

CHAPTER SIX. LIQUOR, WINE AND BEER

PART 0. INTOXICATING LIQUOR (ALL TYPES) LICENSING

600.01 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

600.02 LICENSE REQUIRED

Subdivision 1. 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 ordinance. Liquor licenses shall be of the following kinds: on-sale intoxicating liquor (regulated by Part 0), on-sale wine licenses (regulated by Part 1) and special club licenses (regulated by Part 2).

Subdivision 2. On-sale Intoxicating Liquor Licenses. This ordinance authorizes the issuance of regular “on-sale” intoxicating liquor licenses, which shall be granted only to restaurants, clubs and hotels under the control of a single proprietor or manager, having appropriate facilities for serving meals and seating not fewer than twenty-five guests at one time, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable services to its guests. “On-sale” intoxicating liquor licenses shall permit the sale of intoxicating liquor for consumption on the licensed premises only, in conjunction with the sale of food. The total number of on-sale intoxicating liquor licenses is hereby limited to three (3).

600.03 APPLICATION FOR LICENSE

Subdivision 1. Form. Every application for a license to sell intoxicating liquor shall state the name of the applicant, his or her age, representations as to his character, with such references as the Council may require, his or her citizenship, the type of license applied for, the business or organization in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the bureau of criminal apprehension and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

Subdivision 2. Financial Responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes 340A.409 with regard to liability imposed by Minnesota Statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety and with the City

Clerk. Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for intoxicating liquor licenses with sales of less than \$10,000 of intoxicating liquor per year. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes 340A.409, but shall carry the following minimum 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.

Subdivision 3. Approval of Security. The security offered under Subdivisions 2 and 3 shall be approved by the City Council and by the state commissioner of public safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed premises without having on file with the City at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

600.04 LICENSE FEES

Subdivision 1. Fees. The annual fee for an on-sale intoxicating liquor license shall be \$1,500 without Sunday liquor. The additional fee to add Sunday liquor to the license shall be \$150. The fees may be changed from time to time by Council resolution, after appropriate notice and hearing as required by Minnesota Statutes 340A.408, Subd. 3a.

Subdivision 2. Payment. Each application for a license shall be accompanied by a receipt from the City treasurer for payment in full of the license fee and the fixed investigation fee required under this Chapter, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee, but the investigation fee need not be refunded.

Subdivision 3. 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 of each year.

Subdivision 4. Refunds. No refund of any fee shall be made.

600.05 GRANTING OF LICENSES

Subdivision 1. Preliminary Investigation. On an initial application for an “on-sale” license and on application for transfer of an existing “on-sale” license, the applicant shall pay with his application an investigation fee of \$500 or such smaller fee as designated by the Council, and the City shall conduct a preliminary background and financial investigation of the applicant. The City Council may waive all or part of said fee. The application in such case shall be made on a form prescribed by the state Bureau of Criminal Apprehension and contain such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an “on-sale” license, it shall so determine. If the Council determines that a comprehensive background and investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the actual cost not to exceed \$10,000. The fee, after deducting any initial investigation fee already paid, shall be payable by the applicant whether or not the license is granted.

Subdivision 2. Hearing and Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No “on-sale” intoxicating liquor license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subdivision 3. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer or stock without prior Council approval is a ground for revocation of the license.

600.06 PERSONS INELIGIBLE FOR LICENSE

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

1. Is under 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 federal law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors, or has had a liquor or beer license revoked.

3. Is a manufacturer of beer or is interested in the control of any place where beer is manufactured.
4. Is an alien or non-resident of the state.
5. Is not of good moral character and repute.
6. Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place.
7. Is not the proprietor of the establishment for which the license is issued.
8. Is ineligible under Minnesota Statutes 340A.402.

600.07 PLACES INELIGIBLE FOR LICENSE

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

Subdivision 2. 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 or unpaid.

600.08 CONDITIONS OF LICENSE

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

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

Subdivision 3. 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 ordinance and the law equally with the employee.

Subdivision 4. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of a licensee during business hours without a warrant.

Subdivision 5. Display During Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subdivision 6. License Not Transferable. The license shall not be transferable as to the location of the premises without the approval of the City Council.

