.

Subd. 3. Delinquent Taxes. 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.

Subd. 4. School Zone. No license shall be granted within one hundred (100) feet of any school or within one hundred (100) feet of any church.

601.08. CONDITIONS OF LICENSE.

Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the city of State law.

Subdivision 1. Licensee Responsible. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order in it.

Subd. 2. Inspections. Every licensee shall allow any peace officer, health officer, or other property designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 3. Corporate Licensee. It shall be a condition of every license heretofore or hereafter issued hereunder to a corporation that the Clerk be furnished by the licensee with a correct list of all stockholders of the corporation to whom the license is issued and the number of shares held by each, either individually or beneficially for others; and it shall be the continuing duty of each corporate licensee to promptly notify the Clerk of any change in ownership or beneficial interest of shares of stock entitled to be voted at any meeting of the stockholders of such corporation which results in change in voting control of the corporation by the persons owning shares of stock therein shall be deemed equivalent to a transfer of the license issued to such corporation, and any such licenses shall be revoked thirty (30) days after any such change in ownership or beneficial interest of shares, unless the council shall have been notified of such change in writing and shall have approved thereof. The

metropolitan area or of Sherburne or Wright Counties: in the case of a corporate licensee, the registered office of the corporation shall be within the City of Dayton. (Amended by Ordinance 81-1, passed March 16, 1981.)

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Subd. 2. Inspections. Every licensee shall allow any peace officer, health officer, or other property designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 3. Corporate Licensee. It shall be a condition of every license heretofore or hereafter issued hereunder to a corporation that the Clerk be furnished by the licensee with a correct list of all stockholders of the corporation to whom the license is issued and the number of shares held by each, either individually or beneficially for others; and it shall be the continuing duty of each corporate licensee to promptly notify the Clerk of any change in ownership or beneficial interest of shares of stock entitled to be voted at any meeting of the stockholders of such corporation which results in change in voting control of the corporation by the persons owning shares of stock therein shall be deemed equivalent to a transfer of the license issued to such corporation, and any such licenses shall be revoked thirty (30) days after any such change in ownership or beneficial interest of shares, unless the council shall have been notified of such change in writing and shall have approved thereof. The

council or any officer of the city designated by it may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify the names of stockholders and persons voting at meetings of such corporation. The council may suspend or revoke any license issued hereunder to a corporation upon determination by the council that any change of ownership or stock in such corporate license has actually resulted in change of voting control of the corporation so as to affect the integrity and character of its management and its operation of an "Off-sale", "Sunday On-sale", "Club License" or "Off-sale" liquor business.

601.09. RESTRICTIONS ON-PURCHASE AND CONSUMPTION.

*See attached
Ord # 2003-13
10/14/03*

Subdivision 1. Misrepresent Age. No minor shall misrepresent his age for the purpose of obtaining intoxicating liquor or wine, nor shall any person consume wine or liquor when prohibited from doing so by state law. (Amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 2. Inducing Minors. No person shall induce a minor to purchase or procure liquor.

Subd. 3. Unlicensed "On-sale". 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 liquor control director under Minnesota Statutes 340A.414 and no person shall consume liquor in any such place. (Amended by Ordinance 86-5, passed May 5, 1986.)

Subd. 4. Hours of Operation. The hours of operation for the sale of intoxicating liquor shall be governed by Minnesota Stat. 340A.504. (Amended by Ordinance 90-4, passed February 5, 1990.)

Subd. 5. Sales of Liquor by Persons Under 19 Years of Age. No person under nineteen (19) years of age shall be permitted to sell intoxicating liquor on premises licensed for the retail on-sale or off-sale of intoxicating liquor. (Amended by Ordinance 83-3, passed April 4, 1983.)

601.10. REVOCATION.

The council may suspend for not to exceed sixty (60) days or revoke any liquor license for violation of any provision or condition of this chapter or any State law regulating the sale of intoxicating liquor and shall revoke such license if the licensee willfully violates any provision of Minnesota Statutes, Sections 340.07 to 340.40. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the council shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of

the time and place of the hearing and shall state the nature of the charges against the licensee. The council, may, without any advance notice, suspend any license pending a hearing on revocation for a period of not exceeding thirty (30) days.

ORDINANCE NO. 2003-13

AN ORDINANCE AMENDING THE DAYTON CITY CODE TO AMEND CHAPTER 600 REGARDING LIQUOR AND BEER.

