

Ordinance amending city code chapter 3 related to alcoholic beverages

The City of St. Louis Park, Minnesota does ordain:

Section 1. St. Louis Park City Code Chapter 3 is hereby amended as follows to delete the struck-out language and to add the following underlined text:

**Article II. Sale, Consumption, and Display
Division 1. Generally**

Sec. 3-31. ~~Provisions of state law adopted.~~ Adoption of state law by reference.

~~Except to the extent the provisions of this article are more restrictive,~~ The provisions of M.S.A.Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, regarding the terms, licensing, 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 and 3.2 percent malt liquor are hereby adopted by reference and made a part of this article chapter as if set out in full in this section. It is the intention of the city council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

Sec. 3-32. City may be more restrictive than state law.

The council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

Sec. 3-323. Definitions.

~~The following words, terms, and phrases, when used in this article, and~~ In addition to the definitions contained in M.S.A. ch. 340A Minn. Stat. § 340A.101, as it may be amended from time to time, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning the following terms are defined for purposes of this chapter:

Bona fide club ~~means an organization for social or business purposes or for intellectual improvement, or for the promotion of sports, where the serving of alcohol is incidental and not the major purpose of the club.~~

Brewer ~~means a person who manufactures malt liquor for sale.~~

Brewpub ~~means an establishment in which malt liquor is brewed or manufactured for sale and consumption on tap on the premises where the malt liquor is brewed or for sale and personal consumption off the brewer's premises.~~

Display ~~means the keeping or storing, or permitting to be kept or stored of an alcoholic beverage which has been poured, dispensed or has had its package seal broken on, in or at~~

~~any table, booth, bar or other area of a premises licensed under this article which is accessible to the general public, except when the alcoholic beverage is stored in a normal storage area of such licensed premises during non-sale hours.~~

Interest means and includes any pecuniary interest in the ownership, operation, management or profits of a liquor establishment, but does not include bona fide loans; bona fide fixed sum rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business, or selling or leasing merchandise, fixtures or supplies to such establishment; or any interest of five percent or less in any corporation holding a liquor license under this article. A person who receives monies, from time to time, directly or indirectly from a licensee in the absence of a bona fide consideration therefor, excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license. In determining "bona fide" under this definition, the reasonable value of the goods or things received as consideration for the payment of the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade any prohibitions under this ~~article~~ chapter shall be considered.

Liquor, as used in this chapter, without modification by the words "intoxicating" or "3.2 percent malt" includes both intoxicating liquor and 3.2 percent malt liquor.

~~*Licensed premises* means the premises described in the approved license application as set forth in this article. In the case of a restaurant, club or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, such term means the entire golf course, except for areas where motor vehicles are regularly parked or operated.~~

Place of Worship means church, synagogue, temple, mosque, or other facility used for religious services.

~~*Properly Designated officer* means and includes a city police officer, city fire inspector marshal, city building official, and health inspectors employed by the county or the state acting in the course of the scope of their employment.~~

Sale and sell mean and include all ~~barter~~ and manners or means of furnishing alcoholic beverages.

School means a building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota. ~~and not providing residential accommodations.~~

Store manager means a person designated by a license holder under this ~~article~~ chapter, who works on the licensed premises and is in charge of day-to-day liquor sales.

Restaurant means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, served at tables to the general public, and ~~which has a~~ minimum seating capacity for at least 30 guests as prescribed by the license issuing authority and the principal part of the business is the preparation and serving of food.

Underage person means a person who is under the legal drinking age as provided by M.S. Ch. 340A.

Sec. 3-34. Unlawful acts.

- a. No person shall consume alcoholic beverages on a licensed premises more than 15 minutes after the hour when a sale of such alcoholic beverages can legally be made.
- b. No person shall ~~consume or possess open containers of alcoholic beverages liquor or consume any alcoholic beverages~~ in a city park unless authorized by chapter 20 of this code, on any public streets, sidewalk, parking lot or alley public parking lots or in any public place other than on , parking lots under the control of a liquor license holder outside the licensed structure the premises of an establishment licensed under this chapter, or on private property generally open to the public, unless possession or consumption is during a specific event on such property which is approved by the city as provided in this article chapter.

