

CHAPTER 6 LIQUOR, BEER, AND CIGARETTES

3.2 Percent Malt Liquor

6.101. Definition of Terms.

- Subdivision 1. "Original package" as used herein shall mean the bottle or sealed container in which the liquor is placed at the place of manufacture.
- Subdivision 2. "Cafe" or "restaurant" as used in herein shall mean any place where preparing and serving lunches and meals to the public to be consumed on the premises constitutes the major business thereof.
- Subdivision 3. "3.2 Percent Malt Liquor" is any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. "Intoxicating liquor" or "liquor" is any distilled, fermented, spirituous, vinous, or malt beverage containing in excess of 3.2 percent of ethyl alcohol by weight.

6.102. License Required.

No person shall sell, vend, deal in, or dispose of by gift, sale, or otherwise, or keep or offer for sale, any 3.2 Percent Malt Liquor within this City without first having received a license therefore as herein after provided. Licenses shall be of two kinds: "On Sale" and "Off Sale".

6.103. Application for License.

All applicants for any license to sell 3.2 Percent Malt Liquor shall be made on forms to be supplied by the City setting forth the name of the person asking for such license, his age, representations as to his character with such references as may be required, his citizenship, the location where such business is to be carried on, the business in connection with which the proposed license will operate, whether applicant is owner and operator of such business, the time such applicant has been in that business at that place, and such other information as the governing body may require from time to time. It shall be unlawful to make any false statement in application.

6.104. Fee.

All applications for license shall be accompanied by a receipt from the Clerk-Administrator for the required annual fee for the license. All such fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license the treasurer shall refund the amount paid.

The annual fee for an "On Sale" license shall be \$300.00.

The annual fee for an "Off Sale" license shall be \$100.00

6.105. Issuance.

This license is issued for one year. Payment of this license may be made in one annual fee as has been previously done or it may be made in two equal payments on January 1 and July 1 of said year license is issued for. Failure to make one or both payments of this license will cause revocation of said license.

6.106. Granting of Licenses.

The City Council shall cause an investigation to be made of all facts set forth in the application. Opportunity shall be given to any person to be heard for or against the granting of any license. After such investigation the City Council shall grant or refuse any such application in its discretion. All licensed premises shall have the license therefore posted in a conspicuous place at all times.

6.107. Conditions of Licenses.

All licenses granted hereunder shall be granted subject to the following conditions of this Chapter, and subject to all other ordinances of the City applicable thereof.

- (1) No license shall be granted to any person under eighteen years of age.
- (2) No license shall be granted to any person who has been convicted of a felony or of violating the national prohibition act or any law of this state or local ordinance relating to manufacture or transportation of intoxicating liquors
- (3) No license shall be granted for sales in connection with any business where such business has not been in operation at that place for at least 45 days immediately preceding such application.
- (4) No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this Chapter or where any license hereunder has been revoked for cause for at least one year after the said conviction or revocation.
- (5) No sale of any 3.2 Percent Malt Liquor shall be made to any person under guardianship, nor to a person under eighteen years of age.
- (6) All premises where any license hereunder is granted shall be open to inspection by any police or health officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.
- (7) No gambling prohibited by law or city ordinance nor any gambling devices prohibited by law or city ordinances shall be permitted in any licensed premises.
- (8) All licenses granted under this Chapter shall be issued to the applicant only and shall be issued for the premises described in the application. Such license shall not be transferred to another place without the approval of the City Council.
- (9) No license shall be granted to any manufacturer of 3.2 Percent Malt Liquor or to anyone interested in the control of any such place, and no equipment or fixture in any licensed place shall be owned in whole or in part by any such manufacturer.
- (10) No license shall be granted to an establishment located within 150 feet of any public school or within 150 feet of any church.
- (11) Licenses shall be granted only to persons who are citizens of the United States and to persons of good moral character, and licensee must be actual owner or proprietor of place in which he intends to sell such malt liquor.

6.108. Hours and Days of Sale.

No sales of any 3.2 Percent Malt Liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday nor between 1:00 a.m. and 12:00 noon on Sunday, nor between 1:00 a.m. and 12:00 midnight on the following holidays: Thanksgiving Day, and Christmas Day.