The City Council of the City of Dayton ordains as follows:

SECTION 1. AMENDMENT. The Dayton City Code Section 601 is hereby amended by adding the underlined language and deleting the ~~striketrough~~ language as follows:

601.09. RESTRICTIONS ON-PURCHASE AND CONSUMPTION. . . .

Subd. 2. Inducing Minors. No person shall induce a minor to purchase or procure liquor, unless authorized by law. . . .

Subd. 4. Hours of Operation. ~~The hours of operation for the sale of intoxicating liquor shall be governed by Minnesota Stat. 340A.504. No sale of intoxicating liquor 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 8:00 p.m. on the day of any statewide election. No sale shall be made between the hours of 2:00 a.m. and 8:00 a.m. on any other day. No licensee may sell intoxicating liquor between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Minnesota Commissioner of Public Safety and has been issued a special license by the City. The annual application fee for the special license shall set forth by resolution of the City Council.~~

Subd. 5. Sale of Liquor by Person Under 198 Years of Age. No person under ~~nineteeneigheten~~ (198) years of age shall be permitted to sell intoxicating liquor on premises licensed for the retail on-sale or off-sale of intoxicating liquor.

SECTION 2. AMENDMENT. The Dayton City Code Section 602 is hereby amended by adding the underlined language and deleting the ~~striketrough~~ language as follows:

602.01. DEFINITION OF TERMS.

Subdivision 1. Beer. As used in this ordinance, "beer" or "~~non-intoxicating~~ 3.2 percent malt liquor" means . . .

602.06. PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person who:

- (1) Is under ~~19~~ 21 years of age; . . .

602.08. CONDITIONS OF LICENSE. . . .

Subd. 2. Sales To Persons Under 1921 Years of Age. No beer shall be sold or served to any intoxicated person or to any person under 1921 years of age.

Subd. 3. Consumption by Persons Under 1921 years of Age. No person under 1921 years of age shall be permitted to consume beer on the licensed premises ~~unless accompanied by his parent or legal guardian.~~

~~Subd. 4. Sale of Beer by Persons Under 19 Years of Age. No person under 19 years of age shall be permitted to sell beer on premises licensed to sell beer at retail on sale or off sale.~~

Subd. 54. Gambling. . . .

Subd. 65. Interest of Manufactures or Wholesalers. . . .

Subd. 76. Liquor Dealer's Stamp. . . .

Subd. 87. Searches and Seizures. . . .

Subd. 98. Licensee Responsibility. . . .

602.09. CLOSING HOURS.

No sale of beer shall be made on any Sunday between the hours of 12:00 a.m. and 12:00 noon, nor between the hours of 12:00 a.m. and 8:00 p.m. on the day of any statewide election. No sale shall be made between the hours of 12:00 a.m. and 8:00 a.m. on any other day. No licensee may sell beer between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Minnesota Commissioner of Public Safety and has been issued a special license by the City. The annual application fee for the special license shall set forth by resolution of the City Council.

602.10. RESTRICTIONS ON PURCHASE AND CONSUMPTION. . . .

Subd. 2. Inducing Purchase. No person shall induce a person under 1921 years of age to purchase or procure beer, unless authorized by law.

Subd. 3. Procurement. No person other than the parent or legal guardian shall procure beer for any person under 1921 years of age on the condition that the beer was furnished or given solely for consumption in the household of the parent or guardian.

Subd. 4. Possession. No person under 1921 years of age shall have beer in his possession with the intent to consume it at a place other than the household of his parent or guardian and in the presence of said parent or guardian.

Subd. 5. Consumption. No person under the 1921 years of age shall consume beer

unless in the ~~company of~~ household of his parent or guardian and with the consent of his parent or guardian.

SECTION 3. AMENDMENT. The Dayton City Code Section 603 is hereby amended by adding the underlined language and deleting the ~~striketrough~~ language as follows:

603.03. Limitation on Liquor Consumption and Display and on Furnishing Set-ups.

Subd. 3. Hours. No person shall consume or display, or allow the consumption or display of intoxicating liquor or furnish set-ups or allow the furnishing of set-ups at an establishment having a permit between the hours of ~~12:00~~ 12:00 a.m., and 8:00 a.m., or between the hours of ~~12:00~~ 12:00 a.m., and 8:00 p.m., on any primary, special or general election day held in the district in which such establishment is located.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective from and after its passage and publication in accordance with the law.

