

AN ORDINANCE AMENDING CHAPTER SIX OF THE PELICAN RAPIDS CITY CODE

THE COUNCIL OF THE CITY OF PELICAN RAPIDS DOES ORDAIN:

SECTION ONE. That Chapter Six of the Pelican Rapids City Code be amended as follows:

CHAPTER SIX ALCOHOLIC BEVERAGES

600.01 DEFINITIONS

Except as provided in this section or where the context clearly indicates otherwise, the words, terms and phrases used in this chapter shall have the meanings attributed to them in Minn. Stat. § 340A.101.

Subdivision 1. Applicant. Applicant means the person signing the alcoholic beverage license application form and, in the case of a partnership, association, corporation, or other legal entity, includes the business organization or other entity on behalf of which the application is made.

Subdivision 2. Commissioner. Commissioner means the commissioner of the Minnesota Department of Public Safety which is the formal licensing authority for alcohol through the Alcohol and Gambling Enforcement Division in accordance with Minn. Stat. 340A, unless otherwise expressly defined.

Subdivision 3. Minnesota Liquor Act or Liquor Act. Minnesota Liquor Act or Liquor Act. means the provisions contained in Minn. Stat. Ch. 340A, as amended.

Subdivision 4. Restaurant. An establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premise and served at tables to the general public, and having a minimum seating capacity for serving meals to not less than 25 guests at one time.

Subdivision 5. Sale, seller and sold. Sale, Seller and sold mean all barter and all manners or means of furnishing an alcoholic beverage, including such furnishing as is in violation or evasion of law.

600.02 LICENSE REQUIRED

Except as provided in this chapter, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license for the type and class of alcoholic beverage transaction in which engaged. Notwithstanding the above, any on-sale or off-sale intoxicating liquor licensee shall not be required to obtain a 3.2 percent malt liquor license, and may sell 3.2 percent malt liquor beverages under the same circumstances and subject to the same restrictions as applicable to the licensee's sale of intoxicating beverages. Rental of or permission to use a public facility is not a commercial transaction for purposes of this chapter.

State law reference(s)—License required, Minn. Stat. § 340A.401; right of on-sale intoxicating liquor licensee to sell 3.2 percent malt liquor, Minn. Stat. § 340A.403, subd. 3(a).

600.03 ELIGIBILITY FOR LICENSE

- A. No license for the sale of alcoholic beverages shall be issued to a person who:
1. is under 21 years of age;
 2. is not of good moral character or repute.
 3. has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premise or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
 4. is not a proprietor of the establishment for which the license is to be issued;
 5. has been convicted of a felony or a willful violation of a federal or state law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages, within five years of the license application;
 6. has failed to provide all application information required by this chapter;
 7. has provided false or misleading information on the application form, any attachment to the application form or any document provided to the city administration as part of the application process; or
 8. is ineligible under Minn. Stat. § 340A.402.
- B. For purposes of this section, the term "willful violation" does not include a violation of any state law or city ordinance prohibiting the sale or distribution of an alcoholic beverage to a person under the age of 21 unless the violation is a part of a recent and repeated history of selling or distributing alcoholic beverages to underage persons.
- C. For purposes of this section, the term "issued" or "granted" includes the initial issuance of a license, and the renewal or transfer of that license.
- D. In the case where a partnership, corporation or association is the person seeking the license for the sale of alcoholic beverages, the term "person," as used in subsection (A)(5) of this section includes partners, corporate officers, officers or shareholders of the partnership, corporation or association.
- E. No intoxicating liquor license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid. This subsection does not apply if the applicant has provided sufficient safeguards to ensure payment of debts or compliance with city requirements within a reasonable time after the city approval or authorization.
- F. Limitations on issuance of licenses to one place or person.
1. Except as may be allowed by state law, no more than one retailer's intoxicating liquor license may be issued for one place. Except as hereinafter provided, no more than one intoxicating liquor license may be issued to one person. Additional intoxicating liquor licenses may be issued to a licensee who also possesses a state-

issued caterer's permit and shall authorize the sale of alcoholic beverages on the licensed premise in conjunction with private events held on the licensed premise.