Subdivision 7. Closing Hours. No sale of intoxicating liquor shall be made between the hours of 1:00 a.m. and 11:00 a.m. on any day, or between the hours of 1:00 a.m. and noon on any Sunday. License holders without a Sunday liquor license may not sell intoxicating liquor after 1:00 a.m. on any Sunday or before 11:00 a.m. on any Monday.

Subdivision 8. Federal Stamps. No licensee shall possess a federal wholesale liquor dealers special tax stamp or a federal gambling stamp.

PART 1. INTOXICATING LIQUOR (WINE) LICENSING

601.01 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

601.02 LICENSE REQUIRED

Subdivision 1. 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 ordinance. Liquor licenses shall be of the following kinds: on-sale wine and strong beer licenses (regulated by Part 1) and special club licenses (regulated by Part 2).

Subdivision 2. On-sale Wine Licenses. This ordinance authorizes the issuance of regular “on-sale” wine licenses, which shall be granted only to restaurants under the control of a single proprietor or manager, having appropriate facilities for serving meals and seating not fewer than twenty-five guests at one time, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable services to its guests. “On-sale” wine licenses shall permit the sale of wine not exceeding 14 percent alcohol by volume for consumption on the licensed premises only, in conjunction with the sale of food. The total number of on-sale wine licenses is hereby limited to two (2).

The holder of an on-sale wine license who also holds a regular on-sale beer license for the sale of 3.2 percent malt liquor, and whose gross receipts are at least 60 percent attributable to the sale of food, may also sell intoxicating malt liquors at on-sale without an additional license.

601.03 APPLICATION FOR LICENSE

Subdivision 1. Form. Every application for a license to sell intoxicating liquor shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the type of license applied for, the business or organization in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the bureau of criminal apprehension and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

Subdivision 2. 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 Minnesota Statutes, Section 340A.12. Such surety bond or other security shall be in the sum of \$5,000.

Subdivision 3. Financial Responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes 340A.409 with regard to liability imposed by Minnesota Statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety and with the City Clerk. Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes 340A.409, but shall carry the following minimum 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.

Subdivision 4. Approval of Security. The security offered under Subdivisions 2 and 3 shall be approved by the City Council and by the state commissioner of public safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a

licensed premises without having on file with the City at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

601.04 LICENSE FEES

Subdivision 1. Fees. The annual fee for an on-sale wine license shall be \$120.00. The annual fee for a special club license shall be as follows:

- \$300.00, if the membership is 200 or less;
- \$500.00, if the membership is between 201 and 500;
- \$650.00, if the membership is 501 or more.

The fees may be changed from time to time by Council resolution, after appropriate notice and hearing as required by Minnesota Statutes 340A.408, Subd. 3a.

Subdivision 2. Payment. Each application for a license shall be accompanied by a receipt from the City treasurer for payment in full of the license fee and the fixed investigation fee required under this Chapter, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee, but the investigation fee need not be refunded.

Subdivision 3. 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 of each year.

Subdivision 4. Refunds. No refund of any fee shall be made.

601.05 GRANTING OF LICENSES

Subdivision 1. Preliminary Investigation. On an initial application for an “on-sale” license and on application for transfer of an existing “on-sale” license, the applicant shall pay with his application an investigation fee of \$500 or such smaller fee as designated by the Council, and the City shall conduct a preliminary background and financial investigation of the applicant. The City Council may waive all or part of said fee. The application in such case shall be made on a form prescribed by the state Bureau of Criminal Apprehension and contain such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of an “on-sale” license, it shall so determine. If the Council determines that a comprehensive background and investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred or renewed if the results show to the satisfaction of the Council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the actual cost not to exceed \$10,000. The fee, after deducting any initial investigation fee already paid, shall be payable by the applicant whether or not the license is granted.

Subdivision 2. Hearing and Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No “on-sale” wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subdivision 3. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license.