Sec. 3-35. Violations.

The following actions by an applicant or a licensee under this ~~article~~ chapter shall constitute a violation of this section:

- a. Providing false or misleading statements made on a license application or renewal application, or failure to abide by the commitments, promises, or representations made to the city council on a license application.
- b. Violation of any special conditions under which a license was granted under this ~~article~~ chapter, including, but not limited to, the timely payment of real estate taxes and all other charges.
- c. Violation of any federal, state, or local law regulating the sale of intoxicating liquor, 3.2 percent malt liquor or a controlled substance.
- d. Creation of a nuisance on a premises licensed under this ~~article~~ chapter or in the surrounding area of such premises.
- e. The licensee ~~suffered or permitted~~ illegal acts upon the licensed premises or on property owned or controlled by the licensee adjacent to the licensed premises, unrelated to the sale of intoxicating liquor or 3.2 percent malt liquor.
- f. The licensee had knowledge of illegal acts upon or attributable to the licensed premises but failed to report such illegal acts to the police.
- g. Expiration or cancellation of any required insurance under this ~~article~~ chapter, or failure to notify the city within a reasonable time of changes in the term of such insurance or the carriers of such insurance.

Secs. 3-36--3-55. Reserved.

Division 2. Licenses

Sec. 3-56. Required.

Except as otherwise provided in this ~~article~~ chapter or in M.S.A. Ch. 340A, no person shall directly or indirectly deal in, sell, keep for sale, or deliver any intoxicating liquor, 3.2 percent malt liquor, or wine as part of a commercial transaction without first having received a license to do so as provided in this division; nor shall any private club or public place, directly or indirectly, or upon any pretense or by any device, allow the consumption or display of intoxicating liquor or serve any liquid for the purpose of mixing such liquid with an intoxicating liquor without first obtaining a license from the city as provided in this division.

Sec. 3-57. ~~Classifications.~~ Types of licenses.

The following types of licenses shall be issued under this division:

- a. *On-sale intoxicating liquor license.* ~~On-sale intoxicating liquor licenses shall~~ may be granted issued to the following establishments as defined by Minn. Stat. § 340A.101, as it may be amended from time to time, and this chapter: only to hotels, clubs, and restaurants, bowling centers, theaters, clubs, or congressionally chartered veterans' organizations. ~~Such license shall be issued to clubs and congressionally chartered veterans' organizations if they have been in existence for at least three years and liquor sales will only be to members and bona fide guests of such club or organization.~~
- b. ~~*On-sale Sunday on-sale intoxicating liquor license.*~~ *On-sale Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in this chapter, clubs, bowling center, or hotels with facilities for serving not less than a seating capacity for at least 30 guests people at one time, to and which holds an on-sale intoxicating liquor license has been issued.* ~~Such license shall permit the sale of liquor to be consumed for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon 8:00 a.m. on Sundays and 12:00 a.m. on Mondays in conjunction with the serving of food. Such license may permit the sale of liquor to be consumed on the premises between the hours of 10:00 a.m. Sunday and 1:00 a.m. on Monday in conjunction with the serving of food, provided that the licensee is in conformance with the Minnesota Clean Air Act (M.S.A. §§ 144.411-144.417), and provided a public hearing is held prior to the issuance of the license. No Sunday license is needed for an on-sale wine license.~~
- c. *Off-sale intoxicating liquor license.* ~~Off-sale intoxicating liquor licenses may be issued to an exclusive liquor store and shall permit off-sale of intoxicating liquor and 3.2 percent malt liquor.~~
- d. *On-sale wine licenses.* ~~On-sale wine licenses may be issued, with the approval of the Commissioner of Public Safety, only to restaurants having that have facilities for seating at least 30 25 people at one time. A wine license for permits the sale of wine not exceeding up to 14 24 percent alcohol by volume and for consumption on the licensed premises only in conjunction with the sale of food. The holder of an on-sale wine license who is also licensed to sell also holds an on-sale 3.2 percent malt liquor license on sale and whose gross receipts are at least 60 percent attributable to the sale of food, may also is authorized to sell intoxicating malt liquor with a content over 3.2 percent (strong beer) at on-sale without an additional license.~~

A rabbi, priest, or minister of a church or other established religious organization may import wine exclusively for sacramental purposes without a license. No license shall be required for the resale of wine by a rabbi, priest, minister, or pastor of a duly organized religious organization to worshippers solely for the purpose of practicing religious rites in their homes.