2. A license shall be considered directly or indirectly issued to any one person if that person has an interest in the license. The term "interest" means any pecuniary interest in the ownership, management, or profits of a retail liquor establishment, and includes the receipt of money from time to time, directly or indirectly, from a licensee, in the absence of consideration and excluding gifts or donations.
3. The term "interest" does not include the following:
 - a. Loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, or supplies to the establishment; and
 - b. Ownership of ten percent or less interest in any other corporation holding a license.
4. In determining whether an interest exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this subsection (F) shall be considered.
5. Notwithstanding any provision of this subsection (F) to the contrary, only one off-sale intoxicating liquor license may be directly or indirectly issued to any one person.

State law reference(s)—Persons eligible for license, Minn. Stat. § 340A.402.

600.04KINDS OF LIQUOR LICENSES.

A. Full intoxicating on-sale liquor licenses.

1. A full intoxicating liquor/restaurant license authorizes a restaurant, including a brew pub, to sell alcoholic beverages at retail to the public for consumption only on the licensed premise(s).
2. A full intoxicating liquor/club license authorizes a club which has been in existence for at least three years to sell alcoholic beverages at retail for consumption only on the licensed premise(s) to its members and to bona fide guests in the company of members, except that a club may permit the general public to participate in a wine tasting conducted at the club under Minn. Stat. § 340A.419.

B. Limited intoxicating on-sale liquor licenses.

1. A brewer taproom license authorizes the holder of a brewer's license under the Minnesota Liquor Act to sell malt liquor produced by that brewer for consumption on the premise(s) of or adjacent to one brewery location owned by the brewer.

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2. A cocktail room license authorizes the holder of a micro distillery license under the Minnesota Liquor Act to sell distilled liquor produced by the distiller for consumption on the premise(s) of or adjacent to one distillery location owned by the distiller.
 3. A cooking school license authorizes a business establishment that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation is required, to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premise(s) only.

C. Wine licenses. A wine license/restaurant authorizes a restaurant having facilities for seating at least 25 guests to sell wine up to 24 percent alcohol content by volume at retail to the public for consumption only on the licensed premise(s) in conjunction with the sale of food. A restaurant holding both a wine license and a 3.2 percent malt liquor/on-sale license pursuant to subsection (d) of this section may also serve intoxicating malt liquor so long as the licensee has proof of financial responsibility as required by Minn. Stat. § 340A.409.

D. 3.2 percent malt liquor on-sale licenses. A 3.2 percent malt liquor/on-sale license authorizes a restaurant, club, or an establishment used exclusively for the sale of 3.2 percent malt liquor with only incidental sales of tobacco and soft drinks, to sell 3.2 percent malt liquor at retail to the public for consumption only on the licensed premise(s), provided that any club so licensed may only sell 3.2 percent malt liquor to its members and to bona fide guests in the company of members.

E. Consumption and display (bottle club) permits. No business establishment or club which does not have an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner of public safety. This permit shall not be effective until approved by the city.

F. On-sale endorsements.

1. A special Sunday license endorsement authorizes restaurants and clubs holding an on-sale intoxicating liquor license to apply for a special Sunday license authorizing the establishment to sell intoxicating liquor for consumption on the licensed premise(s) in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 1:00 a.m. on Mondays.
2. A 2:00 am sales endorsement is required in order for a licensee to sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. The licensee must obtain the consent of the city council prior to obtaining a permit from the commissioner.

G. Temporary on-sale licenses.

1. An intoxicating liquor/on-sale temporary license authorizes a club or charitable, religious, or other nonprofit organization in existence for at least three years,

registered under Minn. Stat. § 10A.14 for a term not to exceed four consecutive days, to sell or to contract for the off-premise sale of intoxicating liquor. If the club or organization holds an existing intoxicating/on-sale liquor license, it may sell intoxicating liquor during the permitted term at a place other than its licensed premise(s). If the club or organization does not hold a permanent liquor license, it may contract with an existing on-sale intoxicating liquor licensee to sell intoxicating liquor at a place other than the existing licensee's licensed premise(s). The sale of intoxicating liquor under this provision must be in connection with a social event within the city sponsored by the licensee. Unless otherwise provided for in this subsection, licenses issued pursuant hereto are subject to all other provisions of this chapter.