601.06 PERSONS INELIGIBLE FOR LICENSE

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

1. Is under 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 federal law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors, or has had a liquor or beer license revoked.
3. Is a manufacturer of beer or is interested in the control of any place where beer is manufactured.
4. Is an alien or non-resident of the state.
5. Is not of good moral character and repute.
6. Is or during the period of this license becomes the holder of a federal retail liquor dealer’s special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place.
7. Is not the proprietor of the establishment for which the license is issued.
8. Is ineligible under Minnesota Statutes 340A.402.

601.07 PLACES INELIGIBLE FOR LICENSE

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

Subdivision 2. 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 or unpaid.

601.08 CONDITIONS OF LICENSE

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

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

Subdivision 3. 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 ordinance and the law equally with the employee.

Subdivision 4. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of a licensee during business hours without a warrant.

Subdivision 5. Display During Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subdivision 6. License Not Transferable. The license shall not be transferable as to the location of the premises without the approval of the City Council.

Subdivision 7. Closing Hours. No sale of intoxicating liquor (wine and strong beer) shall be made between the hours of 1:00 a.m. and 11:00 a.m. on any day other than Sunday, or between the hours of 1:00 a.m. and noon on any Sunday.

Subdivision 8. Federal Stamps. No licensee shall possess a federal wholesale liquor dealers special tax stamp or a federal gambling stamp.

PART 2. SPECIAL CLUB (VETERANS LICENSE) FOR INTOXICATING LIQUOR

602.01 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340A, 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 insofar as

they are applicable to club licenses authorizing the sale of liquor for consumption on the licensed premises only, are adopted and made a part of this ordinance as if set out in full.

602.02 LICENSE REQUIRED

Subdivision 1. 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 ordinance. Liquor licenses shall be of the following kinds: on-sale wine licenses (regulated by Part I) and special club licenses (regulated by Part II).

Subdivision 2. Special Club Licenses. Special club licenses shall be issued only to congressionally chartered veterans organizations provided that the organization qualifies as a “club” under Minnesota Statutes Chapter 340A, has at least 50 members, has been in existence for at least 10 years and liquor sales will only be to members and bona fide guests, which guests must arrive on and depart from the license premises with the member.

602.03 APPLICATION FOR A LICENSE

Subdivision 1. Form. Every club, as herein defined, requesting a club license pursuant to M.S. 340A.404, from the City shall, through its proper officers, file with the City Clerk, a verified application setting forth all information necessary to show whether or not the club qualifies for a license within the meaning of this ordinance, together with all additional information as may be required by the City Council. In addition to containing this information, the application shall be in the form prescribed by the Commissioner of Public Safety. No person shall make a false statement in an application.

Subdivision 2. Investigation and Issuance. The City Council shall investigate all facts set out in the application. After the investigation the Council shall, at its discretion, grant or refuse the application. No club license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subdivision 3. 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 Minnesota Statutes, Section 340A.412. The surety bond or other security shall be in the sum of \$5,000.00.

Subdivision 4. Financial Responsibility. Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340A.409 with reference to liability under the statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety and with the City Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 340A.409, but shall carry the following minimum 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.

Subdivision 5. Approval of Security. The security offered under Subdivisions 2 and 3 shall be approved by the City Council and the Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed club without having on file with the City at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

Subdivision 6. Delinquent Taxes and Charges. No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

602.04 LICENSE FEES

Subdivision 1. Amount. The annual fee for a club license shall be as follows:

- \$300.00, if the membership is 200 or less;
- \$500.00, if the membership is between 201 and 500;
- \$650.00, if the membership is 501 or more.

These fees may be changed from time to time by Council resolution.

Subdivision 2. Payment. Each application for a club license shall be accompanied by a receipt from the City 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 treasurer shall refund the amount paid.

Subdivision 3. 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 expired fraction of a month being counted as one month. Every license shall expire on the last day of June of each year.

Subdivision 4. Refunds. No refund of any fee shall be made.

602.05 GRANTING OF LICENSES

Subdivision 1. Investigation and Issuance. The City Council shall investigate all facts set out in the application. After the investigation the Council shall, at its discretion, grant or refuse the application. No club license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subdivision 2. Delinquent Taxes and Charges. No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

602.06 CONDITIONS OF LICENSE

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

Subdivision 2. Licensee's Responsibility. Every licensee is responsible for the conduct of its place of business and the conditions of sobriety and order in it. The act of any employee on the licenses 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 ordinance and the law equally with the employee.

