

Chapter 4 ALCOHOLIC BEVERAGES*

***Cross reference(s)**--Businesses, ch. 12.

State law reference(s)--Liquor, M.S.A. § 340A.101 et seq.; municipal authority to impose restrictions and regulations on the sale and possession of alcoholic beverages, M.S.A. § 340A.509.

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ARTICLE I. IN GENERAL

Secs. 4-1--4-30. Reserved.

ARTICLE II. LICENSING*

***State law reference(s)**--Retail licenses, M.S.A. § 340A.401 et seq.

DIVISION 1. GENERALLY

Secs. 4-31--4-50. Reserved.

DIVISION 2. INTOXICATING LIQUOR

Sec. 4-51. Provisions of state law adopted.

The provisions of M.S.A. § 340A.101 et seq., relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this division as if set out in full.

(Code 1987, § 601.01)

Sec. 4-52. License required.

- (a) *General requirement.* No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale in the city any intoxicating liquor without a license to do so as provided in this division. Liquor licenses shall be of one kind--on-sale, club licenses.
- (b) *On-sale licenses.* On-sale licenses shall be issued only to clubs, and shall permit on-sale of liquor only.
- (c) *Club licenses.* Club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans organizations which have been in existence for ten years.

(Code 1987, § 601.02)

Sec. 4-53. Application for license.

- (a) *Form.* Every application for a license to sell liquor shall state:
 - (1) The name of the applicant;
 - (2) His age;
 - (3) Representations as to his character, with such references as the council may require;
 - (4) His citizenship;
 - (5) The type of license applied for;
 - (6) The business in connection with which the proposed license will operate and its location;
 - (7) Whether the applicant is owner and operator of the business;
 - (8) How long he has been in that business at that place; and
 - (9) Such other information as the council may require.

In addition to containing such information, the application shall be in the form prescribed by the commissioner of public safety and shall be verified and filed with the administrative clerk-treasurer. No person shall make a false statement in an application.

- (b) *Bond.* Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided in M.S.A. § 340A.409, subd. 1. Such surety bond or other security shall be in the sum of \$3,000.00 for an applicant for an on-sale club license.
- (c) *Liability insurance.* Prior to the issuance of a liquor license, the applicant shall file with the administrative clerk-treasurer a liability insurance policy in an amount to comply with state-mandated civil damage or dram shop act, M.S.A. § 340A.101 et seq., and shall comply with the provisions of M.S.A. § 340A.409 relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under the statute, the policy may be accepted by the council in lieu of the bond required under subsection (b) of this section.

(Code 1987, § 601.03)

Sec. 4-54. License fees.

- (a) *Schedule.* The annual fee for a liquor license shall be by resolution set by the council for an on-sale club license, and a schedule of such fees shall be on file and available in the city offices.
- (b) *Payment.* Each application for a license shall be accompanied by a receipt from the administrative clerk-treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the administrative clerk-treasurer shall refund the amount paid as the license fee.
- (c) *Term, pro rata fee.* Each license shall be issued for a period of one year; except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June each year.
- (d) *Refunds.* No refund of any fee shall be made except as authorized by statute in accordance with M.S.A. § 340A.301, subd. 6.

(Code 1987, § 601.04)

Sec. 4-55. Places ineligible for license.

- (a) *General prohibition.* No liquor license shall be issued for any place or any business ineligible for such a license under state law.
- (b) *Delinquent taxes and charges.* No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

(Code 1987, § 601.06)

Sec. 4-56. Conditions of license.

- (a) *In general.* Every liquor license is subject to the conditions in this section and all other provisions of this division and of any other applicable ordinance, state law or regulation.
- (b) *Licensee's responsibility.* Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this division and the law equally with the employee.
- (c) *Inspections.* Every licensee shall allow any peace officer or properly designated city representative or employee of the city to enter, inspect and search the premises of the licensee during business hours without a warrant.
- (d) *Display during prohibited hours.* No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (e) *Federal stamps.* No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

(Code 1987, § 601.07)

Sec. 4-57. Restrictions on purchase and consumption.

- (a) *Liquor in unlicensed places.* No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor on-sale or a permit from the commissioner of public safety under M.S.A. § 340A.401, and no person shall consume liquor in any such place.
- (b) *Consumption in public places.* No person shall consume liquor on a public highway, public park or other public place.
- (c) *Hours of sale.* No licensee shall permit the sale or consumption of liquor outside of the following hours:
 - (1) Under off-sale licenses, no sales shall be allowed between the hours of 10:00 p.m. and 8:00 a.m. on any days Monday through Saturday nor from 10:00 p.m. Saturday to 8:00 a.m. Monday.
 - (2) Under on-sale licenses, no sales shall be allowed between the hours of 1:00 a.m. and 8:00 a.m. on any Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday, nor from 1:00 a.m. on Sunday to 1:00 a.m. on Monday, with the following exceptions:
 - a. A club on-sale Sunday liquor license.

b. In the event of special variance from the 1:00 a.m. regular closing time by council action.