2. A 3.2 percent malt liquor/on-sale temporary license authorizes a club or other charitable, religious, or nonprofit organization, for a term not to exceed ten consecutive days, to sell 3.2 percent malt liquor at retail to the public for consumption on the licensed premise(s).
3. A one-day consumption and display city permit authorizes a nonprofit organization to allow the consumption and display of intoxicating liquor, and the serving of liquids for the purpose of mixing with intoxicating liquor, on the licensed premise(s) in conjunction with a social activity sponsored by it during the one day for which the permit is issued. This permit must be approved by the commissioner of public safety before it is effective.

H. Off sale licenses. A small brewer—off-sale license authorizes a brewer licensed under Minn. Stat. § 340A.301, subd. 6(c), (i), or (j), with the approval of the commissioner, to sell malt liquor at its licensed premise(s) for consumption off site that has been produced and packaged by the brewer in compliance with state law. The amount of malt liquor sold at off-sale may not exceed 750 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at the municipal liquor store.

I. License classes limited. Only licenses for the classes indicated and for the limited purposes specified in this section will be granted or approved by the city.

J. Catering permit. Any person intending to serve alcohol under the authority of a state-issued caterer's permit shall first notify the city administration and the chief of police of the event at least seven days in advance. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premise for which the holder's on-sale intoxicating liquor license is issued.

State law reference(s)—License classes, Minn. Stat. § 340A.403 et seq.; consumption and display permits, Minn. Stat. § 340A.414.

600.05. MUNICIPAL FACILITIES.

Any retail on-sale intoxicating liquor licensee may also dispense intoxicating liquor off-premise at a community festival held within the city. The term "community festival" refers to a community event celebrating the people, history, food, culture, music or events of the city as approved by

council. The licensee must notify the city administration of its intent to serve at the community festival, must specify the area in which the intoxicating liquor will be dispensed and consumed, and shall demonstrate that it has liability insurance as prescribed by Minn. Stat. § 340A.409 that covers the event.

600.06. NUMBERS OF LICENSES.

- A. **Generally.** Except as otherwise indicated in this section or restricted by the Minnesota Liquor Act, the city council may issue such numbers of licenses for each license class as it deems appropriate.
- B. **Intoxicating liquor/on-sale licenses.** The number of intoxicating liquor/on-sale licenses shall not exceed five (5).
- C. **One-day consumption and display.** No more than ten (10) such permits may be issued in any one year.

600.07. LICENSE APPLICATIONS.

- A. **General requirements.** Any person desiring a license to sell alcoholic beverages in the city shall file with the city administration an application in writing upon a form furnished by the city administration office.
- B. Each application for the issuance or renewal of any intoxicating or 3.2 percent malt liquor license must include a copy of each summons received by the applicant under Minn. Stat. § 340A.802.
- C. An application for a special Sunday license may be included on an application for an on-sale license when both applications are made at the same time.
- D. Each such application form shall be signed, verified, and sworn to by the applicant in person, and if the applicant is a corporation, by any authorized officer of the corporation, at the office of the city administration.
- E. **Renewals.** An application for renewal of an alcoholic beverage license shall require the applicant to re-verify or update all of the information contained on the original license application.
- F. **Transfers.** An applicant seeking to obtain approval for the transfer of an alcoholic beverage license which is currently held by another person or organization shall complete and furnish to the city administration an application form as in the case of an original application for the same type and class of license. In addition, the current license holder must sign the application form indicating its approval of the transfer. No retail intoxicating liquor license may be transferred to another person except when that person has purchased the business for which the license was issued. Purchase of the business does not require the purchase of the real property upon which the business had been located.
- G. It shall be unlawful to make any false statements on any such license application forms.