Subdivision 3. License Not Transferable. The license shall not be transferable as to the location of the premises without the approval of the City Council.

Subdivision 4. Sale Restricted to Members and Guests. The sale of intoxicating liquor under a club license is restricted to members of the licensed club and bona fide guests of members, which guests must arrive on and depart from the licensed premises with the member.

Subdivision 5. Inspections. Every licensee shall allow any peace officer, health officer or property designated officer or employee of the City to enter, inspect and search the premises of the licensee during business hours without a warrant.

Subdivision 6. Closing Hours. No sale of intoxicating liquor shall be made on any Sunday after 1:00 a.m. No sale shall be made between the hours of 1:00 a.m. and 12:00 noon on any other day.

Subdivision 7. Display During Prohibited Hours. No licensee shall permit the display of intoxicating or non-intoxicating liquor to the public during hours when the sale of liquor is prohibited.

Subdivision 8. Federal Stamps. No licensee shall possess a federal wholesale liquor dealers special tax stamp or a federal gambling stamp.

PART 3. BEER LICENSING

603.01 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of non-intoxicating malt liquor (beer) are adopted and made a part of this ordinance as if set out in full.

603.02 DEFINITION OF TERMS

Subdivision 1. Beer. As used in this ordinance, “beer” or “non-intoxicating malt liquor” means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

603.03 LICENSE REQUIRED

Subdivision 1. Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the City without first having received a license as hereinafter provided. Licenses shall be of two kinds: (1) Regular “on-sale”; (2) Temporary “on-sale”; (3) “Off-sale.”

Subdivision 2. Regular On-sale. Regular “on-sale” licenses shall be granted only to bowling centers and to restaurants where food is prepared and served for consumption on the premises. “On-sale” licenses shall permit the sale of beer for consumption on the premises only. The total number of regular on-sale beer licenses is hereby limited to four (4).

Subdivision 3. Temporary On-sale. Temporary “on-sale” licenses shall be granted only to bona fide clubs and charitable, religious and non-profit organizations for the sale of beer for consumption on the premises only. For purposes of this Subdivision, “premises” include a fenced, outdoor area under the control of the licensee.

Subdivision 4. Off-sale. “Off-sale” licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only. Off-sale licenses shall be granted only to grocery stores and convenience stores. A convenience store is a gasoline station combined with a store that sells groceries and other consumer products at retail to the general public.

603.04 LICENSE APPLICATIONS

Subdivision 1. Form. Every application for a license to sell beer shall be made to the City Clerk on a form supplied by the City and containing such information as the Clerk or the City Council may require. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall include a copy of each summons received by the applicant under Minnesota Statutes 340A.802 during the preceding year.

Subdivision 2. Proof of Financial Responsibility. Prior to the issuance of a beer license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes 340A.409, Subdivision 1, with reference to liability under the Minnesota Statutes 340A.801. Such proof shall be filed with the commissioner of public safety, and with the City Clerk. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes 340A.409, but shall carry the following minimum 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.

If Minnesota Statutes 340A.409 does not require such insurance for a particular licensee, then such insurance shall not be required by this Subdivision.

Subdivision 3. Approval of Security. Liability insurance policies required by this ordinance but not by state law shall be approved as to form by the City Attorney. Operation of a business licensed by this ordinance without having on file with the state insurance commissioner or the City at all times effective security as required in Subdivision 2 is a cause for revocation or suspension of the license.

603.05 LICENSE FEES

Subdivision 1. Payment Required. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the Treasurer shall refund the amount paid.

Subdivision 2. Expiration; Pro Rata Fees. Every license except a temporary license shall expire on the last day of June in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such a 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.

Subdivision 3. Fees. The annual fee for a regular on-sale license is \$120.00. The fee for a temporary on-sale license is \$5.00 per day. The annual fee for off-sale license is \$120.

Subdivision 4. Refunds. No refund of any fee shall be made.