(d) *Sales to underage or intoxicated persons.* No liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.

(Code 1987, § 601.08)

Sec. 4-58. Suspension and revocation.

The council may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S.A. §§ 15.0418--15.0426.

(Code 1987, § 601.09)

Secs. 4-59--4-80. Reserved.

DIVISION 3. 3.2 PERCENT MALT LIQUOR*

***State law reference(s)**--3.2 percent malt liquor licenses, M.S.A. § 340A.403.

Sec. 4-81. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

Sec. 4-82. License required.

(a) *Kinds of licenses.* No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any 3.2 percent malt liquor within the city without first having received a license as provided in this division. Licenses shall be of three kinds:

- (1) Regular on-sale;
- (2) Temporary on-sale;
- (3) Off-sale.

- (b) *Regular on-sale.* Regular on-sale licenses shall be granted only to bona fide clubs, 3.2 percent malt liquor stores, exclusive on-sale liquor stores, restaurants and hotels where food is prepared and served for consumption on the premises. On-sale licenses shall permit the sale of 3.2 percent malt liquor for consumption on the premises only.
- (c) *Temporary on-sale.* Temporary on-sale licenses shall be granted only to bona fide clubs and charitable, religious and nonprofit organizations for the sale of 3.2 percent malt liquor for consumption on the premises only.
- (d) *Off-sale.* Off-sale licenses shall permit the sale of 3.2 percent malt liquor at retail, in the original package for consumption off the premises only.

(Code 1987, § 603.02)

Sec. 4-83. License applications.

Every application for a license to sell 3.2 percent malt liquor shall be made to the administrative clerk-treasurer on a form supplied by the city and containing such information as the administrative clerk-treasurer may require. It shall be unlawful to make any false statement in an application.

(Code 1987, § 603.03)

Sec. 4-84. License fees.

- (a) *Payment required.* Each application for a license to sell 3.2 percent malt liquor shall be accompanied by a receipt from the administrative clerk-treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the administrative clerk-treasurer shall refund the amount paid.
- (b) *Expiration; pro rata fees.* Every license except a temporary license shall expire on June 30 in each year. Each license except a temporary license shall be issued for a period of one year; except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held, and such period shall be stated on the license.
- (c) *Schedule.* The annual fees for regular on-sale, off-sale and temporary on-sale licenses is established by council resolution from time to time; and a schedule of such fees is on file and available in the city offices.
- (d) *Refunds.* No part of the fee paid for any license issued under this division shall be refunded except in the following instances upon application to the council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the

licensed business ceases not less than one month before expiration of the license because of:

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

(Code 1987, § 603.04)

Sec. 4-85. Granting of license.

- (a) *Investigation and hearing.* The city council shall investigate all facts set out in the application for a license to sell 3.2 percent malt liquor. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.
- (b) *Transfers.* Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the council.

(Code 1987, § 603.05)

Sec. 4-86. Persons ineligible for license.

No license to sell 3.2 percent malt liquor shall be granted to or held by any person who:

- (1) Is not at least 21 years of age;
- (2) Has, within five years prior to the application for such license, been convicted of a felony or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors or 3.2 percent malt liquor and cannot show competent evidence under M.S.A. § 364.03, of sufficient rehabilitation and present fitness to perform the duties of a 3.2 percent malt liquor licensee;
- (3) Is a manufacturer of 3.2 percent malt liquor or is interested in the control of any place where 3.2 percent malt liquor is manufactured;
- (4) Is not of good moral character;
- (5) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless

there has also been issued to him a local license to sell intoxicating liquor at such place; or

- (6) Is not the proprietor of the establishment for which the license is issued.

(Code 1987, § 603.06)

Sec. 4-87. Places ineligible for license; conviction or revocation.

No license for the sale of 3.2 percent malt liquor shall be granted for sale on any premises where a licensee has been convicted of the violation of this division, or of the state 3.2 percent malt liquor or liquor law, or where any license under this division has been revoked for cause until one year has elapsed after such conviction or revocation.

(Code 1987, § 603.07(1))

Sec. 4-88. Conditions of license.

- (a) *General conditions.* Every license for the sale of 3.2 percent malt liquor shall be granted subject to the conditions in this section and all other provisions of this division and of any other applicable ordinance of the city or state law.
- (b) *Sales to underage or intoxicated persons.* No 3.2 percent malt liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.