- e. *On-sale 3.2 percent malt liquor license.* ~~On-sale 3.2 percent malt liquor licenses may be issued to restaurants, hotels, bona fide clubs, bowling centers, golf courses, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks. at retail, provided that no manufacturer or wholesaler of such 3.2 percent malt beverage shall have any ownership, in whole or in part, in the business of any licensee holding an on-sale 3.2 percent malt liquor license. Such license shall permit the licensee to sell 3.2 percent malt liquor for consumption on the premises of the licensee as set forth in such license.~~
- f. *Off-sale 3.2 percent malt liquor license.* ~~Off-sale 3.2 percent malt liquor licenses may be issued to general food stores and drugstores and shall permit the sale of 3.2 percent malt liquor at retail, in the original package, for consumption off the premises only.~~
- g. *Temporary on-sale 3.2 malt liquor license.* ~~Temporary on-sale 3.2 percent malt liquor licenses may be issued to clubs, charitable, religious, or nonprofit organizations, which have been in existence for three years. The license may authorize the on-sale of 3.2 percent malt liquor for consumption on a specific premises for not more than two consecutive days, and no individual organization may be granted such license for more than six days per calendar year. Licenses issued under this subsection are subject to all laws and ordinances governing the sale of intoxicating liquor, except that mandatory liability provisions and M.S.A. §§ 340A.409 and 340A.504, subd. 3(d), do not apply.~~
- h. *Temporary on-sale intoxicating liquor license.* ~~Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to clubs, charitable, religious, or other nonprofit organizations which have been in existence for at least three years, or to a state-registered political committee, in connection with a social event within the city sponsored by the licensee. The city shall not issue more than three temporary licenses to any one organization or location during a calendar year, and each such license is limited to not more than four consecutive days. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality. Licenses issued under this subsection are subject to all laws and ordinances governing the sale of intoxicating liquor, except that mandatory liability provisions in M.S. §§ 340A.409 and 340A.504, subd. 3(d), do not apply, and those other laws and ordinances which, by their nature, are not applicable. A license approved by the city council under this subsection shall not be valid until it is approved by the commissioner of public safety. No more than three four-day, four three-day or six two-day temporary licenses, in any combination not to exceed 12 days per year,~~

~~may be issued for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within a 12 month period. Not more than one temporary license may be issued to any one organization or registered political committee, or for any one location, within any 30 day period.~~

- i. *Club license.* Club licenses may be issued to clubs as provided in M.S.A. § 340A.404, subd. 1. No license shall be issued or renewed to a club which discriminates against members or applicants for membership, or guests of members, based on race.
- j. *Consumption and display permit.* ~~Consumption and display permits may be issued to a bottle club which complies with the requirements of M.S.A. § 340A.414, and which has obtained a permit from the commissioner of public safety. Consumption and display permits shall not be issued in the city, except to establishments that had been issued such a license on or prior to the effective date of the ordinance from which this division is derived.~~
- k. *One-day consumption and display permit.* A nonprofit organization in conjunction with a social activity held within the city and sponsored by that organization may apply for a one-day consumption and display permit. There shall be no sale of intoxicating liquor under such license, nor shall there be a fee charged at a permitted social activity where such fee includes the cost of intoxicating liquor. The applicant for such permit shall complete both state and city forms, and the city shall not issue more than ten one-day consumption and display permits per calendar year.
- j. *Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor license.* Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at Minn. Stat. § 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels.
- k. *Brew pub off-sale malt liquor license.* A brew pub off-sale malt liquor license may be issued, with the approval of the Commissioner of Public Safety, to a brewer who holds an on-sale intoxicating liquor or 3.2 percent malt liquor license issued by the city for a restaurant operated in the place of manufacture and otherwise meets the criteria established at Minn. Stat. § 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by Minn. Stat. § 340A.285 as it may be amended from time to time. Sales under this license may not exceed 750 barrels per year. If a brewer licensed under this section possesses a license under Section 3-57 (j) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels.