600.08. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED.

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- A. An applicant for any license issued under this chapter shall, in addition to the information requested by section 600.07, file with the city administration evidence of financial responsibility, except that this requirement does not apply to licensees who, by affidavit, establish that:
1. They are on-sale 3.2 percent malt liquor licensees with sales of less than \$25,000.00 of 3.2 percent malt liquor for the preceding year;
 2. They are off-sale 3.2 percent malt liquor licensees with sales of less than \$50,000.00 of 3.2 percent malt liquor for the preceding year;
 4. They are holders of on-sale wine licenses with sales of less than \$25,000.00 for wine for the preceding year;
 5. They are holders of temporary wine licenses issued under law; or
 6. They are wholesalers who donate wine to an organization for a wine tasting conducted under Minn. Stat. § 340A.418 or 340A.419.
- B. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minn. Stat. § 340A.409, but shall carry the following limits:

\$100,000 of coverage because of bodily injury to any one person in any one occurrence.

\$300,000 of coverage because of bodily injury to two or more persons in any one occurrence.

\$50,000 of coverage because of injury to or destruction of property of others in any one occurrence.

\$100,000 of coverage for loss of means of support of any one person in any one occurrence.

\$300,000 of coverage for loss of means of support for two or more persons in any one occurrence.

\$300,000 of coverage of annual aggregate limits.

600.09. FEES—INTOXICATING LIQUOR LICENSES.

The fees for all licenses and endorsements authorized by this chapter shall be as established in the city's fee schedule adopted annually.

600.10. FEES—LICENSE TRANSFERS.

The fee for the transfer of an intoxicating liquor, wine, intoxicating liquor/wine or a 3.2 percent malt liquor license is as set in the city's fee schedule, to be paid at the time the application is filed. In the event of a transfer of an intoxicating liquor or wine license for reasons other than solely a change in location, the applicant for the transfer must pay the transfer fee.

600.11. FEES—PAYMENTS AND ADJUSTMENTS.

- A. Payment of fees. Except for on-sale intoxicating liquor licenses, each application for a license or for a renewal of a license shall be accompanied by payment in full of all fees required by this chapter.
- B. Late fees. A penalty of 50 percent of the annual license fee, but not to exceed \$1,000.00, shall be imposed on and collected from each applicant who files an application for renewal of a license after the commencement of the license year.
- C. Proration of fees. When a license is granted and a period of less than one year remains before the license expires, one-twelfth of the annual license fee shall be charged for each month or fraction of a month remaining after the license is granted and before the license expires.
- D. Refunds. Upon rejection of any application, the full amount of any annual license fee paid shall be refunded. No refund will be provided if the cessation of business results from the city's action in suspending, revoking or taking other adverse action against the license or licensee.

600.12. INVESTIGATION OF APPLICANT.

- A. Each application received shall be referred by the city administration to the chief of police for investigation and comment. Officials shall conduct such investigation as the official deems necessary to determine whether the statements contained in the application accurately reflect the facts as discovered in the investigation, and whether or to what extent the proposed premise or the applicant appears to have violated any laws or regulations for which the agency has enforcement responsibility.
- B. All applications with reports and recommendations, if any, attached thereto, shall be returned to the city administration.

600.13. APPROVAL AND ISSUANCE.

- A. Completion of application. An application for an alcoholic beverage license shall be deemed completed when the application form has been fully completed and the fee has been paid.
- B. Issuance. Upon receipt and verification of the completed application by the city administration, and in accordance with all other applicable requirements set forth by this code and Minn. Stat. Ch. 340A, as amended, the city shall approve and issue the license and submit said license for signing by the mayor and the city administration.
- C. No license shall be effective until:
 - 1. The license has been signed by the mayor and city administration;
 - 2. All approvals required by the commissioner have been obtained by the applicant and documentation of the approvals has been provided to the city administration;
 - 3. In the case of intoxicating liquor/off-sale, wine, intoxicating liquor/club, intoxicating liquor/on-sale temporary, bottle club and temporary bottle club license, the approval of the commissioner has been endorsed on the license;