State law reference(s)--Sales to obviously intoxicated persons prohibited, M.S.A. § 340A.502.

- (c) *Consumption by underage persons.* No person under 21 years of age shall consume 3.2 percent malt liquor.

State law reference(s)--Similar provisions, M.S.A. § 340A.503, subd. 1.

- (d) *Employment of underage person.* No person under 21 years of age shall be employed on the premises of a 3.2 percent malt liquor store. A person 17 years of age is permitted to work in an establishment where the serving of 3.2 percent malt liquor is not the principal business.
- (e) *Gambling.* No gambling or any gambling device shall be permitted on any licensed premises, except paddle wheels, tipboards and raffles licensed by the city on the premises of a 3.2 percent malt liquor licensee.
- (f) *Interest of manufacturers or wholesalers.* No manufacturer or wholesaler of 3.2 percent malt liquor shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of M.S.A. § 340A.301. No retail licensee and manufacturer or wholesaler of 3.2 percent malt liquor shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of 3.2 percent malt liquor, and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

- (g) *Dealer's stamp.* No licensee shall sell 3.2 percent malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under state law to sell intoxicating liquors.
- (h) *Sales of intoxicating liquor.* No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises 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 division.
- (i) *Searches and seizures.* Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquor found on the licensed premises in violation of subsection (h) of this section.
- (j) *Licensee responsibility.* Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.
- (k) *Banquet rooms.* A regular on-sale license shall entitle the holder to serve 3.2 percent malt liquor in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 30 persons.

(Code 1987, § 603.08)

Sec. 4-89. Closing hours.

No sale of 3.2 percent malt liquor shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, and no sale shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any other day.

(Code 1987, § 603.09)

State law reference(s)--Similar provisions, M.S.A. § 340A.504, subd. 1.

Sec. 4-90. Clubs.

No club shall sell 3.2 percent malt liquor except to members and to guests in the company of members.

(Code 1987, § 603.10)

Sec. 4-91. Restrictions on purchase and consumption.

- (a) *Age misrepresentation.* No underage person shall misrepresent his age for the purpose of obtaining 3.2 percent malt liquor.

- (b) *Inducing purchase.* No person shall induce an underage person to purchase or procure 3.2 percent malt liquor.
- (c) *Procurement.* No person other than the parent or legal guardian shall procure 3.2 percent malt liquor for any underage person.
- (d) *Possession.* No underage person shall have 3.2 percent malt liquor in his possession with the intent to consume it at a place other than the household of his parent or guardian.
- (e) *Consumption.* No underage person shall consume 3.2 percent malt liquor unless in the company of his parent or guardian.
- (f) *Liquor consumption and display.* No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

(Code 1987, § 603.11)

Sec. 4-92. Revocation.

The violation of any provision or condition of this division by a 3.2 percent malt liquor licensee or his agent is ground for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this division may be revoked or suspended by the council in accordance with section 12-41.

(Code 1987, § 603.12)

Secs. 4-93--4-125. Reserved.

ARTICLE III. MUNICIPAL LIQUOR STORES*

*State law reference(s)--Municipal liquor stores, M.S.A. § 340A.601 et seq.

Sec. 4-126. Provisions of state law adopted.

The provisions of M.S.A. ch. 340A 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 article as if set out in full.

(Code 1987, § 602.01)

Sec. 4-127. Store continued.

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

(Code 1987, § 602.02)

Sec. 4-128. Location and operation.

- (a) *Location.* The municipal liquor store shall be located at such suitable place in the city as the council determines; but no premises upon which taxes, assessments or other public charges are delinquent shall be leased for such purposes.
- (b) *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. He shall furnish a surety bond to the city conditioned upon the faithful discharge of his 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 him by the council. He shall be responsible to the council for the conduct of the store in full compliance with this article and with the laws relating to the sale of liquor and 3.2 percent malt liquor.
- (c) *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 underage person shall be employed in the store. 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.

(Code 1987, § 602.03)

Sec. 4-129. Store fund.

- (a) *Established.* A municipal liquor store fund is 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 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 moneys 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 purposes.
- (b) *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 city funds generally.

- (c) *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.
- (d) *Prohibited business.* No business other than the sale of liquor shall be carried on in the store except the retail sale of cigars, cigarettes, all forms of tobacco, food, soft drinks and 3.2 percent malt liquor, both on-sale and off-sale.
- (e) *Coin-operated games of amusement.* With the approval of the council, the store may make available for the use of patrons one or more coin-operated amusement devices authorized by statute.

(Code 1987, § 602.04)

Sec. 4-130. Enforcement.

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

(Code 1987, § 602.05)