- a. ~~The malt liquor sold off sale must be produced and packaged on the licensed premises.~~
- b. ~~Off sale of malt liquor shall be limited to the legal hours for off sale pursuant to section 3-105 except an establishment that holds a brewpub off sale malt liquor license may sell malt liquor off sale between the hours of 8:00 a.m. and 10:00 p.m. on Sundays. The malt liquor shall be packaged in 64 ounce containers commonly known as growlers only. (Ord. No. 2474-15, 9-8-15)~~
- c. ~~The malt liquor sold off sale must be removed from the licensed premises before the applicable off sale closing time pursuant to section 3-105.~~
- d. ~~The malt liquor sold off sale shall be packaged in 64 ounce containers commonly known as "growlers" or in 750 milliliter bottles and shall have the following requirements for packaging:~~
- ~~1) The containers shall bear a twist type closure, cork, stopper, or plug.~~
 - ~~2) At the time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the twist type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle.~~
 - ~~3) The adhesive band, strip or sleeve shall bear the name and address of the brewer/licensee selling the malt liquor.~~
 - ~~4) The containers shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer/licensee selling the malt liquor, and the contents in the container packaged as required herein shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100.~~
- e. ~~The retail sales for a brewer/licensee at on sale or off sale under this subsection may not exceed 3,500 barrels per year, provided that off sales may not total more than 50 percent of the brewer/licensee's production or 500 barrels, whichever is less.~~
- f. ~~A brewer operating a brewpub may hold or have an interest in other retail on sale licenses but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler or be an affiliate thereof, whether the affiliation is corporate or by management, direction or control. Notwithstanding this prohibition, a brewer licensed under this provision may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:~~
- ~~1) As a brewpub as defined herein and limited to the regulations of a brewpub by this chapter.~~
 - ~~2) Manufactured in another state for consumption exclusively in a restaurant located in the place of manufacture or brewing; or~~

~~3) — Manufactured in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed subject to the regulations herein on January 1, 1995.~~

- I. Brewer off sale malt liquor license. Brewer off-sale malt liquor licenses may be issued, with approval of the Commissioner of Public Safety, to a holder of a brewer’s license under Minn. Stat. § 340A.301, subd. 6(c), (i) or (j) and meeting the criteria established by Minn. Stat. § 340A.28 as may be amended from time to time. 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 exclusive liquor stores pursuant to Section 3-105, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores, except that malt liquor in growlers only may be sold at off-sale on Sundays. Packaging of malt liquor for off-sale under this license must comply with Minn. Stat. § 340A.285.

Notwithstanding any law to the contrary and in addition to the authority provided in Minn. Stat. § 340A.28, a brewer off-sale malt liquor license may be issued, with approval of the Commissioner of Public Safety, to a holder of a brewer’s license under Minn. Stat. § 340A.301, subd. 6(c), (i) or (j) and meeting the criteria established by Minn. Stat. § 340A.29 as may be amended from time to time, for off-sale of up to 128 ounces per customer per day of malt liquor produced and packaged by the holder. Packaging of malt liquor for off-sale under this license must comply with Minnesota Rules, parts 7515.1080 to 7515.1120.