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4. In the case of intoxicating liquor licenses or bottle club licenses, the applicant has paid in full all taxes and other monies owed to the city or to any other governmental subdivision or agency of the state;
 5. In the case of an establishment which is not open for business at the time of the issuance of the license by the city, the establishment shall open for business within 90 days of the opening date specified in the license application. One 90-day extension of this deadline may be granted by the city administration, if requested in writing with the initial 90 days. The city administration shall grant an extension only if progress towards opening of an establishment has been demonstrated. If the establishment does not open within the prescribed time, including a city administration granted extension if applicable, the approval previously granted shall be deemed rescinded and re-application shall be required.
 6. All permits, if any, required under the laws of the United States have been issued to the licensee;
 7. Proof of financial responsibility has been filed with the city administration.
- D. In the case of an application for renewal of an alcoholic beverage license, the city administration may request that the council condition by resolution the renewal of such license upon the license holder performing or forbearing from performing certain acts within a given period of time which acts or forbearance to act would have the effect of bringing the license holder or the licensed premise(s) into fuller compliance with the requirements of this chapter.
- E. Within ten days of the issuance of an intoxicating liquor license, the city administration shall notify the commissioner of the licensee's name, address, and trade name, and of the effective date and the expiration date of the license.

600.14. DURATION.

- A. Except as otherwise provided in this section or by the Liquor Act, each license shall be issued for a period of one year and shall expire at 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, on July 1, following the date of the issuance, 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 license year.
- B. Each 3.2 percent malt liquor/on-sale temporary license shall be issued for a term not to exceed ten consecutive days.
- C. Each one-day consumption and display license shall authorize sales only for the day indicated on the permit.
- D. Each intoxicating liquor/on-sale temporary license shall be issued for a term not to exceed four consecutive days and shall authorize sales only on the days indicated on the license.

600.15. OWNERSHIP AND TRANSFERS.

- A. *Approval of transfers.* No license granted hereunder shall be transferable from person to person or to any other premise without the consent of the city and in accordance with

the requirements of this chapter. Any change of a licensee's form of ownership and any change of ownership or beneficial interest in 25 percent or more of the shares of stock in a corporate licensee shall be deemed equivalent to a transfer of the license and the same shall not become effective until approved by the city.

- B. *Reports required.* Each corporate licensee shall report to the city administration any proposed change of legal ownership or beneficial ownership in the corporate stock. The report shall be in writing and shall list all stockholders, their age, occupation, residential address, the number of shares held by each, and whether the shares are held individually or for the benefit of others. The report shall include all powers of attorney for proxies granted that relate to the voting of the corporate share of stock.
- C. *Examination of records.* The council, or any other officer designated by the council, may at any reasonable hour examine the stock, transfer records, minute books and other business records of a corporate licensee for the purpose of determining the extent of interest of any and all persons in the corporate licensee, the ownership and voting of shares of stock of the corporation, and to determine the extent of interest of any and all persons in the corporate licenses, the ownership and voting shares of stock of the corporation, and to determine whether any change of the legal ownership of or beneficial interest in certain shares of stock has directly or indirectly resulted in multiple ownership or in a change of control of the licensee.
- D. *License extension; death of licensee.* In the case of the death of a retail licensee licensed to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

600.16. LICENSE POSTING.

A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premise for which it is used.

600.17. PREMISES LIMITED.

No license shall be effective beyond the compact and contiguous space named therein for which the same was granted, except that a licensee operating under an on-sale license or special Sunday license granted for sales in a restaurant, or club, or a wine license, may permit sales of liquor with meals in additional dining rooms open to the public and specified on the license where meals are regularly served to guests therein. All licenses granted hereunder shall set forth the exact location within the building structure where such sales may be made and no sales shall be permitted except in that part of the premise defined in the license.