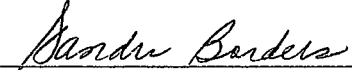
PASSED this 14th day of October, 2003, by the Dayton City Council.

Motion made by Anderson, seconded by Jacobs. Ayes: all Nays: none
City of Dayton



Mayor

Attest:



Clerk

Published in the Champion Dayton Press: October 28, 2003

602. Beer Licensing.

*see attached Ord. # 2003-13
10/14/03
Pg. 82d*

602.01. DEFINITION OF TERMS.

Subdivision 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. Restaurant. "Restaurant" means any establishment having appropriate facilities for the preparation and serving of food at tables to not less than 30 persons at one time, which employs an adequate staff to provide the usual and suitable service to its customers, and which has as the principle part of its business, the selling and serving of food for consumption on the premises.

Subd. 3. Bona fide club. "Bona fide club" means an organization organized for social purposes, business purposes, for intellectual improvement, or for the promotion of sports, provided that 1) the sale of beer is incidental to and not the main purpose of the club; 2) the club is not organized for profit; and 3) no part of the profits of the club's operations inure to the benefit of individual members.

602.02. LICENSE REQUIRED.

Subdivision 1. Licenses. 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 four kinds: (1) Regular "On-sale"; (2) Club "On-sale"; (3) Temporary "On-sale"; (4) "Off-sale".

Subd. 2. Regular On-sale. Regular "On-sale" licenses shall be granted only to bona fide clubs, drug stores, restaurants and hotels where food is prepared and served for consumption on the premises. "On-sale" licenses shall permit the sale of beer for consumption on the premises only.

Subd. 3. Club On-sale. Club "On-sale" licenses shall be granted only to bona fide clubs and shall permit the sale of beer, for consumption on the premises, to members and guests in the company of members only.

Subd. 4. Temporary On-sale. Temporary "On-sale" licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of beer on the premises only.

Subd. 5. 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 APPLICATION.

Subd. 1. Application Form. Every application form for a license to sell beer shall be made to the Clerk on a form supplied by the City and shall contain the following information: 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 the applicant has been in that business at that place, and such other information as the Council may require from time to time. It shall be unlawful to make any false statement in an application, and any false statement shall be grounds for rejection of the application.

Subd. 2. Insurance. Every applicant for the issuance or renewal of a retail "on-sale" or "off-sale" beer license shall demonstrate proof of financial responsibility in accordance with the provisions of Minn. Stat. §340A.409.

Every licensee shall further demonstrate proof of financial responsibility by filing the insurance certificate, surety bond, or state treasurer's certificate with the Commissioner of Public Safety after March 1, 1983, in compliance with Minnesota Statutes Sec. 340A.409.

The liability insurance policy as required above shall provide that it may not be canceled for any cause by the insured or the insurer without first giving ten days written notice to the City, addressed to the City Clerk.

The operation of an "off sale" or "on sale" business without having on file at all times with the City the liability insurance policy or other security herein referred to shall be grounds for immediate revocation of the license.

The insurance certificate required by this section shall be approved as to form by the City attorney.

(Subd. 2 Amended by Ordinance 91-7, passed June 17, 1991.)

602.04. LICENSE FEES.

Subdivision 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 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 such fee, any unexpired fraction of a month shall be counted as one month.

Subd. 3. Fees. The annual fee for a regular "On-sale" license is \$100.00. The annual fee for a club "on-sale" license is \$10.00. The annual fee for an "Off-sale" license is \$15.00. The fee for a temporary "On-sale" is \$5.00 per day.

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 thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

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

602.05. GRANTING OF LICENSE.

Subdivision 1. Investigation and hearing. The 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 19 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 ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors, and cannot show competent evidence under Minnesota Statutes Section 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 an alien;
- (5) Is not of good moral character;
- (6) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place;
- (7) Is not the proprietor of the establishment for which the license is issued.

602.07. PLACES INELIGIBLE FOR LICENSE.

Subdivision 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 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. Six Months Prior Eligibility. No regular "On-sale" license shall be granted for a club which has not been in operation and eligible to receive a license for at least six months immediately preceding the application for a license.