A brewer who has a license from the Commissioner of Public Safety to brew 20,000 barrels of malt liquor per year may with the approval of the Commissioner of Public Safety be issued a license by the City for off sale of malt liquor subject to the following conditions:

~~a. — The malt liquor sold off-sale must be produced and packaged on the licensed premises.~~

~~b. — Off sale of malt liquor shall be limited to the legal hours for off sale pursuant to section 3-105 except an establishment that holds a brewer off sale malt liquor license may sell malt liquor off sale between the hours of 8:00 a.m. and 10:00 p.m. on Sundays. The malt liquor shall be packaged in 64 ounce containers commonly known as growlers only. (Ord. No. 2474 15, 9-8-15)~~

~~c. — The malt liquor sold off-sale shall be packaged in 64 ounce containers commonly known as “growlers” or in 750 milliliter bottles and shall have the following requirements for packaging:~~

~~1) — The containers or bottles shall bear a twist type closure, cork, stopper, or plug.~~

~~2) — At the time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container or bottle and extend over the top of the twist type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle.~~

~~3) The adhesive band, strip or sleeve shall bear the name and address of the brewer/licensee selling the malt liquor.~~

~~4) The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer/licensee selling the malt liquor, and the contents in the container packaged as required herein shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100.~~

m. ~~*Brewer taproom license.* A brewer who has a license from the Commissioner of Public Safety to brew up to 20,000 barrels of malt liquor per year may be issued a license by the City for on-sale of malt liquor subject to the following conditions: Brewer taproom licenses may be issued to the holder of a brewer's license under Minn. Stat. § 340A.301, subd. 6(c), (i) or (j) as it may amended from time to time and subject to the conditions of this chapter. A brewer's taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under Minn. Stat. § 340A.301, subd. 6(d) as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the city clerk will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The city clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.~~

~~a. The malt liquor sold on sale for consumption must be produced by the brewer on the licensed premises~~

~~b. No other beverages containing alcohol may be sold or consumed on the licensed premises~~

~~c. A brewer may only have one taproom license.~~

~~(i) A restaurant is not allowed at a brewery with a taproom license.~~

~~(ii) On-sale of liquor shall be limited to the legal hours for on sale pursuant to Section 3-105 except an establishment that holds a brewer taproom license may sell malt liquor produced by the brewer on the licensed premises on sale for consumption between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays.~~

n. *Culinary class limited on-sale intoxicating license.* Culinary class limited on-sale intoxicating licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license and that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee 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 premises only. All provisions of this Chapter that apply

to on-sale intoxicating liquor licenses, other than provisions inconsistent with this section, apply to licenses issued under this section, except that Sec. 3-61 related to liability insurance shall not apply.

- o. *Micro distillery cocktail room license.* A micro distillery cocktail room license may be issued to the holder of a micro distillery license issued under Minn. Stat. § 340A.22. A micro distillery cocktail room license authorizes the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to the following requirements:
- (i) The city shall, within ten days of the issuance of a micro distillery cocktail room license inform the Commissioner of Public Safety of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.
 - (ii) No single entity may hold both a micro distillery cocktail room and taproom license, and a cocktail room and taproom may not be co-located.
 - (iii) A restaurant is not allowed at a micro distillery with a cocktail room license.
 - (iv) On-sale of liquor shall be limited to the legal hours for on-sale pursuant to Section 3-105.
- p. *Micro distillery off-sale license.* A micro distillery off-sale license may be issued with the approval of the Commissioner of Public Safety to the holder of a state micro distillery license issued under Minn. Stat. § 340A.22 ~~subject to the following requirements:~~ A micro distillery off-sale license subject to the following conditions:
- (i) The license permits the sale of up to one 375 milliliter bottle ~~per customer~~ per day of product manufactured on site.
 - (ii) Off-sale shall be limited to the legal hours for off-sale pursuant to Section 3-105.
 - (iii) No brand may be sold at the micro distillery unless it is available for distribution to by wholesalers.

Sec. 3-58. Period of issuance.

Each renewal liquor license shall be issued for a maximum period of one year. Temporary licenses shall expire according to the terms of such license as set forth in section 3-57. Except as otherwise provided in this ~~division~~ chapter, liquor licenses expire at 11:59 p.m. on the last day of February each year. ~~Consumption and display permits expire on March 31 of each year.~~

Sec. 3-64. Renewal application.