600.18. COMPLIANCE WITH OTHER CODES.

The structure within which alcoholic beverages are to be sold as authorized by this chapter shall at all times be in compliance with current building, fire, zoning, and other safety codes.

600.19. LOCATION RESTRICTED.

No license shall be issued for a premise located within the areas restricted against commercial use by the zoning ordinances of the city or other proceedings or legal processes regularly had for that purpose, and no license shall be issued contrary to the provisions of the ordinances of the city or

any special or general laws of the state restricting areas within which alcoholic beverages may be sold.

600.20. INSPECTIONS.

All licensed premises shall be open to inspection by any police officer or any other properly designated officer or employee of the city without the need for a search warrant at any time during which the licensed premise or any portion thereof shall be open to the public or to the licensee's members for business, or at any other time customers are permitted to be present therein.

600.21. GAMBLING AND CERTAIN CONDUCT.

Except as provided by state law or a gambling license issued by the state charitable gambling control board, no licensee shall keep, possess or operate, or permit the keeping, possession, or operation of, on any licensed premises or in any room adjoining the licensed premise, any slot machines, dice, or other gambling device or equipment, nor permit any gambling therein.

600.22. HOURS AND DAYS OF SALE AND CONSUMPTION.

- A. 3.2 percent malt liquor. No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday, except as provided by subsection (C) of this section. No on-sale licensee shall permit any person to consume any 3.2 percent malt liquor on the premise(s) except within the hours when the sale of such 3.2 percent malt liquor is permitted and for a period of ½ hour later. No person shall consume any 3.2 percent malt liquor on the licensee's premise(s) except within the hours when the sale of such malt liquor is permitted or within the period of ½ hour after said sales are permitted.
- B. Intoxicating liquor; on-sale. No sale of intoxicating liquor for consumption on the licensed premise(s) may be made:
 - 1. Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
 - 2. After 2:00 a.m. on Sundays, except as provided by subsection (C) of this section.
- C. Intoxicating liquor; Sunday sales; on-sale. A restaurant or club with a seating capacity for at least 25 persons and which holds a special Sunday license or a wine licensee may sell intoxicating liquor or wine, as their alcoholic beverage license otherwise permits, for consumption on the premise(s) in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, on Mondays. Brewers holding brew pub—on-sale or brewer tap room licenses may sell malt liquor for consumption on the premise(s) between the hours of 8:00 a.m. on Sundays and 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, on Monday.
- D. Intoxicating liquor; consumption; on-sale. No on-sale intoxicating liquor licensee shall permit any person to consume any alcoholic beverage or to remain on its premise more than ½ hour after the time sales are permitted under this section. However, a licensee's regular employee(s) may be on said premise outside of the time set forth herein within the course of employment.

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- E. Subject to Minn. Stat. § 340A.414, subd. 1a, no bottle club or one-day consumption and display licensee may permit any person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor on the licensed premise(s), between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.
 - F. Notwithstanding any provision of this chapter to the contrary, no licensee may sell intoxicating liquor or 3.2 percent malt liquor between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the state commissioner of public safety authorizing sales during such times.

State law reference(s)—Days and hours of sale, Minn. Stat. § 340A.504.

600.23. INTOXICATING LIQUOR PROHIBITED.

No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premise(s) or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premise of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale, and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this section.

600.24. UNLAWFUL ACTS.

- A. No alcoholic beverage shall be sold or furnished for any purpose whatsoever to any person to whom such sales are prohibited by any law of the state or by this chapter.
- B. No person under the age of 21 years shall enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage.
- C. No licensee shall permit any person under the age of 21 years to consume any alcoholic beverage on the licensed premise.
- D. Subject to Minn. Stat. § 340A.404, subd. 11, no person shall possess in any public place an alcoholic beverage which is opened or the seal of which is broken, unless such place is licensed hereunder, or unless a person using the premise(s) has been issued a permit by the commission to serve liquid for the purpose of mixing with such alcoholic beverage.
- E. No person 18, 19 or 20 years old may enter a premise licensed for the sale of intoxicating liquor or municipal liquor store except for the purpose of:
 - 1. Performing work for the premise, including the serving of intoxicating liquor, unless otherwise prohibited by Minn. Stat. § 340A.412, subd. 10;
 - 2. Consuming meals;
 - 3. Attending social functions that are held in a portion of the establishment where liquor is not sold; or
 - 4. Entering the premise under the circumstances under which a minor may enter the premise as provided in section 600.25.