603.06 GRANTING OF LICENSE

Subdivision 1. Investigation and Hearing. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application in its discretion.

Subdivision 2. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the Council.

603.07 PERSONS INELIGIBLE FOR LICENSE

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

1. Is under 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 federal law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors, or has had a liquor or beer license revoked.
3. Is a manufacturer of beer or is interested in the control of any place where beer is manufactured.
4. Is an alien or non-resident of the state.
5. Is not of good moral character and repute.
6. Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place.
7. Is not the proprietor of the establishment for which the license is issued.
8. Is ineligible under Minnesota Statutes 340A.402.

603.08 PLACES INELIGIBLE FOR LICENSE

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

Subdivision 2. 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 or unpaid.

603.09 CONDITIONS OF LICENSE

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

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

Subdivision 3. 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 ordinance and the law equally with the employee.

Subdivision 4. Display During Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subdivision 5. Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes 340A.301, Subdivision 7. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subdivision 6. Sales of Intoxicating Liquor. No licensee who does not hold a consumption and display permit shall sell or permit the consumption or 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 ordinance.

Subdivision 7. 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 liquors found on the licensed premises in violation of Subdivision 6.

Subdivision 7.5. Minors. Although a licensee may employ minors under the age of 18 years, no person under the age of 18 years may sell or assist in the sale of any beer.

Subdivision 8. Licensee's Responsibility. Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverages by any employee authorized to sell such beverages is the act of the licensee.

Subdivision 9. License Not Transferable. The license shall not be transferable as to the location of the premises without the approval of the City Council.

Subdivision 10. Closing Hours. No sale of non-intoxicating malt liquor (beer) shall be made on any Sunday after 1:00 a.m. and before noon. No sale shall be made between the hours of 1:00 a.m. and 11:00 a.m. on any other day.

PART 4. BOTTLE CLUB LICENSING

604.01 PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

604.02 PERMIT REQUIRED

Subdivision 1. Permit. No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Minnesota Commissioner of Public Safety.

Subdivision 2. Local Consent Required. The City Council of the City of Pelican Rapids must approve the issuance of a permit by the Commissioner of Public Safety in accordance with the terms of this Part.

604.03 APPLICATION FOR PERMIT

Every applicant for a bottle club permit shall submit a duplicate copy of the application to the City Clerk, together with such additional information as the Council may require.

604.04 LICENSE FEES

Subdivision 1. Fees. The annual fee for a bottle club permit shall be \$200.00, except that the fee for a special club as defined by Section 602.02, Subdivision 2 shall be \$80.00. These fees may be changed from time to time by Council resolution.

Subdivision 2. Payment. Each application for a permit shall be accompanied by payment in full of the license fee, which shall be refunded if the permit is denied. All fees shall be paid into the general fund.

Subdivision 3. Term, Pro Rata Fee. Each permit shall be issued for a period of one year except that if the application is made during the permit year, a permit 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. Each permit shall expire on the last day of June of each year.

Subdivision 4. Refunds. No refund of any fee shall be made.

604.05 GRANTING OF APPROVAL

Subdivision 1. Investigation and Hearing. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the approval of the permit. After such investigation and hearing, the Council shall grant or refuse approval of the permit in its discretion.

Subdivision 2. Transfers. Approval of each permit shall be given only to the applicant, and shall not be transferable to another holder. Approval shall be granted only for the premises described in the application. No permit may be transferred to another place without the approval of the Council.

604.06 PERSONS INELIGIBLE FOR APPROVAL

No approval shall be granted to any person who:

1. Is under 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 federal law of this state or local ordinance relating to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquors, or has had a liquor or beer license revoked.
3. Is an alien or non-resident of the state.
4. Is not of good moral character and repute.
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.
6. Is not the proprietor of the establishment for which the license is issued.

604.07 PLACES INELIGIBLE FOR APPROVAL

Subdivision 1. General Prohibition. No approval shall be given for any place or business ineligible for such a permit under state law.

Subdivision 2. Delinquent Taxes and Charges. No approval shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent or unpaid.