- a. Applications for the renewal of an existing liquor license shall be made at least 45 days prior to the date of the expiration of the license and shall state that everything in the prior application remains true and correct except as otherwise indicated on the renewal application.
- b. Renewal applications for an on-sale intoxicating liquor license ~~for a restaurant~~ shall include a certified public accountant's statement showing total sales, food sales, liquor sales and percentage of total sales of the restaurant for the previous year.

Sec. 3-65. Investigations.

- a. At the time of making an initial application, renewal application, or request for approval for a new manager, the applicant shall, in writing, authorize the ~~city~~ police department to investigate all facts set out in the application and perform a personal ~~background~~ and ~~felony~~ criminal background check on the applicant and store manager. The applicant shall further authorize the police department to release information received from such investigation to the city council.
- b. If the city council denies the applicant's request for a license due to the applicant's prior conviction of a crime, the city council shall notify the applicant of the grounds and reasons for the denial; the applicable complaint and grievance procedure as set forth in M.S.A. § 364.06; the earliest date the applicant may reapply for a liquor license; and that all competent evidence of rehabilitation will be considered upon reapplication.

Sec. 3-66. Hearing required for new licenses.

A public hearing for the issuance of a license under this division for a new premises, or for a different licensee at the same premises, shall be preceded by at least one week's published notice. A public hearing is not required for temporary license applications.

Sec. 3-67. Information considered for license approval.

In determining whether a ~~new or renewal~~ license under this division shall be granted, the city council shall consider the following in addition to conformity with state statutes and city ordinances:

- a. The investigative and staff report submitted by the police department and city clerk.
- b. Information received through any applicable public hearing process.
- c. Whether the applicant has or will take affirmative action to minimize public safety problems commonly associated with liquor establishments, including, but not limited to, driving while intoxicated (DWI) ~~drivers~~, illegal sale to minors, overserving of patrons, or disturbing the peace, ~~etc.~~
- d. The license application and any other relevant information.

Sec. 3-68. Granting and transfer of license; building under construction; zoning requirements met; death of licensee.

- a. *Applicant and premises.* A license under this division shall be issued to the applicant only. Each license shall be issued only for the exact rooms and square footage described in the application. A license is valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building or structure. Except as otherwise provided in this ~~article~~ chapter, no license may be transferred to another person or another premises without the approval of the city council.

Sec. 3-69. Corporations, partnerships, or associations.

- e. Corporations, partnerships, or associations holding a license under this division shall submit written notice to the city clerk of any changes as set forth in this division on or before 30 days prior to the effective date of any such change. Notwithstanding the definition of "interest," as defined in section 3-323, in the case of a corporation, the licensee shall notify the city clerk when a person not listed in the application acquires an interest that, when combined with that of a spouse, parent, brother, sister or child, exceeds five percent, and shall give all information about such person as is required of a person pursuant to the provisions of this division.

Sec. 3-70. Ineligibility.

- a. No license under this ~~division~~ chapter shall be issued to or held by any person who:
- i. Is made ineligible by state law.
 - ii. Is under 21 years of age.
 - ~~iii. Is not a citizen of the United States or a resident alien.~~
 - iii. Has had a liquor license revoked within five years of the license application, or 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, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested.
 - iv. Is not of good moral character and repute.
 - v. Has a direct or indirect interest in a manufacturer, brewer, or wholesaler; or
 - vi. Within five years of the license application, 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 an alcoholic beverage, and who cannot show competent evidence under M.S.A. § 364.03 of sufficient rehabilitation and present fitness to perform the duties of a licensee.

Sec. 3-71. Conditions of approval.

At the time a license under this chapter is issued ~~or a consumption and display permit is approved~~, the city council may attach special conditions to the approval of such license or permit based upon the nature of the business, the location of the business and verified complaints, if any, to protect the health, safety, welfare and ~~quietude~~ peacefulness of the city, and ensure harmony with the location where the business is located. Violation of any of the conditions shall be grounds for revocation of the license.

Sec. 3-74. Notice of hearing.