602.08. CONDITIONS OF LICENSE.

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

Subd. 2. Sales To Persons Under 19 Years of Age or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any person under 19 years of age.

Subd. 3. Consumption by Persons Under 19 Years of Age. No person under 19 years of age shall be permitted to consume beer on the licensed premises unless accompanied by his parent or legal guardian.

Subd. 4. Sale of Beer by Persons Under 19 Years of Age. No person under 19 years of age shall be permitted to sell beer on premises licensed to sell beer at retail on-sale or off-sale. (Amended by Ordinance 83-3, passed 4-4-83)

Subd. 5. Gambling. No gambling or any gambling device shall be permitted on any licensed premises.

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 provisions of Minnesota Statutes Section 340.031. 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. Liquor Dealer's Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.

Subd. 8. Searches and Seizures. 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 without a warrant.

Subd. 9. Licensee Responsibility. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

602.09. CLOSING HOURS.

No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, nor between the hours of 1:00 a.m. and 8:00 p.m. on the day of any statewide election. No sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any other day.

602.10. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subdivision 1. Age Misrepresentation. No person shall misrepresent his age for the purpose of obtaining beer.

Subd. 2. Inducing Purchase. No person shall induce a person under 19 years of age to purchase or procure beer.

Subd. 3. Procurement. No person other than the parent or legal guardian shall procure beer for any person under 19 years of age.

Subd. 4. Possession. No person under 19 years of age shall have beer in his possession with the intent to consume it at a place other than the household of his parent or guardian and in the presence of said parent or guardian.

Subd. 5. Consumption. No person under 19 years of age shall consume beer unless in the company of his parent or guardian.

Subd. 6. Consumption Prohibited--Where. No beer shall be consumed in any unlicensed theater, recreation hall or center, dance hall or other place of public gathering used for the purpose of entertainment, amusement or playing of games.

602.11. REVOCATION.

The violation of any provision or conditions of this ordinance by a beer licensee or his agent is ground for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this ordinance may be revoked or suspended by the council after written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The council may suspend any license pending a hearing on revocation or suspension. No suspension shall exceed 60 days.

603. Consumption and Display Permits.

- see attached Ord. #2003-13

10/14/03
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603.01. ADOPTION BY REFERENCE.

The provisions of M.S.A. 340.119 are hereby adopted and shall be in full force and effect in the city as if completely set out here in full.

603.02. DEFINITIONS.

For the purpose of this ordinance the terms defined in this section shall have the meanings given them.

Subdivision 1. Set-up. "Set-up" means any liquid or ice used for the purpose of mixing with intoxicating liquor.

Subd. 2. Beer. "Beer" means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than 3.2 percent by weight.

Subd. 3. Furnish. "Furnish" means to sell, give or in any other manner provide.

Subd. 4. Liquor. "Liquor" means and includes distilled, fermented, spiritous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Subd. 5. Permit. "Permit" means a permit granted by the State Liquor Control Department pursuant to M.S.A. 340.119.

Subd. 6. Private Club. "Private Club" means a club as defined by M.S.A. 340.07, Subd. 15, or any unincorporated society as described in M.S.A. 340.119.

Subd. 7. Public Places. "Public Places" means any place open to the public or to which the public is invited, but does not include a private residence.

Subd. 8. Restaurant. "Restaurant" means any establishment having appropriate facilities for the preparation and serving of food at tables to not less than 30 persons at one time, which employs an adequate staff to provide the usual and suitable service to its customers, and which has as the principal part of its business the selling and serving of food for consumption on the premises.

Subd. 9. Temporary Permit. "Temporary permit" means a permit issued by the city and approved by the Commissioner of Public Safety to a non-profit organization allowing the consumption and display of liquor for a one-day period for a social event occurring within the city pursuant to Minnesota Statutes §340.119, Subd. 10. (Ordinance 84-2, passed 1/16/84)

603.03. Limitation on Liquor Consumption and Display and on Furnishing Set-ups.

Subdivision 1. Where Permitted. No person shall consume or display or allow the consumption or display of liquor or furnish set-ups or allow the furnishing of set-ups at any place within the city except (a) a private residence, (b) an establishment having an intoxicating liquor "On-sale" license, (c) an establishment having a permit and maintaining the conditions set forth in Section 603.05, or (d) on the premises occupied by a non-profit organization which has a temporary permit applicable to the premises and the time of the consumption and display, and which complies with the conditions of Section 603.063. (Ordinance 84-2, passed 1/16/84)

Subd. 2. Regulations. The furnishing of set-ups and the consumption and display of liquor at an establishment having a permit shall be subject to the provisions of this ordinance and other applicable law.