604.08 CONDITIONS OF LICENSE

The following conditions shall apply to all applicants who receive a permit from the Commissioner of Public Safety with the approval of the City Council:

Subdivision 1. General Conditions. All approvals are granted subject to the conditions of this ordinance and of any other applicable ordinance, state law or regulation.

Subdivision 2. Permittee's Responsibility. Every permit holder is responsible for the conduct in the permitted establishment, and the act of any employee is also the act of the permittee.

Subdivision 3. Closing Hours. No consumption of intoxicating liquor shall be allowed between the hours of 1:00 a.m. and 11:00 a.m. on any day other than Sunday, or between the hours of 1:00 a.m. and noon on any Sunday.

PART 5. MUNICIPAL LIQUOR DISPENSARY

605.01 PROVISIONS OF STATE LAW ADOPTED

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

605.02 DISPENSARY CONTINUED

The municipal liquor dispensary 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 dispensary. 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.

605.03 LOCATION AND OPERATION

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

Subdivision 2. Manager. The dispensary 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 municipality, 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 dispensary under the Council's direction and shall perform such duties in connection with the dispensary as may be imposed upon him by the Council. He shall be responsible to the Council for the conduct of the dispensary 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 dispensary 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 dispensary, 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.

605.04 DISPENSARY FUND CREATED

Subdivision 1. Fund established. A municipal liquor dispensary fund is hereby created in which all revenues received from the operation of the dispensary 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 the first available monies coming into the dispensary fund thereafter. Surpluses accumulating in the dispensary 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 dispensary 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 dispensary 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 dispensary except the retail sale of cigars, cigarettes, all forms of tobacco, food, soft drinks, ice and "off-sale" beer.

PART 6. GENERAL PROVISIONS

606.01 RESTRICTIONS ON PURCHASE AND CONSUMPTION

Subdivision 1. Liquor in Unlicensed Places. No person shall mix, serve or prepare alcoholic beverages for consumption in any public place, place of business, club or other location unless he has a license to do so, and no person shall consume alcoholic beverages in any such place unless such place has an appropriate license.

Subdivision 2. Consumption in Public Places. No person shall consume alcoholic beverages on a public highway, public park or other public place unless permitted by a temporary beer license.

Subdivision 3. Special Rules for Purchase and Consumption. Either at the time of application, or any time thereafter, the City Council shall have the right to impose reasonable rules and restrictions on the purchase and consumption of alcoholic beverages on the licensed premises including, but not limited to, the following:

- A. Rules restricting the sale of alcoholic beverages to a certain area or areas of the licensed premises.
- B. Rules restricting the consumption of alcoholic beverages to a certain area or areas of the licensed premises.
- C. Rules restricting the consumption of alcoholic beverages to times that are more restricted than those set forth herein;
- D. Other rules and restrictions that the Council from time to time may require.

Subdivision 4. Consumption. It is unlawful for any person under the age of 21 years to consume alcoholic beverages unless in the household of the person's parent or guardian and with the consent of the parent or guardian.

Subdivision 5. Purchasing. It is unlawful for any person:

- A. To sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under that age may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;
- B. Under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or
- C. To induce a person under the age of 21 years to purchase or procure any alcoholic beverage.
- D. To sell or serve any alcoholic beverage to any obviously intoxicated person.

Subdivision 6. Entering Licensed Premises. It is unlawful for a person under the age of 21 years to enter an establishment licensed under this ordinance in order to purchase any alcoholic beverage or have any alcoholic beverage served or delivered.

Subdivision 7. Misrepresentation of Age. It is unlawful for a person under the age of 21 years to misrepresent his or her age for the purpose of purchasing any alcoholic beverage.

Subdivision 8. Proof of Age. Proof of age for purchasing or consuming any alcoholic beverage may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national by a valid passport.

Subdivision 9. Liquor Consumption and Display. No person shall consume or display any alcoholic beverage on the premises of a licensee who does not hold a consumption and display permit.

Subdivision 10. Other Violations. It shall be unlawful for any person to violate any other provision of Minnesota Statutes Chapter 340A.

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:

- 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.
- 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.
- 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 Minnesota Statutes Chapter 340A, in which case the more severe penalty provided by Minnesota Statutes Chapter 340A shall apply.