Revocation or suspension of a license ~~under this division~~ by the city council shall be preceded by a public hearing conducted in accordance with M.S.A. §§ 14.57--14.70. The city council may appoint a hearing examiner or may conduct a hearing itself. A notice of such hearing shall be given to the violator at least 20 days prior to the hearing, and shall include the following:

- a. Notice of the time and place of the hearing.
- b. The nature of the charges against the licensee; and
- c. The penalty that the city may impose for the violation.

Sec. 3-76. Inactive license.

The city council may revoke the ~~intoxicating liquor or 3.2 percent malt liquor~~ license of any establishment granted such license that is not under construction and exhibiting satisfactory progress toward completion of such construction within six months from the issuance of such license, or any establishment that ceases operation for a period of six months. A hearing shall be held to determine what progress has been made toward opening or reopening the establishment and, if satisfactory progress is not demonstrated, the city council may revoke the license.

Sec. 3-77. Posting license.

All license holders shall post their liquor license(s) in a conspicuous place that is visible to the public in the licensed establishment. ~~at all times.~~

Secs. 3-78. Presumptive civil penalties

- a. *Purpose.* The purpose of this section is to establish a standard by which the city council imposes ~~determines the length of license suspensions and the propriety of revocations~~ penalties for violations of state law or city code related to the sale or service of alcohol ~~and shall apply to all premises by establishments~~ licensed under this chapter. These penalties are presumed to be appropriate and in accordance with the penalties set forth in state law. The council may deviate ~~either upward or downward~~ from the presumptive penalty where if the council finds ~~that there exist~~ substantial reasons making it appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent ~~the sale of alcohol to minors~~ future violations. When deviating from these standards, the council will provide written findings that support the penalty selected.

b. *Presumed penalties for violations.* The presumed penalties for violations are as follows (unless specified, numbers below indicate consecutive business days' suspension):

Type of Violation	1 st violation	2 nd violation within 3 yrs.	3 rd violation within 3 yrs.	4 th violation within 3 yrs.
1. Commission of a felony related to the licensed activity.	Revocation	N/A	N/A	N/A
2. Sale of alcoholic beverages while license is under suspension.	Revocation	N/A	N/A	N/A
3. Sale of alcoholic beverages to underage person.	\$2,000	\$2,000 and 1 day	\$2,000 and 3 days	Revocation
4. Sale of alcoholic beverages to obviously intoxicated person.	3 days	6 days	18 days	Revocation
5. After hours sale of alcoholic beverages.	3 days	6 days	18 days	Revocation
6. After hours display or consumption of alcoholic beverages.	2 days	4 days	12 days	Revocation
7. Refusal to allow government inspectors or police admission to inspect premises.	5 days	15 days	Revocation	N/A
8. Illegal gambling on premises.	3 days	6 days	18 days	Revocation
9. Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages.	2 days	4 days	12 days	Revocation
10. Sale of intoxicating liquor where only license for 3.2 percent malt liquor	3 days	6 days	18 days	Revocation

The penalty for violations without a presumptive penalty shall be determined by the city council.

c. *Multiple violations.* At a licensee's first appearance before the council, the council must act upon all the violations that have been alleged in the notice sent to the licensee. The council ~~in that case~~ must consider the presumptive penalty for each violation as stated in subsection (b) above. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the council's discretion.

d. *Subsequent violations:* Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the council, unless the city manager and licensee agree in writing to add the violation to the first appearance. The same procedure applies to the second, third, or fourth appearance before the council.

e. *Subsequent appearances:* Upon a second, third, or fourth appearance before the council by the same licensee, the council must impose the presumptive penalty for the violation

or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this section.

- f. *Computation of violations:* Multiple violations are computed by checking the time period of the three (3) years immediately ~~prior to~~ preceding the date of the most current violation.
- g. *Other penalties:* Nothing in this section shall restrict or limit the authority of the council to suspend up to sixty (60) days, revoke the license, impose a civil fee penalty not to exceed two thousand dollars (\$2,000.00), to impose conditions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided in this chapter.
- h. In addition to civil penalties, every licensee that has been found in violation of this chapter must ~~enter into and~~ complete a training program approved by the city's police department related to the responsible service and sale of alcohol.

Secs. 3-79--3-100. Reserved.