Subd. 3. Hours. No person shall consume or display, or allow the consumption or display of intoxicating liquor or furnish set-ups or allow the furnishing of set-ups at an establishment having a permit between the hours of 1:00 a.m., and 8:00 a.m., or between the hours of 1:00 a.m., and 8:00 p.m., on any primary, special or general election day held in the district in which such establishment is located.

603.04. RESTRICTIONS ON APPROVING PERMITS.

No officer or employee of the city shall sign any letter or other document expressing local approval of an application for a State consumption and display permit, or in any other manner expressing or conveying the impression that such approval has been given, until he has been authorized by resolution of the council.

603.05. CONDITIONS OF PERMIT ISSUANCE.

Subdivision 1. Approval. No permit shall be approved unless the applicant meets the following conditions:

Subd. 2. Other Regulations. The use of the premises for the consumption and display of intoxicating liquor conforms with applicable zoning, building code and subdivision regulations.

Subd. 3. Location. Such premises are not within 100 feet of any church or school.

Subd. 4. Beer License. An "On-sale" beer license has been issued for the premises.

Subd. 5. Restaurant. The establishment is a restaurant or has a restaurant as part of its facilities.

Subd. 6. Clubs. If a private club, the club has no members who are persons under 19 years of age.

Subd. 7. Fee. City's fee required by Section 603.07, has been tendered to the city.

Subd. 8. Character. The person seeking the permit, has not been convicted of a felony, nor convicted of willfully violating the ordinances of the city relating to the sale, consumption or display of liquor.

Subd. 9. Manufacturers and Wholesalers. The person having or seeking the permit is not a manufacturer or wholesaler of beer or liquor and has no interest in any place where beer or liquor is manufactured, or where liquor is sold.

Subd. 10. Facilities. The premises have sinks and other suitable equipment, and hot and cold running water, for the maintenance of sanitary conditions for persons eating or drinking on the premises. Additionally, that the premises have adequate separate toilets, which are conveniently located so that they can be reached from the restaurant area without going outside or through building areas not occupied by the applicant, which are equipped with hot and cold running water, towels and soap, and which are readily cleanable, and are adequately heated, lighted and ventilated.

Subd. 11. Hazards. The premises are so located that no unusual safety hazards are presented to persons going to and from or being on the premises by reason of lighting or the design or location of stairways, windows, steps, doors, sidewalks, streets or parking facilities.

Subd. 12. Safety Standards. The premises are in complete compliance with all Federal, State and Local laws and regulations pertaining to health and safety standards.

Subd. 13. Fire Precautions. The premises have adequate emergency fire exit facilities and no unusual fire hazard exists on the premises.

Subd. 14. Parking. There are adequate parking facilities for the premises.

603.06. PERMIT CONDITIONS.

Subdivision 1. Regulations. The following regulations shall be complied with by Permittees:

- (1) No person who has brought liquor to a public place having a permit shall keep or leave such liquor at such place during his absence.
- (2) No person at an establishment having a permit shall furnish liquor to any person other than his bona fide guest.
- (3) No person at a private club having a permit shall furnish a set-up to any person there who is not the bona fide guest of a member who is then present.
- (4) No person shall furnish liquor or set-ups to a minor at an establishment having a permit.
- (5) No minor shall remain or be allowed to remain at a public place or private club having a permit unless accompanied by his parent or guardian.
- (6) No member of a private club having a permit shall keep liquor at the club unless the bottle, container, or other receptacle containing the liquor has attached to it a label signed by the member. Any liquor on the premises of the club not being actually used or consumed by the owner thereof shall be kept in a locker designated to the use of such member.

(7) No minor shall be assigned a locker for the storage of liquor at any private club, nor shall any minor consume or display or be permitted to consume or display liquor on any premises owned or controlled by any such club.

(8) Every permit holder shall allow any peace officer, health officer or other properly designated officer or employee of the city to enter, inspect and search the premises of the licensee during business hours without a warrant.