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- F. No person shall enter, or attempt to enter, a premise licensed for the sale of intoxicating liquor without having in their possession valid identification. For purposes of this subsection, the term "valid identification" means:
1. A valid driver's license or identification card issued by the state, another state, or a province of Canada, and including the photograph and date of birth of the licensed person;
 2. A valid military identification card issued by the United States Department of Defense;
 3. A valid passport issued by the United States;
 4. A valid instructional permit issued under Minn. Stat. § 171.05 to a person of legal age to purchase alcohol which includes a photograph and date of birth of the person issued the permit; or
 5. In the case of a foreign national, a valid passport.

State law reference(s)—Sales to obviously intoxicated persons, Minn. Stat. § 340A.502; sales to persons under 21; illegal acts, Minn. Stat. § 340.503.

600.25. MINORS; PRESENCE ON LICENSED PREMISES.

- A. Except as otherwise provided in this section, no minor shall be allowed in any premise licensed for the sale of intoxicating liquor.
- B. A minor is permitted in a premise licensed for the sale of intoxicating liquor under the following circumstances:
1. Prior to 10:00 p.m. if accompanied by a parent or guardian;
 2. To consume food, but not alcoholic beverages, in a restaurant licensed for the sale of intoxicating liquor;
 3. When employed as a musician or in the busing or washing of dishes in and for a restaurant that is licensed to sell intoxicating liquor, or when employed as a waiter or waitress at a restaurant, or where only wine is sold, provided that the person who is under the age of 18 years may not serve or sell any wine;

600.26. LICENSE OR PERMIT SANCTIONS.

- A. Any license or permit issued by the city pursuant to the provisions of this chapter may be suspended, revoked or placed on probation upon a finding that the licensee or permit holder, during the term of the license or in connection with the application, transfer or renewal of such license:
1. Failed to comply with any applicable statute, rule or ordinance relating to alcoholic beverages;
 2. Failed to comply with any condition set forth in the license, set forth in a council action regarding the license or set forth as part of the placement of the license on probation; or

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3. Allowed the licensed business to be operated or maintained in a way that unreasonably annoyed, endangered or injured the safety, health, morals, comfort or repose of any considerable number of members of the public.
- B. Whenever it appears to the council that adequate grounds may exist for the suspension, revocation or imposition of probation of a specific alcoholic beverage license, the council shall, by resolution, specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.
 - C. No such suspension, revocation or probation shall be effective until the license or permit holder has been afforded an opportunity for a hearing under Minnesota Statutes 14.57 to 14.69 after reasonable notice. The notice shall state the time, place and issue(s) to be addressed. All parties will be afforded an opportunity at the hearing to present evidence and argument concerning the issue(s).
 - D. Upon a finding that the licensee or permit holder has violated any such statute, rule or ordinance, the council may:
 1. Suspend the license or permit for up to 60 days;
 2. Revoke the license or permit;
 3. Impose a civil fine not to exceed \$2,000.00 for each violation found as a result of the hearing; or
 4. Place the license or permit on probation for a stated time period. The council may impose conditions upon the license or permit during the time of probation.
 - E. A license or permit issued pursuant to this chapter may be summarily suspended by city administration if the licensee or permit holder fails to maintain financial responsibility in the manner required by Minn. Stat. § 340A.409.
 - F. The city administration shall inform the commissioner of any intoxicating liquor license transfer, cancellation, suspension, or revocation during the license or permit period.

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

605.27 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minn. Stat. Ch. 340 with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor in or by a municipal liquor store are adopted and made a part of this section as if set out in full.