Division 3. Operation of Retail Establishment

Sec. 3-102. Compliance checks.

- a. From time to time, the city shall conduct compliance checks on established licensed premises under this ~~article~~ chapter. Such compliance checks may involve, but are not limited to, engaging underage persons to enter the licensed premises to attempt to purchase alcohol and alcohol-related products.
- b. If underage persons are used for compliance checks as set forth in subsection (a) of this section, they shall not be guilty of unlawful possession of alcohol when such items are obtained as a part of a compliance check. No underage person used in compliance checks shall attempt to use a false identification misrepresenting such person's age, and all underage persons lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or ~~his~~ their employees and shall produce any identification for which such underage person is asked.

Sec. 3-103. Right of inspection.

- a. Any designated officer ~~of the city~~ displaying proper identification shall have the ~~unqualified~~ right to enter, inspect, and search the premises of any licensee under this ~~article~~ chapter without a warrant, during business hours or when owners, managers, or other employees are located on the licensed premises. The purpose of the inspection must be related to the operations of the licensed establishment under the terms of this chapter.

Sec. 3-104. Responsibility of licensee.

- a. *Orderly conduct.* Every licensee under this ~~article~~ chapter shall be responsible for the conduct on the licensee's place of business, including conduct and activity attributable to the business on property owned or controlled by the licensee. Every licensee shall also cooperate with the city in controlling activity attributable to the business in surrounding areas.
- b. *Acts of employees.* The act of any employee in violation of this ~~article~~ chapter on the licensed premises is deemed the act of the licensee as well, and the licensee shall be equally liable with the employee for all penalties provided by this ~~article~~ chapter and other laws.

Sec. 3-110. Prohibited conditions.

- a. *Prostitution.* No licensee under this ~~article~~ chapter shall knowingly permit the licensed premises or any room in the licensed premises or any adjoining building directly under the licensee's control to be used by prostitutes.
- b. *Controlled substances.* No licensee shall knowingly permit the sale, possession, or consumption of controlled substances on the licensed premises in violation of state law.
- c. *Gambling prohibited.* ~~Gambling and gambling devices are not permitted on licensed premises. State lottery tickets may be purchased and sold within licensed premises as authorized by the director of the state lottery. Except as otherwise provided in M.S. 340A.410, no retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in M.S. 349.30, or permit gambling therein. Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by M.S. Chapter 349. Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under M.S. Ch. 349A. Dice may be kept and used on licensed premises and adjoining rooms as authorized by M.S. 609.761, subd. 4.~~
- ~~d. Interior and exterior bars, grills, mesh, or similar obstructions, whether permanently or temporarily affixed, shall not cover any exterior door or more than ten percent of any individual window or contiguous window area.~~
- ~~e. The total area of signs in windows shall not exceed 50% of the total area of windows fronting a street. Signs shall not be displayed on doors, and doors shall not be included in the window area for purposes of determining the 50% maximum coverage.~~
- d. On-sale intoxicating liquor licenses. No initial license to sell intoxicating liquor at on-sale may be issued where restricted against commercial use through zoning ordinances.
- e. Off-sale intoxicating liquor licenses. No initial license to sell intoxicating liquor at off-sale may be issued where restricted against commercial use through zoning ordinances or within 300 feet of a school or place of worship as measured from the property line of the site to receive the proposed license to the property line of the school or place of worship.

Sec. 3-111. Ownership of equipment.

No equipment or fixture in any licensed premises under this ~~article~~ chapter shall be owned in whole or in part by any manufacturer or distiller, except as expressly permitted by state law.

Section 2. This ordinance shall take effect fifteen days after its passage and publication according to law.

First reading	February 21, 2023
Second reading	March 6, 2023
Date of publication of adopted ordinance	March 16, 2023
Date ordinance takes effect	March 31, 2023

Reviewed for administration

Adopted by the city council March 6, 2023

Kim Keller, city manager

Jake Spano, mayor

Attest:

Approved as to Form and Execution:

Melissa Kennedy, city clerk

Soren Mattick, city attorney

DRAFT