6.109. Revocation.

Any license granted hereunder may be revoked by the council without written notice to the grantee or a hearing may first be held by the council and the revocation then made for cause. Any violation of any provision or conditions of this code or any falsification of any statement in the application shall be ground for revocation. No portion of the license fee paid into the City treasury shall be returned upon revocation.

6.110. Prohibited Sale.

Nothing hereunder shall permit the manufacture, sale, or transportation, or keeping or having in possession for sale or transportation of, or taking or receiving or soliciting, any order for any liquor of a greater alcoholic content than three and two-tenths by weight except for medicinal, pharmaceutical or scientific purposes, and any such act is hereby made unlawful. Any violation of this provision upon any premises licensed hereunder shall also constitute grounds for revocation of the license, and the same shall be automatically revoked upon a conviction of the violation of this provision.

6.111. Minor Consumption.

It shall be unlawful for any:

- (a) Licensee or his employee to sell or serve 3.2 Percent Malt Liquor to any minor or to permit any minor to consume 3.2 Percent Malt Liquor on the licensed premises or to permit any minor to loiter or to remain in the room where 3.2 Percent Malt Liquor is being sold or served, unless accompanied by his parent or legal guardian;
- (b) Minor to enter any premises licensed for the retail sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing, or having served or delivered to him or her any alcoholic beverage containing more than one-half of one per cent of alcohol by volume;
- (c) Minor to consume any intoxicating liquor or to purchase, attempt to purchase, or have another purchase for him or her any intoxicating liquor;
- (d) Person other than the parent or legal guardian to procure 3.2 Percent Malt Liquor for any minor;
- (e) Minor to misrepresent his age for the purpose of obtaining 3.2 Percent Malt Liquor or intoxicating liquor;
- (f) Minor to consume any 3.2 Percent Malt Liquor unless in the company of his parent or legal guardian;
- (g) Minor to have in his possession any 3.2 Percent Malt Liquor or intoxicating liquor, with intent to consume the same at a place other than the household of his parent or guardian. Possession of such liquor at a place other than the household of his parent or legal guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

6.112. Penalty.

Any person violating any provision of section 6.101 to 6.111 shall be guilty of a misdemeanor.

Intoxicating Liquor

6.201. Provisions of State Law Adopted.

The provisions of Minnesota Statutes Chapter 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 adopted and made a part of this Chapter as if set out in full.

6.202. License Required.

- Subdivision 1. General requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall direct 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 Chapter. Liquor licenses shall be of five kinds: "on-sale", temporary "on-sale", combination on-sale and off-sale, "off-sale", and club licenses.
- Subdivision 2. On-sale licenses. "On-sale" licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores, and shall permit "on-sale" of liquor only.
- Subdivision 3. Combination licenses. A combination "on-sale" and "off-sale" license shall be issued only to an exclusive liquor store. "Exclusive liquor store" also includes a combination on-sale and off-sale intoxicating liquor establishment that sells food for on-premises consumption.
- Subdivision 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 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.
- Subdivision 5. Off-sale licenses. Off-sale licenses shall be issued only to exclusive liquor stores and shall permit "off-sales" of liquor only.
- Subdivision 6. Special club licenses. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence at least three years.

6.203. Application for License.

- Subdivision 1. Form. Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character with written references

of the Lincoln County Sheriff and one other peace officer licensed as such by the State of Minnesota, 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 Minnesota Statutes Section 340A.802 (as amended from time to time) 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 Clerk-Administrator. No person shall make a false statement in an application.

- Subdivision 2. Financial responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 (as amended from time to time) with regard to liability under the statutes, Section 340A.801 (as amended from time to time). Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409 (as amended from time to time). Operation of a licensed business without having on file with the city at all times effective proof of financial responsibility as required in Subdivision 2 is a cause for revocation of the license.