603.061. Conditions of Issuing a Temporary Permit. A temporary permit shall not be approved unless the following conditions have been met:

- (1) The application has been completed on a form provided the by city.
- (2) The application is made by a bona-fide non-profit organization and the event for which the temporary permit is sought is a social activity to be held within the city.
- (3) That the premises where the activity is to be held will be adequate for the number of people expected in terms of size, sanitary facilities and parking.
- (4) The applicant has not had more than two (2) temporary permits within the past twelve (12) months.
- (5) Neither the applicant nor any of its members has been convicted of violating any laws relating to the sale of liquor, non-intoxicating liquor or the consumption and display of liquor, nor has the applicant violated any conditions of a prior temporary permit or any temporary license issued under Chapter 602 of this code.
- (6) The fees required by Section 603.07 have been paid to the city.

Liq. only 603.062. Temporary Permit Approval. If a temporary permit is approved by the city council, the clerk/treasurer shall forward the same to the Commissioner of Public Safety for approval. No temporary permit is valid until it has been approved by the Commissioner of Public Safety and no temporary permit will be issued until such approval is received by the city.

603.063. Temporary Permit Conditions. The temporary permit holder shall comply with the following:

- (1) No person who has brought liquor to the premises for which the temporary permit is issued shall keep or leave such liquor at the premises during his absence.
- (2) No person shall furnish liquor or set-ups to a minor.
- (3) No minor shall remain or be allowed to remain at a premises for which a permit has been issued unless accompanied by his parent or adult guardian.

603.07. Fee. The City's fee for the operation of a private club or public place having a consumption and display permit is One Hundred Twenty & 00/100 (\$120.00) Dollars per year. The fee for a temporary permit is Twenty-five & 00/100 (\$25.00) per event. (Ordinance 84-2, passed 1/16/84)

603.08. REPORT OF VIOLATIONS.

The clerk shall notify the Liquor Control Department of any violation of the provisions of this chapter.

603.09. PERMIT REVOCATION.

A permit under this chapter for violations of this code, State law or other applicable regulation pursuant to the provisions of Section 601.10 of this code.

604. Nudity in Liquor and Beer Establishments.

604.01. DEFINITIONS.

Subdivision 1. License. For purposes of this section, "license" shall include the following:

- (1) Any On-sale, Sunday On-sale, or Club intoxicating liquor license
- (2) Any On-sale or Temporary On-sale beer license
- (3) Any consumption and display permit.

Subd. 2. Licensed Establishment. "Licensed establishment" means any establishment having a license as defined in Subdivision 1.

604.02. NUDITY PROHIBITED.

The following acts or conduct in licensed establishments are deemed contrary to the public welfare and morals and are therefore prohibited:

- (1) To employ or use any person in the sale or service of any commodities or products in or upon any establishment serving alcoholic beverages while such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of such person's pubic hair, anus, cleft of the buttocks, or genitals.
- (2) To employ or use the services of any host or hostess while such host or hostess is unclothed or in such attire, costume, or clothing as described in the above paragraph.
- (3) To encourage or permit any person on the premises of any such establishment to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
- (4) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
- (5) To permit any employee or other person to remain in or upon the premises who exposes to public view the post-pubertal human male or female genitals, pubic hair, anus, buttocks, or post-pubertal female breast below the top of the areola with less than a fully opaque covering.
- (6) To permit any person to perform acts or acts which simulate any of the following:
 - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
 - (b) The touching, caressing, or fondling of the breast, buttocks, anus, or genitals.
 - (c) The displaying of the pubic hair, anus, vulva, genitals, or the nipple or areola of the female breast.

- (7) To permit any person to use artificial devices or inanimate objects to depict any of the acts listed in 6, above.
- (8) To permit the showing of any film, still picture, electronic reproduction, or other visual reproduction depicting any of the acts listed in 6, above, or depicting the simulation of such acts.
- (9) To permit any employee or other person under contract to perform on the premises, to dance on any table, bar, or other elevated platform, except on a duly designated stage designed exclusively for the entertainment of patrons of the premises, said stage to be located at least three (3) feet from any patron.
- (10) To permit any prostitute to loiter on the premises with intent to solicit.

604.03. LOSS OF LICENSE.

Any violation of this section shall constitute grounds for suspension or revocation of any and all licenses held for the premises in addition to all other penalties imposed by this code.