605.28 STORE CONTINUED

The municipal liquor store heretofore established is hereby continued for the “off-sale” of intoxicating liquor. No liquor may be sold at retail elsewhere in the City or by anyone not employed in the store. No person shall consume liquor in a public park, on a public street, or in any public place other than a licensed establishment or in an establishment where the consumption and display of liquor is lawfully permitted.

605.29 LOCATION AND OPERATION

Subdivision 1. Location. The store shall be located at such suitable place in the City as the Council determines.

Subdivision 2. Manager. The store shall be in the immediate charge of a liquor store manager selected by the Council and paid such compensation as is fixed by the Council. They shall furnish a surety bond to the municipality, conditioned upon the faithful discharge of their duties, in such sum as the Council specifies. The bond premium shall be paid by the City. The manager shall operate the store under the Council's direction and shall perform such duties in connection with the store as may be imposed upon them by the Council. They shall be responsible to the Council for the conduct of the store in full compliance with this ordinance and with the laws relating to the sale of liquor and beer.

Subdivision 3. Other Employees. The Council shall also appoint such additional employees as may be required for the store and shall fix their compensation. All employees, including the manager, shall hold their positions at the pleasure of the Council. No person under the age of **18 years** shall be employed in the store, and no person under the age of 21 years may sell or assist in the sale of any liquor. In the discretion of the Council such employees may be required to furnish surety bonds conditioned for the faithful discharge of their duties, in such sums as the Council may specify. The premium on such bonds shall be paid by the City.

605.30 STORE FUND CREATED

Subdivision 1. Fund established. A municipal liquor store fund is hereby created in which all revenues received from the operation of the store shall be deposited and from which all ordinary operating expenses shall be paid. Any amounts which it may be necessary to borrow from the general fund of the City for initial costs of rent, fixtures and stock or for operating expenses shall be reimbursed to that fund out of the first available monies coming into the store fund thereafter. Surpluses accumulating in the store fund may be transferred to the general fund or to any other appropriate fund of the City by resolution of the Council and expended for any municipal purpose.

Subdivision 2. Receipts and Disbursements. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law for the receipts and disbursements of the City funds generally.

Subdivision 3. Audit. The Council shall provide as soon as possible following the close of each fiscal year for an audit of the accounts of the municipal liquor store for that fiscal year by the state auditor or a qualified public accountant.

Subdivision 4. Prohibited Business. No business other than the sale of liquor shall be carried on in the store except items listed in Minn. Stat. § 340A.412 Subd. 14.

606.02 ENFORCEMENT

It shall be the duty of all police officers of the City to enforce the provisions of this ordinance, to search premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this ordinance; and to prepare the necessary processes and papers therefor.

606.03 SUSPENSION AND REVOCATION

The City Council, on a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages, may revoke the license or permit, suspend the license or permit for up to 60 days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions for each violation. Upon a finding that the licensee has sold, bartered, furnished or given alcoholic beverages to a person under 21 years of age, the following minimum penalties shall apply:

- A. Upon the first offense in the prior three years, a penalty of \$500 plus suspension of all retail licenses of the vendor for a period of 30 days.
- B. Upon the second offense in the prior three years, a penalty of \$1,000 plus suspension of all retail licenses of the vendor for a period of 60 days.
- C. Upon the third offense in the prior three years, a penalty of \$2,000 plus revocation of all retail licenses of the licensee.

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 14.57 to 14.69 of the Administrative Procedure Act. The lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the City Council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon, and if such a request is made in writing to the Clerk, a hearing shall be granted within 10 days or such longer period as may be required. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility of this ordinance has again been met.

606.04 PENALTY

Any person violating any provision of this ordinance is guilty of a misdemeanor, unless a more severe penalty is provided by Minn. Stat. Ch. 340A, in which case the more severe penalty provided by Minn. Stat. Ch. 340A shall apply.

SECTION TWO. That this ordinance shall take effect and be in force on _____.

Adopted this _____ day of _____, _____.

ATTEST:

Danielle Harthun, City Clerk

Brent E. Frazier, Mayor