6.204. License Fees.

- Subdivision 1. Fees. The annual fee for a liquor license shall be \$700.00 for an "on-sale" license, \$25.00 for a temporary "on-sale" license, \$800.00 for a combination "on-sale" and "off-sale" license, \$100.00 for an "off-sale" license, and \$100.00 for a special club license.
- Subdivision 2. Payment. Each application for a license shall be accompanied by a receipt from the Clerk-Administrator for payment in full of the license fee and the fixed investigation fee required under Section 6.205., Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the Treasurer shall refund the amount paid as the license fee.
- Subdivision 3. Term; pro rate 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 unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.
- Subdivision 4. Refunds. No refund of any fee shall be made except as authorized by statute.

6.205. Granting of Licenses.

- Subdivision 1. Preliminary investigation. On an initial application for an on-sale for combination license and on application for transfer of an existing on-sale or combination license, the applicant shall pay with his application an investigation fee of \$100.00 and the City shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the bureau of criminal investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.
- Subdivision 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. 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 "off-sale" license nor any combination "on-sale" and "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.
- Subdivision 3. Person and promises 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.

6.206. Persons Ineligible for License.

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

6.207. Places Ineligible for License.

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

Subdivision 2. Delinquent taxes and charges. No license shall be granted for operation on any premises on which any taxes and assessments, or any financial claims of the city are delinquent and unpaid.

6.208. Conditions of License.

Subdivision 1. In General. Every license is subject to the conditions in the following subdivisions and all other provisions of this Chapter and of any other applicable ordinance, state law or regulation.

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

Subdivision 3. Licensee's responsibility. Every licensee is responsible for the conduct of employees and customers 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.

Subdivision 4. 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 without a warrant.

Subdivision 5. Display during prohibited hours. No "on-sale" or combination license establishment shall display liquor to the public during hours when the sale of liquor is prohibited. All licensed establishments shall close 30 minutes after the closing hours for sales.

6.209. Suspension and Revocation.

The Council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in 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 Minnesota Statutes Section 14.57 to 14.69 (as amended from time to time) of the administrative procedure act.

Lapse of required dram shop insurance shall effect an immediate suspension of any license issued pursuant to this Chapter without further action of the City 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-Administrator a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirements of this Chapter have again been met.

6.210. Penalty.

Any person violating any provision of this Chapter is guilty of a misdemeanor.

Cigarettes

6.301. License Required.

No person shall directly or indirectly, or by means of any device keep for retail sale, sell at retail, or otherwise dispose of any cigarettes or cigarette wrapper at any place in the City unless a license therefore shall first have been obtained as provided in sections 6.301 to 6.308.

6.302. Application and Issuance.

An application for such license (as described in Section 6.301.) shall be made to the Clerk-Administrator on a form that is supplied by the City. Such application shall state the full name and address of the applicant, the location of the building, and the part intended to be used by the applicant under such license, the kind of business conducted at such location, and such other information as shall be required by the application form. Upon the filing of such application with the Clerk-Administrator, it shall be presented to the City Council for its consideration; and, if granted by the council, a license shall be issued by the Clerk-Administrator upon payment of the required fee.

6.303. License Fee.

The fee for every such license shall be \$25.00 per annum. Every such license shall expire on December 31st next after its issuance. For any license issued after January 31st in any year, the fee shall be computed at the rate of \$2.00 for each month or fractional part of a month covered by the license. Licenses shall not be transferable from one person to another.

6.304. License Shall be Displayed.

Every such license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

6.305. Restrictions.

No license shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of cigarettes at any place other than his established place of business. No license shall be issued for the sale of cigarettes at a movable place of business, nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any cigarettes, cigarette paper, or cigarette wrapper to any person below the age of eighteen years. No person shall keep for sale, sell, or dispose of any cigarettes containing opium, morphine, jimson weed, Bella Donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine.

6.306. Vending Machines Prohibited.

The Council of the City of Hendricks prohibits the use of cigarette vending machines in the City.

6.307. Revocation.

Every cigarette license may be revoked by the council for a violation of any provision of this code if the licensee has been given a reasonable notice and an opportunity to be heard.

6.308. Penalty.

Any person violating any provision of sections 6.301 to 6.307 shall be guilty of a misdemeanor.